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EFTA SURVEILLANCE
AUTHORITY

Ministry of Government Administration, Reform and Church Affairs
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Subject: Pre-notification for legal certainty – amendments to the taxation of hydroelectric power plants
- Conclusion of pre-notification contacts


Reference is made to the pre-notification information provided by the letter from the Norwegian authorities dated 27 March 2015¹ and the additional information provided in the email from the Norwegian authorities of 19 June 2015.²

Having assessed this information, the Competition and State Aid Directorate of the EFTA Surveillance Authority (CSA) has come to the preliminary conclusion that the notified measure does not constitute a selective measure within the meaning of Article 61(1) of the EEA Agreement, and that it therefore does not involve state aid.

CSA has come to this conclusion based on the finding that the intended amendment to Article 18-3(10) of the Norwegian tax act in a general manner raises the threshold for when the resource rent tax on hydroelectric plants is triggered from 5 500 kVA to 10 000 kVA. It appears that the justification for the amendment is administrative considerations – to alleviate smaller hydro plant owners from the burden of dealing with complex tax rules. It is CSA's understanding that the increase should be seen in conjunction with the wider regulatory framework for small hydropower plants, and specifically the threshold of 10 000 kW triggering a simplified licensing procedure for hydroelectric plants. On this basis, CSA has come to the preliminary conclusion that the notified amendment is not selective, neither *de jure* nor *de facto*.

This is a letter concluding the pre-notification contacts in the case at hand in accordance with paragraph 16 of the Authority's Guidelines on Best Practice for the conduct of state aid control procedures. It represents CSA's informal preliminary assessment, and it is as such not binding on the Authority. The Norwegian authorities remain free to notify the measure to the Authority should they deem it necessary to obtain a formal decision on the pre-notified measure pursuant to Article 4 of Part II of Protocol 3 to the Surveillance and Court Agreement.

Yours faithfully,



Gjerund Mathisen
Director
Competition and State Aid Directorate

¹ Doc. No. 752337 and 752338.

² Doc. No. 761642.