

Case No: 65614  
Event No: 499264  
Decision No: 786/08/COL

**EFTA SURVEILLANCE AUTHORITY DECISION**  
of 17 December 2008

on the alteration to the scheme for research and development concerning gas technologies  
with improved environmental performance (“Gassnova”)

(Norway)

**THE EFTA SURVEILLANCE AUTHORITY<sup>1</sup>**

Having regard to the Agreement on the European Economic Area<sup>2</sup>, in particular to Articles 61 to 63 and Protocol 26 thereof,

Having regard to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice<sup>3</sup>, in particular to Article 24 thereof,

Having regard to Article 1(3) of Part I and Article 4(3) of Part II of Protocol 3 to the Surveillance and Court Agreement<sup>4</sup>,

Having regard to the Authority’s Guidelines on the application and interpretation of Articles 61 and 62 of the EEA Agreement<sup>5</sup>, and in particular the chapter on aid for research and development and innovation<sup>6</sup>.

Having regard to the Authority’s Decision of 14 July 2004 on the implementing provisions referred to under Article 27 of Part II of Protocol 3<sup>7</sup>.

Having regard to Decision No 302/05/COL on a notified scheme for research and development concerning gas technologies with improved environmental performance (“Gassnova”)<sup>8</sup>.

---

<sup>1</sup> Hereinafter referred to as the Authority.

<sup>2</sup> Hereinafter referred to as the EEA Agreement.

<sup>3</sup> Hereinafter referred to as the Surveillance and Court Agreement.

<sup>4</sup> Hereinafter referred to as Protocol 3.

<sup>5</sup> Guidelines on the application and interpretation of Articles 61 and 62 of the EEA Agreement and Article 1 of Protocol 3 to the Surveillance and Court Agreement, adopted and issued by the Authority on 19 January 1994, published in the Official Journal of the European Union (hereinafter referred to as OJ) L 231 of 03.09.1994 p. 1 and EEA Supplement No 32 of 03.09.1994 p. 1. Hereinafter referred to as the State Aid Guidelines. The updated version of the State Aid Guidelines is published on the Authority’s website: <http://www.eftasurv.int/fieldsOfWork/fieldstateaid/guidelines/>

<sup>6</sup> Hereinafter referred to as the R&D&I Guidelines.

<sup>7</sup> Decision 195/04/COL of 14 July 2004 published in OJ C 139 of 25.05.2006 p. 57 and EEA Supplement No 26 of 25.05.2006 p. 1.

<sup>8</sup> Published in OJ C 100, 27.4.2006, p. 2. The full text of the Decision can be found at [http://www.eftasurv.int/fieldsOfWork/fieldstateaid/stateaidregistry/sadecis05/esa\\_bxl-323533-v3-gassnova\\_-\\_decision\\_302\\_05\\_col.DOC](http://www.eftasurv.int/fieldsOfWork/fieldstateaid/stateaidregistry/sadecis05/esa_bxl-323533-v3-gassnova_-_decision_302_05_col.DOC).

Whereas:

## I. FACTS

### 1 Procedure

The Norwegian authorities notified an alteration to the aid scheme for research and development concerning gas technologies with improved environmental performance (“Gassnova”) pursuant to Article 1(3) of Part I of Protocol 3 by letter of 20 October 2008 (Event No 495488).

### 2 Description of the proposed measures

#### 2.1 Short description of the notification

On 30 November 2005, the Authority adopted Decision No 302/05/COL on a notified scheme for research and development concerning gas technologies with improved environmental performance (“Gassnova”) (hereinafter “the Gassnova scheme”). In this Decision, the Authority found the scheme to be compatible with the state aid rules of the EEA Agreement, in particular, with Article 61(3)(c) thereof, read in conjunction with the R&D Guidelines applicable at that time<sup>9</sup>.

As explained in that Decision, the Gassnova scheme is part of a public programme named CLIMIT, which is aimed at promoting environmental friendly gas-fired power technologies and solutions for disposal of carbon dioxide<sup>10</sup>. Support under the CLIMIT Programme can be awarded either from Gassnova or from the Research Council of Norway. Only the part of the programme managed by Gassnova was notified and thus assessed in the Authority’s Decision No 302/05/COL.

On 7 February 2007, the Authority adopted a new set of guidelines concerning the grant of aid for research and development and innovation (the R&D&I Guidelines)<sup>11</sup>. As an integral part of these Guidelines, the Authority proposed appropriate measures concerning existing research and development aid schemes. In order to comply with the provisions of the new R&D&I Guidelines, EFTA States should amend, where necessary, existing aid schemes to bring them into line with the guidelines.

With the current notification, the Norwegian authorities have notified the expansion of the Gassnova scheme as approved by the Authority and the modifications in the scheme necessary to bring it into line with the R&D&I Guidelines.

Moreover, in the notification, the Norwegian authorities have informed the Authority of a change in the formal status of Gassnova, the body administering the grant of state aid under the Gassnova scheme. On 3 July 2007 Gassnova SF, a state-owned enterprise under the provisions of the Act on State Enterprises<sup>12</sup>, was established. Gassnova SF consists of three departments (Projects, Commercial and Technology). One section within the department of Technology is dedicated to the administration of the CLIMIT-programme.

<sup>9</sup> Former Chapter 14 of the Authority’s State Aid Guidelines, Aid for Research and Development, was adopted on 26 July 2002 with Decision No 145/02/COL.

<sup>10</sup> Page 3 of Decision No 302/05/COL.

<sup>11</sup> Decision No 14/07/COL.

<sup>12</sup> Act No 71 of 30 August 1991, *Lov om statsforetak*.

There are separate budgets for the administration and for the financing through the CLIMIT-Programme. In order to ensure that decisions taken under this aid scheme were independent from other activities performed by Gassnova SF, the Ministry of Petroleum and Energy established the CLIMIT Programme Board on 26 February 2008. Its responsibilities include deciding which projects are to be granted aid. The Board consists of 10 persons appointed by the Ministry of Petroleum and Energy.

Regarding CLIMIT matters, the department of Technology reports to the CLIMIT Board and not to the management of Gassnova SF.

#### *2.1.1 Expansion of the fields of activities eligible for funding under the amended aid scheme*

The Norwegian authorities have notified an expansion of the range of eligible beneficiaries of the scheme entitled “*Aid scheme for research and development concerning gas technologies with improved environmental performance (“Gassnova”)*” as originally authorised by the Authority in Decision No 302/05/COL.

The expansion implies that the scheme will include research and development concerning technologies related to all fossil fuels with improved environmental performance and not only gas technologies. In particular, the scheme will include testing and demonstration of new technological solutions for gas- and coal-fired energy production, as well as carbon dioxide handling technology. The objective of the scheme is to strengthen the intensity of research and development concerning fossil fuel-fired power stations with carbon capture and storage (CCS) in order to reduce carbon dioxide emissions from such stations.

#### *2.1.2 Other amendments of the Gassnova scheme to comply with the new R&D&I Guidelines*

In addition to this expansion, the notification includes some modifications in the existing aid scheme to bring the scheme in line with the Authority’s R&D&I Guidelines<sup>13</sup>. The scheme is amended in accordance with Section 5 of the R&D&I Guidelines regarding aid for R&D projects, aid for technical feasibility studies, aid for process and organisational innovation in services and aid for innovation clusters.

##### *- Definitions*

The Norwegian authorities have indicated that the definitions provided for under Section 2.2 of the R&D&I Guidelines will apply for the Gassnova scheme.

##### *- Aid for R&D projects: amendments regarding the applicable bonuses and the aid intensities*

The Norwegian authorities have proposed amendments to the applicable bonuses under the scheme. According to the information provided with the notification, under the amended scheme the ceilings fixed for industrial research and experimental development may be increased by 10 percentage points for medium sized enterprises and by 20 percentage points for small enterprises. Up to a maximum aid intensity of 80 %, 15 percentage points may be added for projects found compatible with the alternatives listed in Section 5.1.3 of the R&D&I Guidelines.

---

<sup>13</sup> Ref. the R&D&I Guidelines paragraph 175.

The aid intensities for technical feasibility studies have also been altered. Under the proposed amended scheme, the aid intensity for technical feasibility studies preparatory to industrial research cannot exceed 65 %. The aid intensity cannot exceed 40 % for studies preparatory to experimental development. For SMEs the maximum aid intensities are 75 % and 50 % respectively.

- *Aid for process and innovation in services*

The proposed amendment includes the grant of aid for process and innovation in services in accordance with Section 5.5 in the R&D&I Guidelines. The maximum aid intensity for large enterprises is 15 % of eligible costs, 25 % for medium enterprises and 35 % for small enterprises.

- *Aid for innovation clusters*

The Norwegian authorities have expanded the scope of the Gassnova scheme to include aid for innovation clusters, including investment aid for setting up and expansion of innovation clusters and operating aid for cluster animation in accordance with Section 5.8 of the R&D&I Guidelines. Such aid is exclusively granted to the legal entities operating the innovation clusters. The maximum aid intensity is 15 % for investment aid. The aid intensity may be increased by maximum 20 percentage points for small enterprises and by 10 percentage points for medium enterprises. Operating aid for cluster animation is granted for a period of maximum 5 years and the maximum aid intensity is 50 % of the eligible costs.

- *Measures subject to a detailed assessment*

The Norwegian authorities have also incorporated the new thresholds for large individual projects established under the new R&D&I Guidelines into the Gassnova scheme. According to the old guidelines of the aid scheme, any individual research project costing more than EUR 25 million and for which it is proposed to provide aid with a gross grant equivalent of more than EUR 5 million would require prior notification to the Authority.

Following the amended R&D&I guidelines, the new thresholds for project aid and feasibility studies applicable under the Gassnova scheme are as follows: EUR 20 million per undertaking per project/feasibility study if the project is predominantly fundamental research, EUR 10 million per undertaking per project/feasibility study if the project is predominantly industrial research, EUR 7.5 million per undertaking per project/feasibility study for all other projects, EUR 5 million per undertaking per project study for the process or organisational innovation in service activities and EUR 5 million for innovation clusters.

- *Cumulation*

According to the guidelines of the Gassnova aid scheme, the funding under the scheme is coordinated with funding under other aid schemes. The Norwegian authorities have indicated that the aid ceilings described in Section 8 of the R&D&I Guidelines are not to be exceeded. It will also be ensured that no *de minimis* aid is granted to cover the same eligible costs in order to circumvent the maximum aid intensities under the scheme.

- *Annual reports*

The Norwegian authorities have also confirmed that they will submit annual reports to the Authority in accordance with the requirements in Section 9 of the R&D&I Guidelines.

## **2.2 National legal basis for the amendments to the Gassnova scheme**

For the legal basis for the Gassnova scheme reference is made to the Authority's Decision No 302/05/COL<sup>14</sup>. The legal basis for the amendments can be found in St.prp. nr. 1 (2008-2009). The proposal explained that the Gassnova aid scheme should be expanded to cover all fossil fuel energy production. The St.prp. was approved by the Norwegian cabinet (Statsråd) on 12 September 2008.

## **2.3 Budget and duration**

The scheme managed by Gassnova is financed through dividends from a dedicated fund of NOK 2 billion (Gassteknologifondet). There are no changes in the budget due to the expansion of the scheme.

There is no change in the duration of the scheme, which is 10 years, from 30 November 2005 until 30 November 2015.

# **II. ASSESSMENT**

## **1 The presence of state aid within the meaning of Article 61(1) EEA**

Article 61(1) of the EEA Agreement reads as follows:

*“Save as otherwise provided in this Agreement, any aid granted by EC Member States, EFTA States or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Contracting Parties, be incompatible with the functioning of this Agreement.”*

In Decision No 302/05/COL, the Authority assessed the aid scheme for research and development concerning gas technologies with improved environmental performance (“Gassnova”) as notified at the time. In that Decision, the Authority considered as far as aid under the scheme was granted to undertakings, that the scheme constituted state aid, which was compatible with the functioning of the EEA Agreement on the basis of the provisions of the Authority's R&D Guidelines<sup>15</sup>.

The current notification concerns an expansion of the aid scheme and some modifications to bring the scheme in line with the new R&D&I Guidelines. Therefore, the Authority

<sup>14</sup> Decision No 352 to the Storting (2002-2003), Decision No 69 to the Storting (2003-2004), Proposition No 250 to the Storting (2003-2004), decision No 549, Budget resolution No 9 to the Storting (2004-2005) from the Committee for Energy and Environment, Royal decree of 17.12.2004 concerning the establishment and decision on by-laws and authority for the administrative agency Gassnova, and Regulation on amendments to Regulation of 16.12.1977, No 14 and Regulation of 16.12.1977, No 15.

<sup>15</sup> Chapter 14 on aid for research and development of the Authority's Guidelines on the application and interpretation of Articles 61 and 62 of the EEA Agreement.

considers that these amendments do not alter the assessment made in its previous decision as regards the classification of the scheme as state aid.

## **2 Procedural requirements**

By submitting the present notification on the alteration to the aid scheme for research and development concerning gas technologies with improved environmental performance (Gassnova) by letter dated 20 October 2008 (Event No 495488), and by confirming that no payment will be made under the notified part of the Gassnova scheme before it is formally approved by the Authority, the Norwegian authorities have complied with the notification requirements under Article 1(3) of Part I of Protocol 3.

## **3 Compatibility of the aid**

The Authority has assessed the notified alterations to the existing aid scheme according to Article 61(3)c of the EEA Agreement read in conjunction with the R&D&I Guidelines.

### **3.1 Amendment of the field of activities covered by the Gassnova scheme**

The current notification proposes to expand the Gassnova scheme to include aid for research and development concerning technologies related to all fossil fuels with improved environmental performance and not only gas technologies. The notified amendment constitutes an expansion of the field of activities eligible for funding under the Gassnova scheme.

The Authority does not raise any objections to the expansion of the Gassnova scheme to also cover research and development related to all fossil fuels in as far as the other conditions of the scheme as approved with Decision No 302/05/COL are respected.

### **3.2 Other amendments of the Gassnova scheme to comply with the new R&D&I Guidelines**

#### *3.2.1 Definitions*

The Norwegian authorities have confirmed that the definitions in Section 2.2 of the R&D&I Guidelines will apply for the Gassnova scheme. Although the Authority believes that the Norwegian authorities could have provided more details on the actual definitions used in the Gassnova scheme, it does not question the commitment of the Norwegian authorities to apply the definitions provided in the R&D&I Guidelines for the grant of aid under the Gassnova scheme.

#### *3.2.2 Bonuses for aid for R&D projects*

According to Section 5.1.3 of the R&D&I Guidelines, the ceilings fixed for industrial research and experimental development may be increased as follows: The aid intensities of the eligible cost may be increased by 10 percentage points for medium sized enterprises and by 20 percentage points for small enterprises. The Authority would like to point out that these bonuses are in percentage points and not in %. Up to a maximum aid intensity of 80 %, 15 percentage points may be added if

- the project involves effective collaboration between at least two undertakings which are independent of each other and the following conditions are fulfilled: No single undertaking must bear more than 70 % of the eligible costs of the



collaboration project and the project must involve collaboration with at least one SME or be cross-border, that is to say, the research and development activities are carried out in at least two different EEA States.

- the project involves effective collaboration between an undertaking and a research organisation, particularly in the context of co-ordination of national R&D policies, and the following conditions are fulfilled: The research organisation bears at least 10 % of the eligible project costs and the research organisation has the right to publish the results of the research projects insofar as they stem from research implemented by the organisation.
- only in the case of industrial research, if the results of the project are widely disseminated through technical and scientific conferences or published in scientific or technical journals or in open access repositories, or through free or open source software.

The aid intensities and bonuses foreseen under the scheme are in accordance with the aid intensities and bonuses set out in Section 5.1.3 of the R&D&I Guidelines. Moreover, the Norwegian authorities confirm that the granted aid will not exceed the maximum aid intensities.

### *3.2.3 Aid for process and innovation in services*

The amended scheme will also include aid for process and innovation in services, including process innovation in service activities and organisational innovation in service activities. The maximum aid intensity for large enterprises is 15 % of eligible costs, 25 % for medium enterprises and 35 % for small enterprises.

These amendments are in accordance with Section 5.5 in the R&D&I Guidelines.

### *3.2.4 Aid intensities for aid for technical feasibility studies*

The aid intensity for technical feasibility studies preparatory to industrial research cannot exceed 65 % for large undertakings. For studies preparatory to experimental development, the aid intensity cannot exceed 40 %. For SMEs the aid intensities are 75 % and 50 % respectively.

The notified aid intensities for aid for technical feasibility studies applicable under the amended Gassnova scheme are thus in accordance with Section 5.2 of the R&D&I Guidelines.

### *3.2.5 Aid for innovation clusters*

The Norwegian authorities have notified an expansion of the Gassnova scheme to include aid for innovation clusters, including investment aid for setting up and expansion of innovation clusters and operating aid for cluster animation.

For investment aid, the maximum aid intensity is 15 % according to Section 5.8 of the R&D&I Guidelines. The aid intensity may be increased by maximum 20 percentage points for small enterprises and by 10 percentage points for medium enterprises. Operating aid for cluster animation is granted for a period of maximum 5 years and the maximum aid intensity is 50 % of the eligible costs.

The Norwegian authorities have confirmed that the aid will exclusively be granted to the legal entities operating the innovation clusters, that the beneficiaries are in charge of managing the participation and access to the clusters' premises, facilities and activities and that access to the clusters' premises, facilities and activities is not restricted. Also, the fees charged for using the cluster's facilities and for participating in the cluster's activities will reflect their costs.

These amendments concerning the grant of aid to innovation clusters are in accordance with Section 5.8 of the R&D&I Guidelines.

### 3.2.6 *Measures subject to a detailed assessment*

The Norwegian authorities have also incorporated the requirements of the new R&D&I guidelines regarding the duty to notify aid individually where the aid amounts exceed certain thresholds in accordance with Section 7 of the R&D&I Guidelines.

- For project aid and feasibility studies:
  - o EUR 20 million per undertaking per project/feasibility study if the project is predominantly fundamental research,
  - o EUR 10 million per undertaking per project/feasibility study if the project is predominantly industrial research,
  - o EUR 7.5 million per undertaking per project/feasibility study for all other projects,
- For the process or organisational innovation in service activities: EUR 5 million per undertaking per project study
- For innovation clusters: EUR 5 million per cluster.

The Norwegian authorities have confirmed that any aid amount exceeding the thresholds presented in Section 7.1 of the R&D&I Guidelines will be notified to the Authority for approval.

Therefore, the Authority considers that the amendments of the Gassnova scheme concerning the thresholds for large individual projects are in accordance with Section 7.1 of the R&D&I Guidelines.

### 3.2.7 *Cumulation*

The funding under the scheme will be coordinated with funding under other aid schemes. The Norwegian authorities have confirmed that the cumulative aid ceilings described in Section 8 of the R&D&I Guidelines will not be exceeded.

The Norwegian authorities will also ensure that no *de minimis* aid is granted to cover the same eligible costs in order to circumvent the maximum aid intensities under the scheme.

The amended aid scheme is thus in accordance with the provisions on cumulation of aid in Section 8 of the R&D&I Guidelines.



### 3.2.8 *Reporting and monitoring*

Pursuant to Article 21(1) in Part II of Protocol 3 and Article 5 of Decision No 195/04/COL, EFTA States must submit annual reports to the Authority.

Beyond these requirements, Section 9.1.1 of the R&D&I Guidelines requires that annual reports for R&D&I aid measures contain for each measure, including the granting of aid under an approved scheme, the following information:

- the name of the beneficiary
- the aid amount per beneficiary
- the aid intensity
- the sectors of activity where the aided projects are undertaken

In case of clusters, the report must also give a brief description of the activity of the cluster and its effectiveness in attracting R&D&I activity. For aid to large undertakings, EFTA States must also explain in the annual report how the incentive effect has been respected for aid given to such undertakings.

The Norwegian authorities have undertaken to publish the full text of the final amended aid scheme as approved by the Authority on the internet under the address: [www.gassnova.no](http://www.gassnova.no). They have also confirmed that the scheme as approved by the Authority will not be applied before the information is published on the internet.

The Norwegian Authorities have confirmed that annual reports and information sheets for individual grants under the scheme exceeding EUR 3 million will be submitted to the Authority in accordance with the requirements of Section 9.1.3 of the R&D&I Guidelines. Therefore the Authority considers that the conditions related to the reporting and monitoring of the scheme as amended are satisfied.

## **4 Conclusion**

On the basis of the foregoing assessment, the Authority considers that the notified amendments to the aid scheme for research and development concerning gas technologies with improved environmental performance (“Gassnova”) which the Norwegian authorities are planning to implement are compatible with the functioning of the EEA Agreement within the meaning of Article 61(3)c of the EEA Agreement read in conjunction with the R&D&I Guidelines. Accordingly, the Authority does not raise any objections to the notified amendments.

The Norwegian authorities are reminded about the obligation resulting from Article 21 of Part II of Protocol 3 in conjunction with Article 6 of Decision 195/04/COL to provide annual reports on the implementation of the scheme. They are also reminded of the above-mentioned reporting obligations resulting from Section 9.1.1 of the R&D&I Guidelines.

The Norwegian authorities are also reminded that all plans to modify this scheme must be notified to the Authority.

HAS ADOPTED THIS DECISION:

Article 1

The EFTA Surveillance Authority has decided not to raise objections to the notified alterations to the aid scheme for research and development concerning gas technologies with improved environmental performance (“Gassnova”). The notified amendments to the scheme are compatible with Article 61(3)(c) of the EEA Agreement read in conjunction with the R&D&I Guidelines.

Article 2

This Decision is addressed to the Kingdom of Norway.

Article 3

Only the English version is authentic.

Done at Brussels, 17 December 2008

For the EFTA Surveillance Authority,

Per Sanderud  
President

Kristján Andri Stefánsson  
College Member