


EFTA SURVEILLANCE AUTHORITY

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SAM 020.500.015

EFTA SURVEILLANCE AUTHORITY DECISION

OF 20 JULY 1995

ON CLOSURE OF A COMPLAINT ON AID TO A STATIONERY MANUFACTURER -
THE FREDRIK LINDEGAARD GROUP (NORWAY)

THE EFTA SURVEILLANCE AUTHORITY,

Having regard to the Agreement on the European Economic Area¹, in particular to Articles 61 to 63 and 109 thereof,

Having regard to the Agreement between the EFTA States on the establishment of a Surveillance Authority and a Court of Justice², in particular Article 1 of Protocol 3 thereof,

WHEREAS:

I. FACTS

1. The complaint and other case-related correspondence

By letter dated 17 February 1994, received by the EFTA Surveillance Authority on 21 February 1994 (ref. 95-3050 A), DG IV³ requested the Authority pursuant to Protocol 27(f) to examine a new complaint by ESMA⁴ on aid to the Lindegaard group, a Norwegian producer of office stationery products. The complaint mainly concerned investment aid and aid for other purposes, notably transport aid to the Lindegaard group's subsidiary in Mo i Rana, Quick Mo A/S, a producer of polypropylene (plastic) film and polypropylene pockets.

¹Hereinafter referred to as the EEA Agreement

²Hereinafter referred to as the Surveillance and Court Agreement

³Directorate General IV/Competition of the Commission of the European Communities

⁴ESMA, the European Stationery Manufacturers' Association, had originally by letter of 21 July 1993 complained to DG IV on State aid to Quick Mo A/S belonging to the Lindegaard. The initial complaint was lodged before the entry into force of the EEA Agreement and therefore originally based on item iii of Clause 1 of Article 23 of the Free Trade Agreement between the European Economic Community and the Kingdom of Norway of 25 June 1973. In response to a request for information from DG IV the Norwegian authorities submitted information on "Aid and subvention to Quick Mo A/S" by a memorandum of 1 November 1993.

By letter of 3 March 1994 (our ref. 94-3649 D) the State Aid and Monopolies Directorate (SAM) of the Authority requested information from the Norwegian authorities on both pre-EEA aid measures and any aid granted to enterprises of the Lindegaard group after the entry into force of the EEA Agreement. The requested information was submitted by the Norwegian authorities on 25 March 1994 received by fax on the same date (our ref. 94-5497 A).

By letter of 21 September 1994 (our ref. 94-9866 D), the SAM Directorate informed ESMA that according to the available information subsidiaries of the Lindegaard group had only received awards of aid under existing aid schemes duly notified to the Authority. The letter was not conclusive as it referred implicitly to the Authority's review of existing aid in Norway at that point of time, but did not suggest any indications of such aid being misused.

By letter of 9 March 1995 from DG IV received on 14 March 1995 (our ref. 95-1778 A) a similar complaint on aid to the Lindegaard group was referred to the EFTA Surveillance Authority in accordance with Article 109 of the EEA Agreement. This complaint, by Mr. Jean-Francois Mancel⁵ was originally addressed to the President of the European Commission, Mr. Jacques Santer. The letter from Mr. Mancel was supported by copies of correspondence from DYMO Esselte SA and ESMA. The letter referred to Article 23 of the Free Trade Agreement between the European Economic Community and the Kingdom of Norway of 25 June 1973 and not to the EEA Agreement. Apart from higher estimates of alleged damage on European producers from a situation of disloyal competition ("*une situation de concurrence déloyal*") from the Lindegaard group, the complaint did not contain any new information. The letter from Mr. Mancel does not mention other correspondence in the case.

By letter of 15 March 1995 (our ref. 95-1811 D), the SAM Directorate requested the Norwegian authorities to provide updated information on aid granted to the Fredrik Lindegaard Group after 24 March 1994. The requested information was submitted to the Authority by letter from the Ministry of Industry and Energy of 5 April 1995 received on 18 April 1995 (our ref. 95-2535 A) and fax of 9 June 1995 (our ref. 95-3476 A). By letter of 8 May 1995 (our ref. 95-2721 D) DG IV was informed on the facts of the case and of the SAM Directorate's intention to propose a decision by the College to close the case without any further action. DG IV was therefore invited to an exchange of views in accordance with Protocol 27 (f) of the EEA Agreement if any such need was seen by the Commission's services. No such need has been expressed to the Authority.

Officials from the SAM Directorate have had meetings with Mr. Philippe Dournel, General Secretary of ESMA on two occasions, 19 July 1994 and 7 June 1995. The SAM Directorate has i.a. thereby kept ESMA informed of its investigation and findings on aid to the Lindegaard group. In the meeting of 7 June 1995 Mr. Dournel raised a new question concerning, in his view, an apparent link between the "low price" strategy followed by the Lindegaard group and a supply of, potentially subsidized, polypropylene raw material to Lindegaard at artificially low prices. This question has been followed up in a letter from ESMA of 26 June 1995 (our ref. 95-3846 A) and by fax of 27 June 1995 from ESMA via DG IV (our ref. 3756 A).

⁵Member of the European Parliament and Conseil General de L'Oise, Beauvais, France

2. The complainant

The principal complainant, the European Stationery Manufacturers' Association claims to represent 75 % of the manufacturers of office stationery products within the European Community and thereby 80 % of such production in Europe. The society members of ESMA are listed in the table below

Table 1 Members of the European Stationery Manufacturers Association

Company	Country	Company	Country
Gerafolien	Germany	Janssen	Netherlands
Hetzel	"-	Setten & Durward	United Kingdom
Plastoreg	"-	Eastlight	"-
Modling	France	Duel	"-
Centra	"-	Esselte	"-
Cartorel	"-	Bantex	"-
Viquel	"-	Acco Rexel	"-
L'Oblique AZ	"-	Bantex	Denmark
AD Classement	"-	Esselte	"-
Gillibert	"-		
Claircell	"-		
Esselte	"-		

3. The complaints

In its initial complaint of 21 July 1993 to DG IV, and in later correspondence ESMA has claimed that producers in the Lindegaard group, notably Quick Mo A/S, receive large amounts of subsidies for investment and other purposes. It is claimed that the company's exports receive aid to cover up to 40 per cent of the transport costs towards Europe. According to ESMA, the aid has allowed the Lindegaard group to under-cut prices in Europe by 10 to 15 % compared to established European producers of the same products. These estimates have by the letter from Mr. Mancel been raised to 20 to 25 percent. The estimated losses experienced by ESMA members from December 1992 and December 1993 measured in terms of reduced profits have been between 15 and 40 per cent depending on the product.

According to ESMA, the competition from subsidized products from the Lindegaard group explain the following observations in the European market for office stationery products;

- the British market has experienced a slight price drop of 10 % for lever arch binders, while the prices for punched plastic lever arch files have dropped by up to 20 %,
- the Danish market has not been much affected,
- the French market appears to have been the main target for the Lindegaard group. The effect of the 6 % market share acquired by the Lindegaard group in France, has been a price reduction of 20 % for the relevant products,
- the German market has not been much affected,
- the Benelux-markets have been "attacked" only recently and the market penetration efforts are considered by the established producers as "dumping"-cases and
- finally, the Lindegaard group holds 60% of the Norwegian market.

ESMA has calculated the gap between the invoice price charged by the Lindegaard group vis-à-vis the average production costs among ESMA members. The price and production cost information provided by ESMA is presented in the table below.

Table 2 Cost comparison between the Lindegaard group and ESMA

Product	Gap in % of ESMA costs	Lindegaard price ⁶	ESMA total	ESMA materials	ESMA charges
Cornered plastic files	+ 8 %	19.71	18.21	12.65	5.56
Plastic lever arch files (0.09 mm.)	- 25 %	10.91	14.50	9.50	5.00
Plastic lever arch files (0.06 mm.)	- 23 %	8.71	11.30	6.10	5.20

The table shows, according to ESMA, that the invoice prices charged by the Lindegaard Group are artificially low and that State aid to the Lindegaard group allows it to set its invoice prices far below the average net production cost⁸ of ESMA members. Further, as ESMA claims to know that the Lindegaard Group uses the same kind of production equipment as other European producers⁹, it is argued that price differentials cannot be explained by any significant difference in productivity.

Finally, ESMA argues that the Lindegaard group must be benefiting from a supply of cheap polypropylene raw material at prices approximately 30 % below world market prices¹⁰.

4. Information supplied by Norway¹¹ on the Lindegaard group and aid granted to subsidiaries of FL Holding A.S.

The Lindegaard group

The Lindegaard group consists of 4 production companies, three of which are situated in Norway and one in France. The group consists of Fredrik Lindegaard A/S¹², Quick Mo A/S, Quick Produkter A/S and FL France SARL. The group is controlled through FL Holding A/S. Taken as a whole the Lindegaard group had 140 employees and a consolidated annual turn-over of NOK 150¹³ million in 1994.

⁶All prices in French francs

⁷Average production costs among ESMA Members

⁸The average net production cost does not include general charges, administrative costs, distribution costs, financial costs related to the regular 45 day credit period or transportation costs which normally are included in the invoice price of the product.

⁹Source: Secretary General Philippe Dournel, ESMA

¹⁰According to certain calculations by ESMA estimated on the basis of Norwegian export statistics. Statistisk Sentralbyrå (Norway), Utenrikshandel: Exports under classification codes 3926.1000 and 4820.3000 (Print out dated 28 April 1995).

¹¹The information referred to under this point concerns the information supplied by Norway in response to the Authority's examination of the complaint. The justifications for and the descriptions of aid and other measures is presented as forwarded by the Norwegian authorities.

¹²The initial mother company is located in the municipality of Ski just outside Oslo.

¹³Equivalent to ECU 17.9 million (1 ECU = NOK 8.38397, ref. EUROPE No. 6140 3/4 January 1994)

Quick Mo A/S

Quick Mo A/S, located in the Municipality of Rana, County of Nordland, is a wholly owned subsidiary of FL Holding A/S. Employment in 1994 was 26 man-years. Annual turn-over in 1993¹⁴ was NOK 25 million.

The company is a producer of cast film used in production of polypropylene pockets¹⁵. The production of such pockets are partly carried out at Quick Mo A/S and partly at Fredrik Lindegaard A.S. The latter firm takes care of marketing and sales.

Prior to the entry into force of the EEA Agreement, in 1992/93, the Norwegian Regional and Industrial Investment Fund (SND) awarded NOK 10 million in investment grants to cover part of an investment of NOK 31.825 million involving procurement of equipment and repair of production facilities. The company was awarded NOK 300 000 in soft aid¹⁶ to cover expenses up to 50 % of the costs related to training courses on new technology. Apart from aid linked to investment, the company received in 1993 NOK 262 000 in subsidies from the Nordland Employment Agency for training of 10 former long-term unemployed¹⁷. These employment and training subsidies covered up to 46 % of such expenses.

In 1993 SND granted Quick Mo A/S a regional risk loan amounting to NOK 5 million¹⁸ at an interest rate of 11 % p.a.. The interest rate has later been lowered to 10 % p.a. following the fall in market rates in Norway.

Quick Mo A/S, rents a building from the municipality of Rana. As the rent covers all the municipality's expenses related to acquiring the building, the Norwegian Authorities hold that no element of State aid is involved in the rental contract. Otherwise, Quick Mo A/S had to pay in 1993 NOK 0.22/kW for electricity plus VAT and an electricity tax of NOK 0.023/kW. The company's power supply contract was based on a bidding competition among electricity power suppliers. The contract price is according to the Norwegian authorities fixed at the same level as the ordinary market price for power supplies and does therefore not contain any State aid element. The company had up to 1 January 1994, not received any transport aid.

After the entry into force of the EEA Agreement, Quick Mo A/S was on 24 March 1994 awarded an investment grant by SND¹⁹ limited to NOK 9 million. The grant covers up to a maximum of 26 % of the investment costs related to the company's acquisition of a plastic film extruder machine, a pocketing machine and granulation equipment. The total investment has been calculated to NOK 35 million. For this investment SND granted Quick Mo A/S a regional risk loan amounting to NOK 8

¹⁴A separate estimate for 1994 has not been supplied by Norway.

¹⁵According to the Ministry of Industry and Energy Quick Mo A.S. is not a producer of other products referred to by the complainant, binders (classeurs), plastic indexes (repertoires polypropylene) or cornered plastic pockets (pochettes coins)

¹⁶Development grants by SND

¹⁷The Rana region has experienced major structural changes in relation to the closing down of the production of coke by A/S Norsk Koksverk (loss of 300 jobs) and the restructuring of A/S Norsk Jernverk (reduced work force from 2750 to 900). The Rana region has 15000 inhabitants.

¹⁸The Norwegian authorities do not consider regional risk loans to constitute state aid.

¹⁹Aid no 93-143 Regional investment grant scheme administered by SND

million at an interest rate of 10 % p.a.²⁰ In April 1994 Rana utviklingsselskap²¹ granted NOK 200 000 in "Development grants" to cover planning and development costs related to the investment project.

On 8 August 1994 the County of Nordland granted Quick Mo A/S direct transport aid under its existing transport aid scheme²² amounting to NOK 110 498. The amount is based on the company's documented transport costs of NOK 544 450 in 1993 for transport of goods between Quick Mo A/S and Fredrik Lindegaard A/S in Ski near Oslo. The resulting aid intensity is 20.3 %.

Finally, Quick Mo A/S has received total financial contributions from 1 January 1994 up to April 1995 amounting to NOK 416 218 in wage subsidies to cover training and reduced productivity for 4 refugees, 4 unemployed and 10 disabled persons. These wage subsidies are administered by the labour market authorities under a scheme for hiring long-term unemployed and refugees²³ and a scheme for hiring vocationally disabled²⁴. Although these schemes were initially notified as existing aid, the Norwegian authorities argue in their letter of 5 April 1995 (our ref. 95-3525 A) that the employment aid measures, are tied to specific individuals with certain "handicaps". The wage subsidies are only granted over a limited period of time which may be adjusted according to the individual's need for training and mastering of tasks in his new job. The Norwegian authorities emphasize that the respective employment subsidies are in principle attainable for all firms who are willing to hire the respective job-seekers and that the schemes therefore should be considered as general labour market measures which fall outside the scope of Article 61(1) of the EEA Agreement.

Quick Produkter A/S

Quick Produkter A/S is also a wholly owned subsidiary of FL Holding A.S. The company is located in Veggli, Municipality of Rollag, County of Buskerud. The company's main products are lever arch files and ring binders. The employment in 1994 was 27 man-years. The annual turn-over in 1993 was NOK 42 million.

Prior to the entry into force of the EEA Agreement, the company received investment grants amounting to a total of NOK 1.88 million from the former Norwegian Regional Development Fund (DU) which has now been merged into SND. By 24 April 1994 the company had in all 5 "DU loans" amounting to NOK 4.679 million granted on terms comparable to SND's regional risk loan schemes. There are no existing schemes for direct transport aid in the County of Buskerud.

After the entry into force of the EEA Agreement, the company received an investment grant²⁵ amounting to NOK 0.45 million on 5 March 1995 from SND. The actual investment project, concerning i.a. the purchase of an "adhesion machine, a compressor and a crane, was calculated to NOK 4.547 million, with a resulting aid

²⁰Same conditions as the loan amounting to NOK 5 million granted by SND in 1993 and regarded by the Norwegian authorities as not containing any element of State aid.

²¹ Aid no 93-195 Rana utviklingsselskap

²²Aid no 93-210 Regional transport aid scheme, County of Nordland

²³Aid no 93-206 Mediation measures (*Formidlingstiltak*)

²⁴Aid no 93-205 Mediation measures for vocationally disabled (*Formidlingstiltak for yrkeshemmede*)

²⁵Aid no 93-143 Regional investment grant scheme administered by SND

intensity of 10 %. In addition SND has granted a regional risk loan²⁶ on commercial conditions for the investment amounting to NOK 1.3 million .

Fredrik Lindegaard A/S

Fredrik Lindegaard A/S, the mother company of the group, employed a work force of 58 man-years and had an annual turn-over of NOK 119 million in 1994. The company is located in the Municipality of Ski, County of Akershus. Fredrik Lindegaard A/S is a producer of indices, suspension folders, polypropylene folders and polypropylene pockets. The company has according to the Ministry of Industry and Energy neither received any form of aid after the entry into force of the EEA Agreement nor in the 5 previous years.

FL Holding A/S

FL Holding A/S has by the acquisition of a company called Big A/S taken over certain SND loans granted in connection with investment by Big A/S at an earlier date. The remaining loan in March 1994 was NOK 0.441 million. The pending interest rate was 10%²⁷.

FL France SARL

FL France SARL is a 100 % owned subsidiary of the Lindegaard group located in Estrees, St. Denise. The company had a turnover in 1994 of FF 27 mill. The company is engaged in sales related activities, assembly of lever arch mechanisms to lever arch binders and production based on polypropylene film from Quick Mo A/S.

II. APPRECIATION

In the case at hand it is appropriate to make 4 distinctions concerning the examination of the complaint on aid awarded to the Lindegaard group, namely;

- between State aid that has been awarded before ("pre-EEA") and after the entry into force of the EEA Agreement,
- between awards of aid granted under existing aid schemes which have been duly notified as such to the Authority and un-notified State aid,
- between aid which in substance is and aid which in substance is not compatible with the functioning of the EEA Agreement and
- between State aid and general measures which do not constitute State Aid in the meaning of Article 61(1) and therefore fall outside the scope of the EEA Agreement,

1. Aid granted before the entry into force of the EEA Agreement

Neither the EEA Agreement nor the Surveillance and Court Agreement confer any competence to the Authority to decide on State aid which is deemed to have been granted to the Lindegaard Group before the entry into force of the EEA Agreement.

²⁶Aid no 93-145 *Regional risk loan scheme* (Risikolåneordningen) administered by SND

²⁷In 1994 the relevant reference rate of interest for Norway was 7.5 % p.a.

Such "pre-EEA" aid is in accordance with point 7.2.1 first indent of the State Aid Guidelines defined as *e.g. aid awarded under aid schemes in operation before the entry into force of the EEA Agreement and individual awards outside any scheme, which have been decided upon before and payments have been awarded before the entry into force of the EEA Agreement*. Such "pre-EEA" aid may however be covered by the Free Trade Agreement between the European Economic Community and the Kingdom of Norway of 25 June 1973. The compatibility of such aid may consequently not be decided upon by the EFTA Surveillance Authority. The Authority has therefore for the purpose of this decision only established the "pre-EEA" nature of the measures listed in table 3 below.

Table 3 "Pre-EEA" measures in favour of the Lindegaard group

Year	Company	Scheme	Amount
1992/93	Quick Mo A/S	SND-Regional investment grant	NOK 10.0 million
1992/93	- " -	SND-Development grant	NOK 0.3 million
1993	- " -	SND-Regional risk loan	NOK 5.0 million
1993	- " -	Aid for training of long-termed unemployed	NOK 0.3 million
1989/93	Quick Produkter A/S	SND-Regional investment grants	NOK 1.9 million
1987/93	- " -	SND loans	NOK 4.7 million
n.a.	FL Holding A/S	SND loan	NOK 0.4 million

2. Aid granted after the entry into force of the EEA Agreement

Awards under existing schemes

The notion of existing aid is in accordance with paragraph 7.2 of the State Aid Guidelines defined as *"aid schemes in operation at the entry into force of the EEA and individual awards of aid which have been decided upon before and foresee payments after the entry into force of the EEA Agreement" and "authorized aid, i.e. aid schemes or ongoing provisions of aid that have been authorized²⁸ or are deemed to have been authorized²⁹ by the EFTA Surveillance Authority"*. All aid awarded to enterprises in the Lindegaard group has come from aid schemes which satisfy this definition.

Aid awarded to the Lindegaard Group in accordance with the prevailing provisions of existing aid schemes in operation at the entry of the EEA Agreement is lawful because it is granted respecting the procedural obligations under the Agreement.

The financial transfers to the Lindegaard Group after the entry into force of the EEA Agreement under existing schemes of which the Authority³⁰ has been duly informed are listed in table 4 below.

²⁸See points 4.2.(2) and 5.4.(2) of the State Aid Guidelines

²⁹See footnote 1 to point 4.1.(1) of the State Aid Guidelines.

³⁰By letters from the Ministry of Industry and Energy of 3 and 25 March 1994.

Table 4 EEA relevant measures in favour of the Lindegaard group

Year	Company	Scheme	Amount
1994	<i>Quick Mo A/S</i>	Aid no 93-143 SND- Regional investment grant scheme	NOK 9 million
1994	- " -	Aid no 93-145 SND- Regional risk loan scheme	NOK 8 million ³¹
1994	- " -	Aid no 93-408 Rana utviklingselskap	NOK 0.2 million
1994	- " -	Aid no 93-210 Regional transport aid	NOK 0.1 million
1994/95	- " -	Aid nos. 93-205/206 Employment aid schemes	NOK 0.4 million
1995	<i>Quick Produkter A/S</i>	Aid no 93-143 SND- Regional investment grant scheme	NOK 0.5 million
1995	- " -	Aid no 93-145 SND- Regional risk loan scheme	NOK 1.3 million ³²

Compatibility with the EEA Agreement

The Fredrik Lindegaard Group qualifies as a small and medium-sized enterprise (SME) as defined in section 10.2 of the State Aid Guidelines. The most updated information on the Fredrik Lindegaard Group indicates a combined work force of 136 employees, a consolidated annual turnover of NOK 150 million for 1994 (ECU 18.0 million³³). The subsidiaries of the group are 100 % owned by FL Holding A/S, which in turn is an independent company.

The regional investment grants awarded by SND³⁴ respectively to Quick Mo A/S and Quick Produkter A/S, are in accordance with the EFTA Surveillance Authority's decision on the map of assisted areas for Norway³⁵. These companies are located within the map of assisted areas eligible for regional investment aid in Norway.

In the Rana region where Quick Mo A/S is located, aid for investment may be awarded up to an intensity of 25 % NGE³⁶ with an additional SME-bonus of 5 % (gross). As the aid (total of investment grant and aid for training) for Quick Mo A/S' investment of NOK 35 million, amounts to NOK 9.2 million, the corresponding aid intensity is 26 % (net). Taking into account the Lindegaard group's status as an SME, it may therefore be concluded that the aid intensity is within the established threshold for regional investment aid for this region and that the aid for this investment project has been granted in accordance with the rules for regional aid under the EEA Agreement.

³¹Principal of the loan

³²Principal of the loan

³³Source Europe 3 January 1994: 1 ECU = NOK 8.32582

³⁴Aid no. 93-143 *SND Regional investment grant scheme*

³⁵Decision 157/94/COL of 16 November 1994

³⁶Net grant equivalent

The applicable aid intensity for regional investment aid in the municipality of Rollag where Quick Produkter A/S is located is 15 % NGE with an additional SME bonus of 10 % (gross). The regional investment grant by SND of NOK 0.45 million to Quick Produkter A/S amounted to 10 % (net) of the whole investment project compared to the actual eligible investment cost of NOK 4.5 million. It may therefore be concluded that the corresponding intensity is well within the acceptable limit for regional investment aid that may be allocated to enterprises in the municipality of Rollag and that the aid is compatible with the functioning of the EEA Agreement.

The EFTA Surveillance Authority is satisfied that the two regional risk loans granted respectively to Quick Mo A/S (NOK 8 million) and to Quick Produkter A/S (NOK 1.3 million), have been awarded on commercial conditions. The interest rate on the loans, currently 10 % p.a. contains a certain risk premium as the interest rate is higher than the relevant reference rate of interest established for State aid control, currently 8.19 % p.a. for Norway. The Authority may on the basis of the available information accept that these two individual loans do not constitute aid in the meaning of Article 61(1) of the EEA Agreement.

Transport aid

Regional transport aid is compatible with the EEA Agreement when granted under certain conditions laid down in section 28.2.3.2. of the State Aid Guidelines. In accordance with point (3) of section 28.2.3.2., the EFTA Surveillance Authority aims at reviewing the existing schemes for assistance to transport on the basis of the above criteria by the end of 1996. Nevertheless, it may be established for the purpose of examining the case at hand that the award of transport aid granted to Quick Mo A/S by the County of Nordland in 1994 is in accordance with the conditions referred to above. The population densities both in the County of Nordland (7 inh/km²) and the Helgeland region (5 inh/km²) where the municipality of Mo i Rana is located, are well below the threshold of 12.5 inh/km² for a region to qualify for regional transport aid. Moreover, the specific award of transport aid of NOK 110 498 to Quick Mo A/S in 1994 was in accordance with the other conditions for granting such aid as it covered only 20.3 per cent of documented costs of NOK 544 450 for transport of goods within Norway, e.g. from Mo i Rana in Northern Norway to Fredrik Lindegaard A/S located in the Oslo region.

For the sake of completeness, and although this is not referred to in the complaint, it is appropriate to recall that enterprises located in the County of Nordland also benefit from the system of a regionally differentiated social security taxation. This tax is paid by employers as a percentage of the gross salary of employees. The tax rate in the County of Nordland is only 5.3 % compared to the standard rate of 14.3 %. The SAM Directorate has followed a line of policy based on the assumption that this aid system may be continued in an amended form as indirect transport aid if brought into conformity with the conditions laid down in section 28.2.3.2. of the State Aid Guidelines. The review period for scrutiny of transport aid referred to above is therefore considered to apply also for this aid system. On these grounds it may be concluded that the aid is not un-lawful according to the rules on State aid under the EEA Agreement.

3. Other measures affecting the Lindegaard group

Employment subsidies

The schemes under which wage subsidies have been offered to Quick Mo A/S for hiring un-employed and refugees and for hiring vocationally disabled, respectively Aid no 93-205 Mediation measures for vocationally disabled (*Formidlingstiltak for yrkeshemmede*) and Aid no 93-206 Mediation measures (*Formidlingstiltak*), have been re-examined by the EFTA Surveillance Authority. The information on the schemes taken as a whole and the information on the financial transfers from the labour market authorities to Quick Mo A/S under these two schemes, support the view expressed by the Norwegian authorities that both schemes fall outside the scope of Article 61(1) of the EEA Agreement. It may on the grounds referred to below be concluded that the schemes concern general labour market measures to the benefit of individuals and that they do not constitute State aid "which threatens to distort competition by favouring certain undertakings or the production of certain goods".

The individuals who benefit from the schemes referred to in the above paragraph receive ordinary salary levels from their new employers. Individuals eligible for such support are selected by the labour market authorities³⁷. The employers who agree to take on such employees are also to be authorized by the labour market authorities. However, the implementing regulations³⁸ of the schemes only foresee that the labour market authorities control the suitability of the employers. The regulations do not foresee any role for the labour market authorities in supplying subsidized labour to certain industries in a selective manner. On the contrary, the implementing regulations foresee i.a. that; a) the financial support shall not continue beyond an initial training period as compensation for reduced productivity, b) the labour market authorities shall take care that employees benefiting from such schemes do not replace ordinary employment and c) the schemes are not administered in a way that may lead to distortion of competition in the private sector. The financial contributions are paid out by the labour market authorities to the employers and they are calculated as a fixed percentage of the gross salary of the employee³⁹. The need for a person to continue on such labour market schemes for additional training beyond an initial period is to be controlled by the labour market authorities at regular intervals (at least every 3 months). The training period should normally not go beyond 6 months for ordinary un-employed, but may under certain conditions and notably for vocationally disabled, be extended for a period of up to 18 months.

Power supply and rental contracts

Concerning Quick Mo A/S' contract for its rental of a building owned by the municipality of Mo i Rana and the company's power supply contract the EFTA Surveillance Authority does not possess any information which might suggest that these contracts contain conditions amounting to State aid in the meaning of Article 61(1). Furthermore, it is only the Norwegian authorities and not the complainant who has drawn the Authority's attention to the existence of such contracts.

³⁷Arbeidskontoret

³⁸Regler og retningslinjer for arbeidsmarkedstiltak, Arbeidsdirektoratet PB 0549 - mars 1994

³⁹50 % for ordinary unemployed

Supply of polypropylene

Finally, the question raised by ESMA on whether the Lindegaard group may benefit from a supply of subsidized raw material polypropylene at artificially low prices for the production of plastic film, should, eventually, be examined independently of the case at hand, as there are not considered to be any actual or potential links between this question and the other measures related to the case.

ESMA has only provided the Authority with indirect indications of such advantages to the Lindegaard group. It is relevant for the Authority to take into account that in general, the production of manufactured goods are dependent upon a number of other factors than aid which may account for significant differences in the production costs and/or price levels for certain goods. The Authority has to conclude, with reference to i.a. the cost differentials presented in table 2 of part I of this decision and other information supplied by ESMA, that no evidence has been provided to show that the alleged price differentials would result from state aid.

As concerns the basis for an assumption of a 30 % reduced price on raw material polypropylene, ESMA's calculations are based on the development in prices per kilo for goods classified in the export statistics for Norway, position 3296.1000⁴⁰. The relevance of this indicator does not seem to be substantiated.

It follows from the Authority's general obligation under Article 1(1) to Protocol 3 of the Surveillance and Court Agreement to keep all systems of State aid under constant review that the Authority is obliged to examine any indications of State aid in the polypropylene market of the EEA-EFTA States. Any such examination would have to be carried out outside the context of the present case which relates only to aid received by the Lindegaard group.

III. CONCLUSIONS

The EFTA Surveillance Authority's examination of the aid granted to the Lindegaard group has lead to the following conclusions;

- The EEA Agreement and the Surveillance and Court Agreement do not confer any competence to the EFTA Surveillance Authority to decide on the compatibility of State aid granted to companies belonging to the Lindegaard group before the entry into force of the EEA Agreement. As the measures listed in table 3 of part II of this decision were awarded before the entry into force of the EEA Agreement, they have not been examined by the Authority for compatibility with the EEA Agreement.
- The grants, loans and employment measures awarded to the benefit of companies belonging to the Lindegaard group as listed in table 4 of part II of this decision have all been awarded under schemes that qualify as existing aid schemes and are therefore lawful on procedural grounds. The examination of the available information on State aid awarded to the Lindegaard group does not indicate awards of any un-notified State aid.

⁴⁰Position 3296.1000 accounts for "Office and school supplies"

- The Authority's examination has shown that the regional investment grants awarded by SND respectively to Quick Mo A/S and Quick Produkter A/S were granted in accordance with the rules for regional investment aid under the EEA Agreement. Concerning the transport aid awarded by the County of Nordland to Quick Mo A/S, it has been concluded that this individual grant satisfied the conditions for regional transport aid in accordance with the conditions laid down in section 28.2.3.2 of the State Aid Guidelines, notwithstanding the review period applicable for adaptation of all systems of regional transport aid indicated in point (3) of section 28.2.3.2.
- Concerning the financing provided by SND under its regional risk loan scheme to the benefit of respectively Quick Mo A/S and Quick Produkter A/S, it has been concluded that these particular loans were awarded on commercial conditions without any State aid involved.
- Finally, it is concluded that aid no 93-206 Mediation measures (*Formidlingstiltak*) and aid no 93-205 Mediation measures for vocationally disabled (*Formidlingstiltak for yrkeshemmede*) as a whole and the financial transfers to Quick Mo A/S are general labour market measures which do not constitute State Aid in the meaning of Article 61(1) and therefore fall outside the scope of the state aid rules.

As the examination has neither led to any findings of individual awards of aid to the Lindegaard group which are incompatible with the functioning of the EEA Agreement nor to any findings of financial support granted under schemes which may be considered as currently incompatible with the functioning of the EEA Agreement, a decision may be taken to conclude the examination of the complaint from the European Stationery Manufacturers' Association without proposing any further action.

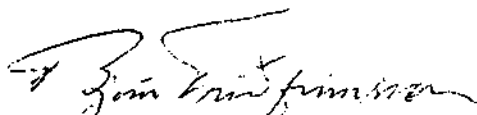
HAS ADOPTED THIS DECISION:

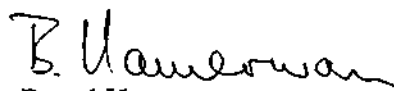
1. The EFTA Surveillance Authority has decided to close its investigation of the complaint from the European Stationery Manufacturers' Association on aid to the Fredrik Lindegaard Group without proposing any further action.
2. The European Stationery Manufacturers' Association, Mr. Jean-François Mancel and the Norwegian authorities are to be informed by letters stating the relevant findings of the EFTA Surveillance Authority's examination.

3. The European Commission is informed in accordance with Protocol 27 (d) by means of copies of the letters respectively to the European Stationery Manufacturers' Association and to Mr. Jean-François Mancel.

Done at Brussels, 20 July 1995

For the EFTA Surveillance Authority


Björn Friðfinnsson
Acting President


Bernd Hammermann
College Member