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Ministry of Trade, Industry and Fisheries
PO Box 8090 Dep
0032 Oslo
Norway

Subject: Temporary Crisis Framework: aid scheme for undertakings that suffer loss of revenue

1 Summary

- (1) The EFTA Surveillance Authority (“ESA”) wishes to inform Norway that, having assessed the aid scheme for undertakings that suffer loss of revenue due to Russia’s military aggression against Ukraine and the sanctions taken in response to this aggression (“the measure”), ESA considers that the measure constitutes state aid within the meaning of Article 61(1) of the EEA Agreement and decides not to raise objections¹ to it, as it is compatible with the functioning of the EEA Agreement, pursuant to its Article 61(3)(b). ESA has based its decision on the following considerations.

2 Procedure

- (2) The Norwegian authorities notified the measure on 15 June 2022.²

3 Description of the measure

3.1 Background

- (3) According to the Norwegian authorities, Russia’s military aggression against Ukraine and the sanctions taken in response to this aggression (“the sanctions”) have particularly impacted a limited number of Norwegian companies that have a significant turnover originating from customers based in Russia, Belarus and/or Ukraine (“RBU”). The Norwegian authorities have explained that there are numerous and considerable obstacles that interrupt trade flows which can, ultimately, lead to a loss of revenue for the Norwegian counterparts, also in connection with trade not prohibited by the sanctions. Further, the Norwegian authorities explained that the impact on revenue may be significant for these Norwegian undertakings, and potentially lead to redundancies and broader financial difficulties.
- (4) As a result, the Norwegian authorities intend to support Norwegian undertakings;
(i) that achieved a significant part of their turnover from customers based in RBU before the military aggression against Ukraine by Russia took place and the

¹ Reference is made to Article 4(3) of the Part II of Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.

⁽²⁾ Document No 1295454, Document No 1295450, and Document No 1295452.

sanctions were imposed by Norway, the EU, and its international partners, and (ii) that suffer a loss of revenue from customers based in RBU.

- (5) The measure is notified in light of the Temporary Crisis Framework for State aid measures to support the economy following the aggression against Ukraine by Russia (“Temporary Crisis Framework”).³
- (6) The Norwegian authorities have confirmed that the measure may not in any way be used to undermine the intended effects of sanctions imposed by Norway, the EU or its international partners, and will be in full compliance with the national Regulation on the sanctions against Russia and Belarus.⁴

3.2 Objective

- (7) The objective of the measure is to secure jobs and to allow the eligible undertakings to adapt their businesses to other customers.

3.3 National legal basis

- (8) The national legal basis of the measure is the Parliamentary decision authorising the scheme and its budget, as set out in [Innst. 270 S \(2021-2022\)](#), [Prop. 78 S \(2021-2022\)](#), [Innst. 450S \(2021-2022\)](#), and the regulations from the Ministry of Trade, Industry and Fisheries to Innovation Norway. The measure is financed through the State budget.

3.4 Aid granting authority and geographic scope

- (9) The aid granting authority is [Innovation Norway](#). Innovation Norway will also administer the measure.
- (10) The measure applies to the whole territory of Norway.

3.5 Beneficiaries

- (11) To be eligible under the measure an undertaking must:
 - (i) be registered in the Norwegian Register for Business Enterprises or in the Norwegian Register of Entities in case of sole proprietorship,⁵ and
 - (ii) document that minimum 50% of its revenue either
 - a. in 2021; or,
 - b. on average for the past three years (2019-2021),originates from customers based in RBU.
- (12) The documentation in point (ii) must be certified by either:

³ Communication from the Commission on the Temporary Crisis Framework for state aid measures to support the economy following the aggression against Ukraine by Russia, OJ C 131 I of 24.3.2022, p. 1.

⁴ Regulation of [15 August 2014 No 1076](#), as amended by Regulation of [29 April 2022 No 647](#) (*forskrift om endring i forskrift om restriktive tiltak vedrørende handlinger som undergraver eller truer Ukrainas territoriale integritet, suverenitet, uavhengighet og stabilitet*).

⁵ All undertakings with operations in Norway are required to register in the Register of Business Enterprises or in the Register of Entities.

- (i) the undertaking's registered auditor; or, if the undertaking does not have an auditor,
 - (ii) the undertaking's certified public accountant.
- (13) The Norwegian authorities have confirmed that aid under the measure will not be granted to undertakings under sanctions adopted by Norway and the EU, including but not limited to:
 - (i) persons, entities or bodies specifically named in the legal acts imposing those sanctions;
 - (ii) undertakings owned or controlled by persons, entities or bodies targeted by sanctions adopted by the EU; or
 - (iii) undertakings active in industries targeted by sanctions adopted by Norway and the EU, insofar as the aid would undermine the objectives of the relevant sanctions.
- (14) If an undertaking is sanctioned during one of the compensation periods (see paragraph (17)), it is not eligible for aid under the measure for the whole of that period.
- (15) The measure is not open to undertakings operating in the financial sector.
- (16) The Norwegian authorities expect that a limited number of undertakings, likely less than 10, will be eligible for aid under the measure.

3.6 Eligible costs

- (17) The eligible costs are
 - (i) the revenue loss from customers based in RBU in the following compensation periods
 - a. February to May 2022, and
 - b. June to September 2022 ("the eligible revenue loss"), and
 - (ii) documented costs associated with having a registered auditor or a certified public accountant certifying the documentation provided in accordance with point (12) and (19) ("the eligible certification costs").
- (18) The eligible revenue loss is the difference between the revenue from RBU customers in the relevant compensation period and in the corresponding period in 2021. A difference of less than NOK 25 000 in a compensation period is not eligible costs.
- (19) The eligible revenue loss must be documented by the eligible undertaking. The documentation must be certified by either:
 - (i) the undertaking's registered auditor; or, if the undertaking does not have an auditor,
 - (ii) the undertaking's certified public accountant.

3.7 Aid instrument and intensity

- (20) The aid is granted in the form of direct grants, following the approval of the aid application by Innovation Norway.
- (21) The aid intensity of the eligible revenue loss is 80%, while the aid intensity of the eligible certification costs is 100%. However, the maximum amount of aid per undertaking is EUR 400 000 (that is before any deduction of tax or other charges).

3.8 Budget and duration

- (22) The estimated budget of the measure is NOK 55 million.
- (23) The measure will enter into force the day after the measure is approved by ESA by way of this decision. No aid will be granted under the measure later than 31 December 2022.

3.9 Overlap with other measures and cumulation

- (24) The Norwegian authorities confirm that aid granted under the measure may be cumulated with aid under *de minimis* Regulation⁶ or the General Block Exemption Regulation⁷ provided the provisions and cumulation rules of those Regulations are respected.
- (25) The Norwegian authorities confirm that aid granted under the measure may be cumulated with aid granted under measures approved by ESA under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak⁸ (“COVID-19 Temporary Framework”) provided the respective cumulation rules are respected.
- (26) The Norwegian authorities confirm that aid granted under the measure may be cumulated with aid granted under other measures approved by the ESA under other sections of the Temporary Crisis Framework provided the provisions in those specific sections are respected.
- (27) The Norwegian authorities confirm that if the beneficiary receives aid on several occasions or in several forms under the measure or aid under other measures approved by ESA under section 2.1 of the Temporary Crisis Framework, the overall maximum cap per undertaking, as set out in point 41(a) of that framework, will be respected.

4 Presence of state aid

- (28) 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

⁶ Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid (OJ L 352, 24.12.2013, p. 1).

⁷ Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ L 187 of 26.6.2014, p. 1).

⁸ Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak (OJ C 91I, 20.3.2020, p. 1), as amended by Commission Communications C(2020) 2215 (OJ C 112I, 4.4.2020, p. 1), C(2020) 3156 (OJ C 164, 13.5.2020, p. 3), C(2020) 4509 (OJ C 218, 2.7.2020, p. 3), C(2020) 7127 (OJ C 340I, 13.10.2020, p. 1), C(2021) 564 (OJ C 34, 1.2.2021, p. 6), and C(2021) 8442 (OJ C 473, 24.11.2021, p. 1).

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.”

- (29) The qualification of a measure as aid within the meaning of this provision requires the following cumulative conditions to be met: (i) the measure must be granted by the State or through State resources; (ii) it must confer an advantage on an undertaking; (iii) favour certain undertakings (selectivity); and (iv) threaten to distort competition and affect trade.
- (30) The measure is imputable to the State, since it is administered by Innovation Norway (see paragraph (9)) and it is based on a legal basis adopted by the State (see paragraph (7)). It is financed through State resources, since it is financed by public funds (see paragraph (7)).
- (31) The measure confers an advantage on its beneficiaries in the form of direct grants (see paragraph (20)). The measure therefore confers an advantage on those beneficiaries by making available funds which would not be available under normal market conditions.
- (32) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, namely undertakings that suffer a loss of revenue from RBU based customers (see paragraphs (4), (11), and (17)).
- (33) The measure is liable to distort competition, as it strengthens the competitive position of its beneficiaries. It also affects trade between Contracting Parties, since those beneficiaries are likely to be active in sectors in which intra-EEA trade exists.
- (34) In view of the above, ESA concludes that the measure constitutes aid within the meaning of Article 61(1) of the EEA Agreement. The Norwegian authorities have not argued otherwise.

5 Aid scheme

- (35) ESA notes that the legal basis of the measure is an act, which does not require further implementing measures for the granting of the aid, and which identifies the beneficiaries in a general and abstract manner.⁹ The aid is therefore granted on the basis of an aid scheme.

6 Lawfulness of the aid

- (36) Pursuant to Article 1(3) of Part I of Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice (“Protocol 3”): “The EFTA Surveillance Authority shall be informed, in sufficient time to enable it to submit its comments, of any plans to grant or alter aid. ... The State concerned shall not put its proposed measures into effect until the procedure has resulted in a final decision.”
- (37) The Norwegian authorities have notified the measure and have yet to let it enter into force. They have therefore complied with the obligations under Article 1(3) of Part I of Protocol 3.

⁹ See Article 1(d) of Part II of Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice (“Protocol 3”).

7 Compatibility of the aid

7.1 Introduction

- (38) Under Article 61(3)(b) of the EEA Agreement, state aid can be considered compatible with the functioning of the EEA Agreement “to remedy a serious disturbance in the economy of an EC Member State or an EFTA State”.
- (39) The disturbance must affect the whole or an important part of the economy of the State concerned and not merely that of one of its regions or part of its territory. This is in line with the requirement to interpret exceptions, such as Article 61(3)(b) of the EEA Agreement, strictly.
- (40) The Commission adopted the Temporary Crisis Framework on 23 March 2022, which sets out temporary state aid measures that it considers compatible under Article 107(3)(b) TFEU, which corresponds to Article 61(3)(b) of the EEA Agreement.
- (41) In the Temporary Crisis Framework, the Commission has acknowledged that the military aggression against Ukraine by Russia, the sanctions imposed by the EU or its international partners and the counter-measures taken, for example by Russia (“the ongoing crisis”) have created significant economic uncertainties, disrupted trade flows and supply chains and led to exceptionally large and unexpected price increases, especially in natural gas and electricity, but also in numerous other input and raw materials and primary goods. The Commission has concluded that state aid is justified and can be declared compatible with the internal market on the basis of Article 107(3)(b) TFEU for a limited period if it serves to remedy the liquidity shortage faced by undertakings that are directly or indirectly affected by the serious disturbance of the economy caused by the Russian military aggression against Ukraine, the sanctions imposed by the EU or by its international partners, as well as the economic counter-measures taken so far, for example by Russia.
- (42) In order to ensure uniform application of the state aid rules throughout the European Economic Area, in line with the objective of homogeneity established in Article 1 of the EEA Agreement, ESA applies the compatibility conditions set out in the Temporary Crisis Framework to state aid granted by the EEA EFTA States under Article 61(3)(b) in the context of the serious disturbance of the economy caused by the Russian military aggression against Ukraine and the imposition of corresponding sanctions.

7.2 Limited amounts of aid

- (43) The measure is one of a series of measures conceived at national level by the Norwegian authorities to remedy a serious disturbance in their economy. ESA notes the importance of the measure to reduce the number of redundancies and the financial difficulties for undertakings with a significant revenue loss from customers based in RBU due to the ongoing crisis. Further, the measure can be reasonably anticipated to produce the desired effects and thereby support the overall Norwegian economy. Moreover, the measure has been designed to meet the requirements of a specific category of aid (“*Limited amounts of aid*”) described in section 2.1 of the Temporary Crisis Framework.

- (44) ESA accordingly considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of Norway and meets all the relevant conditions of the Temporary Crisis Framework. In particular:
- (i) The aid takes the form of direct grants (see paragraph (20)). The overall aid will not exceed EUR 400 000 per undertaking; all figures used must be gross, that is, before any deduction of tax or other charges (see paragraphs (21) and (27)). The measure therefore complies with point 41(a) of the Temporary Crisis Framework.
 - (ii) Aid is granted under the measure on the basis of a scheme with an estimated budget as indicated in paragraphs (22) and (35). The measure therefore complies with point 41(b) of the Temporary Crisis Framework.
 - (iii) Aid will be granted under the measure no later than 31 December 2022 (see paragraph (23)). The measure therefore complies with point 41(c) of the Temporary Crisis Framework.
 - (iv) Aid will be granted only to undertakings affected by the ongoing crisis (see paragraphs (4), (11), (17), and (18))). The measure therefore complies with point 41(d) of the Temporary Crisis Framework.

7.3 Monitoring and reporting

- (45) The Norwegian authorities confirm that they will respect the monitoring and reporting obligations laid down in section 3 of the Temporary Crisis Framework, including the obligation to publish relevant information on each individual aid above EUR 100 000 granted under the measure in the [national state aid register](#) within 12 months from the moment of granting.

8 Conclusion

- (46) On the basis of the foregoing assessment, ESA considers that the measure constitutes state aid with the meaning of Article 61(1) of the EEA Agreement. Since ESA has no doubts that this aid is compatible with the functioning of the EEA Agreement, pursuant to its Article 61(3)(b), it has no objections to the implementation of the measure.
- (47) The Norwegian authorities have confirmed that the notification does not contain any confidential information that should not be published.

For the EFTA Surveillance Authority,

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*This document has been electronically authenticated by Arne Roeksund,
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