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Decision No 024/26/COL

Ministry of Trade, Industry and Fisheries
PO Box 9090 Dep.
0032 Oslo
Norway

Subject: CISAF: the Green Industry Financing Fund

1 Summary

- (1) The EFTA Surveillance Authority (“ESA”) wishes to inform Norway that, having assessed the amendments to, and the prolongation of, the existing better-than-market terms loan scheme (“the existing scheme”) under the Green Industry Financing Fund (“GIFF”)¹ (“the measure”), it considers that it constitutes State aid within the meaning of Article 61(1) of the EEA Agreement and decides not to raise objections² to the measure, as it is compatible with the functioning of the EEA Agreement, pursuant to its Article 61(3)(c). ESA has based its decision on the following considerations.

2 Procedure

- (2) The Norwegian authorities notified the measure on 26 January 2026.³
- (3) The measure amends and prolongs the existing scheme that expired on 31 December 2025 and is notified on the basis of the Framework for State aid measures to support the Clean Industrial Deal (“CISAF”).⁴ In its Decision No 111/24/COL⁵ (“the initial decision”), ESA found the existing scheme to be

¹ Under the GIFF, Innovation Norway, the aid granting authority for purposes of the measure, may also grant (i) aid in the form of soft loans to other projects than those falling within the scope detailed in paragraph (18), on the basis of the General Block Exemption Regulation (see summary information sheet reference [GBER 107/2024/MULTI](#)), as well as (ii) loans on market terms. These loan schemes are not assessed by ESA as part of the present decision.

² Reference is made to Article 4(3) 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.

³ Document Nos 1586769, 1586763, 1586771 and 1586765.

⁴ ESA [Decision No 121/25/COL](#), amending the substantive rules in the field of State aid by introducing the new Framework for State Aid measures to support the Clean Industrial Deal (Clean Industrial Deal State Aid Framework). This decision reflects the corresponding framework adopted by the European Commission, [Communication on the Framework for State Aid measures to support the Clean Industrial Deal \(Clean Industrial Deal State Aid Framework\)](#), OJ C, C/2025/3602, 4.7.2025.

⁵ ESA [Decision No 111/24/COL](#), the Green Industry Financing Fund.

compatible with the functioning of the EEA Agreement under Article 61(3)(c) thereof in light of Section 2.8 of the Temporary Crisis and Transition Framework (“TCTF”).⁶

3 Description of the measure

3.1 Background

- (4) The Norwegian Government has, in its roadmap for raising the prospects of green industry,⁷ clearly emphasised the need for the industry to play a major role in reducing greenhouse gas emissions, furthering the green transition, and reducing the vulnerabilities in the value chains that are central for the green transition. The Norwegian authorities add that as part of that process, it is vital to incentivise investment in Europe, to create attractive jobs, value and welfare for the future of the continent.
- (5) As under the existing scheme,⁸ the Norwegian authorities consider that while the industry has the principal responsibility with regard to exploiting the business opportunities provided by the green transition commercially, the societal challenges continue to be of such magnitude that a certain degree of government intervention is necessary.⁹ The Norwegian authorities maintain that the GIFF continues to play an important role in helping innovative and green industrial projects achieve their potential for scale and growth both nationally and internationally. This assistance will continue to be provided in the form of loans on better-than-market terms. To ensure that the investments made possible by these loans are of real relevance to the goals of the roadmap, only projects with real environmental impact will be offered financing.
- (6) The measure is targeted at full-scale industrial production of a limited set of technologies (and related activities) (see paragraph (18)). The Norwegian authorities have explained that in Norway, there will only be a very limited number of such projects in any given period. Nevertheless, the Norwegian authorities are in contact with several market players that consider projects that could be eligible for loans under the CISAF part of the GIFF. The Norwegian authorities explain that these projects will not be carried out without aid. According to the Norwegian authorities, this shows that the prolongation of the GIFF with a CISAF part is necessary.

3.2 Description of the existing scheme

3.2.1 Scope¹⁰

- (7) Under the existing scheme, aid is granted to activities that fall within the scope of point 85(a) TCTF, namely:
 - (i) the production of relevant equipment for the transition towards a net-zero economy, namely batteries, solar panels, wind turbines, heat-pumps,

⁶ European Commission, [Communication on the Temporary Crisis and Transition Framework for State aid measures to support the economy following the aggression against Ukraine by Russia](#), OJ C 101, 17.3.2023, p.3 (consolidated version).

⁷ The Ministry of Trade, Industry and Fisheries, [Veikart Grønt Industrieløft](#), June 2022. The Norwegian authorities have explained that this remains the policy of the current government following the 2025 parliamentary election.

⁸ See section 3.1 of the initial decision.

⁹ See also point 5 CISAF.

¹⁰ See section 3.2 of the initial decision.

electrolysers, and equipment for carbon capture usage and storage (CCUS); or

- (ii) the production of key components designed and primarily used as direct input for the production of the equipment defined under (i); or
- (iii) the production or recovery of critical raw materials necessary for the production of the equipment and key components defined in (i) and (ii) above.

(8) Aid is not granted to undertakings engaged in the following economic activities (all codes NACE Rev. 2):¹¹

- (i) the extraction of crude petroleum and natural gas (NACE 06);
- (ii) water transport (NACE 50), with the exception of short-sea shipping;¹²
- (iii) air transport (NACE 51); and
- (iv) telecommunications (NACE 61).

3.2.2 *Form of aid, aid intensity, aid amounts¹³ and aid application¹⁴*

- (9) Aid is granted in the form of loans with interest rates set below market terms. Debtors may also be awarded interest-free periods and grace periods in excess of what the loan market can offer, although not in excess of what is strictly necessary from a creditor perspective. No aid is channelled through financial intermediaries.
- (10) Aid can be used to cover eligible investment cost in tangible and intangible assets required for the production or recovery of the items falling within the scope of the existing scheme.^{15,16} Intangible assets must: 1) remain associated with the area concerned and must not be transferred to other areas; 2) be used primarily in the relevant production facility receiving the aid; 3) be amortisable; 4) be purchased under market conditions from third parties unrelated to the buyer; 5) be included in the assets of the undertaking that receives the aid; and 6) remain associated with the project for which the aid is awarded for at least five years (or three years for SMEs).
- (11) For large enterprises, the aid intensity (calculated by reference to the nominal amount of the underlying loan) will not exceed 20% of the eligible investment costs, and the total aid amount (defined as the nominal amount of the underlying loan) cannot exceed EUR 150 million per undertaking. For medium-sized enterprises, the aid intensity will not exceed 30%. For small enterprises, the aid intensity will not exceed 40%. For investments in assisted areas designated in the applicable regional aid map¹⁷ in accordance with Article 61(3)(c) of the EEA Agreement ("c"-areas), the maximum aid intensity is increased by 5% of the eligible costs. The

¹¹ In accordance with Section 9(b) of Innovation Norway's general financing policy of 10 February 2023.

¹² In Norwegian: *Nærskipsfart*.

¹³ See section 3.5 of the initial decision.

¹⁴ See section 3.2 of the initial decision.

¹⁵ See paragraph (22) of the initial decision.

¹⁶ Please see paragraph (7) for the scope of the existing scheme and paragraph (18) for the new scope of the scheme following the measure under assessment in the present decision.

¹⁷ The currently applicable map was approved in ESA [Decision No 276/21/COL](#), *Norwegian regional aid map 2022-2027 (Norway)*.

overall aid amount with a “c”-area bonus cannot exceed EUR 200 million per undertaking per EEA State.

- (12) The beneficiary must apply for the aid before the start of works¹⁸ and the aid application must include the information required in Annex II to the TCTF and be accompanied with a business plan describing the project.

3.3 Description of the measure

3.3.1 Amendments to the existing scheme

- (13) Firstly, the measure amends the method for calculating the aid amount (see paragraph (11)). Under the measure, aid amounts will be calculated based on the gross grant equivalent as defined in point 15(h) CISAF.¹⁹ The Norwegian authorities have explained that the reference rate will be determined in line with point 15(h) and footnote 19 CISAF.
- (14) Secondly, the measure amends certain maximum aid intensities and aid amounts compared to the existing aid scheme (see paragraph (11)). The aid intensity for large enterprises cannot exceed 15% of the eligible costs (compared to 20% under the existing scheme) while the total aid amount (calculated based on the gross grant equivalent) cannot exceed EUR 150 million per project (compared to EUR 150 million per undertaking under the existing scheme). For medium- and small-sized enterprises, the aid intensity cannot exceed 25% and 35%, respectively (compared to 30% and 40% under the existing scheme).
- (15) The maximum aid intensity in “c”-areas is increased by 5 percentage points, to 20%, 30% and 40% for large, medium- and small-sized enterprises, respectively (compared to 25%, 35% and 45% under the existing scheme). The overall aid amount with a “c”-area bonus cannot exceed EUR 200 million per project. The Norwegian authorities have explained that the aid granting authority, Innovation Norway (see section 3.4), will ensure that these maximum aid amounts are not circumvented by artificially splitting up the aided projects. They also explain that no aid is granted in excess of what is necessary. Furthermore, the principal of the loan is determined on the basis of the financing need of the beneficiary, and the nominal amount of the loan will never exceed 50% of the eligible costs.

Table 1: Maximum aid intensities

	Max. aid intensity	Max. aid intensity in “c”-areas
Large enterprise	15%	20%
Medium enterprise	25%	30%
Small-sized enterprise	35%	40%

- (16) The eligible costs under the measure are still the investment costs in tangible and intangible assets as defined in paragraph (10) that are required for the production

¹⁸ Under the existing scheme, “start of works” means either the start of construction works relating to the investment, or the first legally binding commitment to order equipment or any other commitment that makes the investment irreversible, whichever is earlier. Buying land and preparatory works such as obtaining permits and conducting preliminary feasibility studies are not considered as start of works (see paragraph (25) of and footnote 19 to the initial decision).

¹⁹ Point 15(h) CISAF defines “gross grant equivalent” as the discounted amount of aid equivalent to what it would amount to if provided in the form of a grant to the aid beneficiary, before taxes or other charges, as calculated at the date of award of the aid on the basis of the reference rate applicable at that date.

or recovery of the items falling under the scope of the measure (see paragraph (18)).

- (17) Thirdly, the measure introduces a requirement for the beneficiary to provide a financial contribution of at least 25% of the eligible investment costs, through its own resources or by external financing, in a form that is free of any public support.²⁰
- (18) Fourthly, the measure amends the scope of supported activities compared to the existing scheme²¹ to encompass aid granted to incentivise investment projects that add manufacturing capacity for:
 - (a) the production, including with secondary raw materials, of the final products listed in CISAF Annex II; and/or
 - (b) the production, including with secondary raw materials, of the main specific components listed in CISAF Annex II; and/or
 - (c) the production of new or recovered related critical raw materials necessary for the production of the final products or main specific components defined under points (a) and (b).
- (19) Fifthly, the measure amends the information to be included in the aid application (see paragraph (12)). Following the measure, the application for aid must include information required in CISAF Annex III.

3.4 Aid granting authority and national legal basis

- (20) The aid granting authority continues to be Innovation Norway ("IN"), a publicly owned enterprise under the control of the Norwegian authorities.²²
- (21) The national legal basis for the measure consists of the following: (i) the revised national budget for 2024, Prop. 104 S (2023-2024),²³ with some changes proposed in the national budget for 2026, Prop. 1 S (2025-2026),²⁴ (ii) the assignment letters from the Norwegian Ministry of Trade, Industry and Fisheries to IN,²⁵ (iii) IN's

²⁰ The Norwegian authorities have confirmed that, for example, subsidised loans, public equity-capital loans or public participations which do not meet the market investor principle, State guarantees containing elements of aid, or public support granted within the scope of the *de minimis* rule will not qualify as external financing that is free of any public support. Funding by the European Investment Bank and/or the European Investment Fund (at own risk and from own resources) for the investment project, up to 12.5% of the eligible costs, will be accepted as a financial contribution for the purpose of this paragraph.

²¹ See paragraph (7) of the present decision and section 3.2 of the initial decision. For the avoidance of doubt, undertakings engaged in the economic activities that are listed in paragraph (8) of the present decision are still excluded from receiving aid under the measure.

²² The Norwegian Ministry of Trade, Industry and Fisheries owns 51% of IN while the counties of Norway own 49%. See also section 3.6 of the initial decision.

²³ The Norwegian Ministry of Finance, [Prop. 104 S \(2023-2024\)](#), *Tilleggsbevilgninger og omprioriteringer i statsbudsjettet 2024*.

²⁴ The Norwegian Ministry of Finance, [Prop. 1 S \(2025-2026\)](#), *For budsjettåret 2026*.

²⁵ The Norwegian Ministry of Trade, Industry and Fisheries, [Innovasjon Norge – supplerende oppdragsbrev 2024 – endringer i statsbudsjettet for 2024](#), 4.7.2024; The Norwegian Ministry of Trade, Industry and Fisheries, [Innovasjon Norge – oppdragsbrev for 2025](#), 9.1.2025.

general financing policy of 27 May 2025²⁶ and (iv) IN's Green Industry Financing Policy of 20 October 2025.²⁷

- (22) IN relies on award letters when granting individual aid under the measure. The award letters will set out conditions for the aid that are binding on the beneficiary once the beneficiary has accepted the terms of the aid.

3.5 Beneficiaries

- (23) The beneficiaries of the measure are both SMEs²⁸ and large enterprises²⁹ with projects that fall within the scope detailed in paragraph (18) and that are registered in the Norwegian business register.³⁰ However, beneficiaries are not required to have their headquarters in Norway or to be predominantly established in Norway. A beneficiary that is not present in Norway is eligible if it plans to create an establishment or a branch in Norway as part of the investment.³¹
- (24) Under the measure, undertakings in difficulty³² will not be eligible for aid. IN will additionally take account of the aid amount still to be recovered when assessing aid in favour of a beneficiary subject to an outstanding recovery order following a previous ESA decision declaring the aid to the beneficiary unlawful and incompatible with the functioning of the EEA Agreement.
- (25) The Norwegian authorities have confirmed that aid under the measure will not be conditional on the relocation of an activity within the EEA, nor is the aid provided to facilitate relocation of production activities within the EEA. For this purpose, a beneficiary has to: (i) confirm that in the two years preceding the application for aid, it has not carried out a relocation to the establishment in which the aided investment is to take place, and (ii) commit not to carry out such a relocation up to a period of two years after the completion of the investment.
- (26) The beneficiary must also commit to maintain the investment in the area concerned for at least five years, or three years for SMEs, after the completion of the investment. Such a commitment does not prevent the replacement of a plant or equipment that has become outdated or broken within this period, provided that the economic activity is retained in the area concerned for the minimum period. However, no further aid may be awarded to replace that plant or equipment.

²⁶ IN, [Policy for finansieringstjenestene](#), 25.5.2025.

²⁷ IN, [Policy for grønn industrifinansiering](#), 20.10.2025. Please note that this policy will be updated for the CISAF part of the GIFF.

²⁸ As defined in point 15(k) and footnote 21 CISAF.

²⁹ As defined in Article 2(24) of 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, 26.6.2014, p. 1 and Norwegian EEA Supplement No 28, 4.4.2019, p. 1064) ("the GBER").

³⁰ All foreign companies conducting business in Norway must register with the Norwegian business register. The obligation is aimed at ensuring control over foreign companies conducting business in Norway to prevent abuse and fraud.

³¹ Similar to Commission [Decision No SA.113231](#), *TCTF – Investments in strategic sectors for the transition to a net-zero economy (Principality of Asturias)*, OJ C/2024/3253, 22.5.2024, footnote 16.

³² As defined in Section 2.2 of ESA's Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty (OJ L 271, 16.10.15, p. 35 and EEA Supplement No 62, 15.10.2015, p.1), as amended.

- (27) A beneficiary's infringement of the commitments referred to in paragraphs (25) and (26) could lead to the recovery of the aid.
- (28) IN has established routines to exclude beneficiaries that are incorporated or established in so-called Non-Compliant Jurisdictions ("NCJ") through agreements with the European Investment Fund.³³ A jurisdiction is an NCJ if it is:
- (a) Listed in Annex I of the Council of the European Union's conclusions on the revised EU list of non-cooperative jurisdictions for tax purposes.
 - (b) Included in the OECD/G20 list of jurisdictions that have not satisfactorily implemented the tax transparency standards.
 - (c) Listed in the Annex of Commission Delegated Regulation (EU) 2016/1675 of 14 July 2016 supplementing Directive (EU) 2015/849 of the European Parliament and of the Council by identifying high-risk third countries with strategic deficiencies.
 - (d) Rated as "partially compliant" or "non-compliant", including corresponding provisional ratings, by the OECD and its Global Forum on Transparency and Exchange of Information for Tax Purposes against the international standard on exchange of information on request.
 - (e) Included in the Financial Action Task Force ("FATF") statement "High risk Jurisdictions subject to a Call for Action".
 - (f) Included in the FATF statement "Jurisdictions under Increased Monitoring".

The above-listed instruments are regularly updated and IN checks the eligibility of beneficiaries against the currently applicable version of the list. IN applies this rule at the time of granting the aid.³⁴

- (29) As under the existing scheme, a beneficiary must apply for the aid before the start of works³⁵ and include in the application a business plan describing the project. The aid applicant will specify whether it applies for a subsidised loan under the measure. Before granting aid, IN will verify the concrete risk of the productive investment not taking place within the EEA, and that there is no risk of relocation (see paragraph (25)). This verification will be based on the information provided by the beneficiary in the application (see paragraph (19)).³⁶

³³ The concept of Non-Compliant Jurisdiction is set out by the European Investment Bank Group and can be found [here](#).

³⁴ Guidance on IN's application of the rules is found in section 2 of IN, [Lån med EIF-garanti, Veiledning, Versjon 1](#), 10.2.2025.

³⁵ "Start of works" means the earlier of either the start of construction works relating to the investment, or the first legally binding commitment to order equipment or any other commitment that makes the investment irreversible. Buying land and preparatory works such as obtaining permits and conducting feasibility studies are not considered start of works (point 15(l) CISAF).

³⁶ For projects that have been awarded a "Sovereignty Seal" referred to in Article 4 of Regulation (EU) 2024/795 of the European Parliament and the Council of 29 February 2024 establishing the Strategic Technologies for Europe Platform (STEP) (OJ L, 2024/795, 29.2.2024) under the innovation fund, such verification is not required.

3.6 Budget and duration

- (30) The measure will be in force from the date of approval by ESA until 31 December 2030. The Norwegian authorities have confirmed that aid under the measure will not be granted before the scheme has been approved by ESA.
- (31) The overall budget of the GIFF has been reduced to NOK 4.1 billion (compared to NOK 5 billion under the existing scheme). All or part of this budget can be used to grant aid under the measure.³⁷
- (32) For a detailed overview of the functioning of the budget under the GIFF, ESA refers to section 3.4 of the initial decision, which is still relevant under the measure.

3.7 Cumulation

- (33) The Norwegian authorities have explained and confirmed that they will ensure that the measure complies with the cumulation rules in point 38 CISAF.

3.8 Compliance with relevant provisions of EEA law

- (34) The Norwegian authorities have confirmed that the measure does not by itself, or by the conditions attached to it or by its financing method entail a violation of relevant EEA law.

3.9 Transparency, monitoring and reporting

- (35) The Norwegian authorities will publish relevant information regarding each individual aid above EUR 100 000 in the Norwegian register for State aid within six months of the date on which the aid was granted.³⁸
- (36) The Norwegian authorities have confirmed that they will submit annual reports to ESA on the measure in accordance with point 213 CISAF and that they will keep detailed records regarding the granting of aid under the measure. These records will be maintained for at least 10 years in accordance with point 214 CISAF.

4 Assessment

4.1 Existence of State aid

- (37) For a measure to be categorised as State aid within the meaning of Article 61(1) of the EEA Agreement, all the conditions set out in that provision must be fulfilled. First, the measure must be granted by the State or through State resources. Second, it must confer an advantage on an undertaking. Third, that advantage must be selective in nature. Fourth, the measure must distort or threaten to distort competition and affect trade between Contracting Parties.

4.1.1 Presence of State resources and imputability

- (38) Imputability of a measure to the State and the granting of an advantage through State resources are two separate and cumulative conditions for the existence of State aid, which are, however, often assessed together as they both relate to the

³⁷ IN may also grant aid (i) in the form of soft loans to other projects than those falling within the scope detailed in paragraph (18), on the basis of the GBER, as well as (ii) loans on market terms from the same budget resources (see also footnote 1). It is not clear yet which percentage of the budget under the GIFF will be granted based on the CISAF under the measure, the GBER and on market terms, respectively.

³⁸ [The national State aid register](#) (in Norwegian: *Støttereisteret*).

public origin of the measure in question.³⁹ A measure is by definition imputable to the State if the advantage is granted by a public authority, even if the latter enjoys legal autonomy from other public authorities.⁴⁰ As to the requirement that State resources be involved, those include all resources of the public sector.⁴¹ The measure is administered by IN, a State enterprise owned by the Norwegian State and the Norwegian counties, on the basis of, *inter alia*, assignment letters from the Norwegian Ministry of Trade, Industry and Fisheries, and it is financed from State budgetary funds (see section 3.4). The measure is therefore imputable to the State and financed through State resources.

4.1.2 *Confer an advantage on an undertaking*

- (39) An advantage within the meaning of Article 61(1) of the EEA Agreement is any economic benefit which an undertaking could not have obtained under normal market conditions.⁴² The beneficiaries are undertakings since they are engaged in an economic activity, namely the production of the final products, raw materials and specific components falling within the scope defined in paragraph (18). The measure confers an advantage on its beneficiaries in the form of loans to cover eligible investment costs in their projects, which are designed to be more advantageous for the beneficiaries than the financing they could obtain on the market.

4.1.3 *Selectivity*

- (40) To fall within the scope of Article 61(1) of the EEA Agreement, a State measure must favour “certain undertakings or the production of certain goods”. Hence, not all measures which favour economic operators fall under the notion of aid, but only those which grant an advantage in a selective way to certain undertakings or categories of undertakings or to certain economic sectors.⁴³ The advantage granted by the measure is selective, since it is awarded only to undertakings that produce certain goods, in particular the production of the final products, raw materials and specific components falling within the scope defined in paragraph (18).

4.1.4 *Effect on trade and distortion of competition*

- (41) In order to constitute State aid within the meaning of Article 61(1) of the EEA Agreement, the measure must be liable to distort competition and affect trade between the Contracting Parties to the EEA Agreement. While these are two distinct conditions, they are in practice often treated jointly in the assessment of State aid as they are, as a rule, considered inextricably linked.⁴⁴ The measure is liable to distort competition, since it strengthens the competitive position of its beneficiaries. It is also liable to affect trade between Contracting Parties, since the supported activities under the measure are open to EEA trade.

4.1.5 *Conclusion*

- (42) In view of the assessment set out in paragraphs (37)-(41), ESA finds that the measure fulfils all the conditions in Article 61(1) of the EEA Agreement. The

³⁹ ESA's Guidelines on the notion of State aid as referred to in Article 61(1) of the EEA Agreement ('NoA') (OJ L 342, 21.12.2017, p. 35 and EEA Supplement No 82, 21.12.2017, p. 1), paragraph 38.

⁴⁰ NoA, paragraph 39.

⁴¹ NoA, paragraph 48 and the case law cited.

⁴² NoA, paragraph 66 and the case law cited.

⁴³ NoA, paragraph 117.

⁴⁴ NoA, paragraphs 185-186.

measure therefore constitutes State aid within the meaning of this provision. The Norwegian authorities do not contest that conclusion.

4.2 Aid scheme

- (43) ESA notes that the legal basis of the measure consists of acts which do not require further implementing measures for the granting of the aid (see section 3.4), and which identify the beneficiaries in a general and abstract manner (see section 3.5).⁴⁵ The aid is therefore granted on the basis of an aid scheme.

4.3 Lawfulness of the aid

- (44) The Norwegian authorities have notified the measure and have yet to let it enter into force (see paragraph (30)). They have therefore complied with their obligations under 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 SCA").

4.4 Compatibility

- (45) Since the measure constitutes State aid within the meaning of Article 61(1) of the EEA Agreement, it is necessary to consider whether that measure is compatible with the functioning of the EEA Agreement.
- (46) The Norwegian authorities invoke Article 61(3)(c) of the EEA Agreement in conjunction with the CISAF as the basis for the assessment of the compatibility of the measure. Pursuant to Article 61(3)(c) of the EEA Agreement, ESA may declare compatible with the functioning of the EEA Agreement "aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest."
- (47) As the objective of the measure is to ensure sufficient manufacturing capacity in clean technologies (see section 3.1 and paragraph (18) of the present decision), ESA will examine the measure in light of Article 61(3)(c) of the EEA Agreement, as interpreted by the provisions set out in Sections 3 and 6.1 CISAF.
- (48) According to point 16 CISAF, "ESA may consider compatible with the functioning of the EEA Agreement State aid to facilitate the development of certain economic activities or certain economic areas (positive condition), where such aid does not adversely affect trading conditions to an extent contrary to the common interest (negative condition)". To that end, ESA analyses the following elements.

4.4.1 Positive condition: The aid must facilitate the development of an economic activity

- (49) According to point 17 CISAF, "[a]s regards the positive condition that the aid facilitates the development of certain economic activities or areas, ESA considers that aid under this Communication aims at incentivising investments and activities in certain sectors that contribute to the objectives defined in the Clean Industrial Deal Communication, thereby facilitating the development of specific economic

⁴⁵ 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.

activities, namely those falling within the scope of the relevant sections of this Communication.”

4.4.1.1 Objective of ensuring sufficient manufacturing capacity in clean technologies

- (50) The measure provides aid to incentivise investment in projects that add manufacturing capacity in the categories that correspond to those listed in letters (a) to (c) of point 160 CISAF (see paragraph (18)). The measure is therefore in line with this point and in turn facilitates the development of specific economic activities falling within the scope of the CISAF, namely Section 6.1 CISAF. Therefore, in line with the presumption in point 17 CISAF, ESA considers that the measure facilitates the development of an economic activity, namely ensuring sufficient manufacturing capacity in clean technologies.
- (51) ESA recalls that the aid is granted on the basis of an aid scheme (see section 4.2 of the present decision) with an estimated budget (see paragraph (31)) and thus complies with point 164 CISAF.
- (52) Further, point 170 CISAF requires that the investment must be maintained in the area concerned for a minimum period of five years, or three years for SMEs, after its completion. That obligation does not prevent the replacement of a plant or equipment that has become outdated or broken within this period, provided that the economic activity is retained in the area concerned for the minimum period. However, aid under the measure may not be awarded to replace that plant or equipment.
- (53) ESA notes that, under the measure, beneficiaries must commit to comply with a condition that corresponds in full to the obligation in point 170 CISAF (see paragraph (26)). The measure is therefore in line with point 170 CISAF.
- (54) Finally, aid under the measure can be granted until 31 December 2030 at the latest (see paragraph (30)). The measure thus complies with point 216 CISAF.

4.4.1.2 Incentive effect

- (55) Pursuant to point 18 CISAF, ESA will presume that aid under the measure has an incentive effect “where the start of works on the project or activity only takes place after a written aid application by the beneficiary to the competent authorities.” Accordingly, point 165 CISAF provides that beneficiaries must apply for aid before the start of works and that the written aid application must include the information set out in Annex III to the CISAF.
- (56) As noted in paragraphs (19) and (29), under the measure, the works can only start after the beneficiary has submitted a written aid application which includes the information set out in Annex III to the CISAF. Therefore, the measure complies with points 18 and 165 CISAF.
- (57) Furthermore, ESA presumes, pursuant to point 19 CISAF, for the measures falling within its scope that “in the absence of the aid, beneficiaries would continue their activities without changes, provided that doing so would not entail a breach of EEA law.” In this context, point 171 CISAF provides that the granting authority must verify the concrete risks of the investment not taking place within the EEA on the basis of

the information provided to it by the beneficiary as indicated by Annex III to the CISAF.

- (58) ESA recalls that, under the measure, beneficiaries must provide the information set out in Annex III to the CISAF in their aid applications to IN (see paragraphs (19) and (29)). That includes a short description of the investment, the need for aid and its impact on the investment decision or location decision, including an explanation of the alternative investment or location decision if aid is not granted. Further, IN will, based on the information provided by the beneficiary in accordance with Annex III to the CISAF, verify the concrete risks of the productive investment not taking place within the EEA in the absence of aid before granting aid. The measure is thus in line with points 19 and 171 CISAF.

4.4.1.3 Compliance with relevant provisions of EEA law

- (59) According to point 20 CISAF, neither the supported project or activity nor the aid measure, the conditions attached to it or its financing method when it forms an integral part of the measure, must entail a violation of relevant EEA law.
- (60) The Norwegian authorities have confirmed that the measure does not entail, by itself, by the conditions attached to it or by its method of financing, a violation of EEA law (see paragraph (34)). ESA also has no indication of such violations. Moreover, ESA notes that the requirement that beneficiaries must be registered with the Norwegian business register does not entail an obligation on the beneficiary to have its headquarters in Norway or be predominantly established in Norway (see paragraph (23)). The measure is therefore in line with point 20 CISAF.
- (61) ESA also takes note of IN having established routines and safeguards that are checked and updated regularly to exclude from the measure entities that use tax havens to avoid contributing their fair share of tax to society (see paragraph (28)). Thus, the measure is designed in line with the encouragement in point 23 CISAF.

4.4.1.4 Conclusion on the compliance with the positive condition

- (62) Based on the assessment in paragraphs (50) to (61), ESA considers that the measure has the objective of ensuring sufficient manufacturing capacity in clean technologies, has an incentive effect and complies with the relevant provisions of EEA law. Therefore, the measure facilitates the development of certain economic activities and thus complies with the positive condition enshrined in point 16 CISAF.

4.4.2 *Negative condition: The aid does not adversely affect trading conditions to an extent contrary to the common interest*

- (63) Point 25 CISAF provides that “[a]s regards the second (negative) condition under Article 61(3)(c) of the EEA Agreement, to ensure that the aid does not unduly affect trading conditions to an extent contrary to the common interest, ESA assesses the necessity, appropriateness and proportionality of the aid, verifies that undue negative effects on competition and trade are avoided and that the conditions on monitoring and reporting in section 9 are complied with.”

4.4.2.1 Need for State intervention and appropriateness of the measure

- (64) In accordance with point 26 CISAF, ESA will presume that there is a need for State intervention where a measure falls within the scope of the CISAF and complies with all conditions in the applicable sections thereof. The measure aims at incentivising investment projects that add manufacturing capacity in clean technologies and falls

within the scope of Section 6.1 of the CISAF (see paragraph (50)). ESA therefore considers that the State intervention which the measure entails is needed in line with point 26 CISAF.

- (65) Pursuant to point 27 CISAF, ESA will presume that State aid falling within the scope of the CISAF is, in principle, appropriate to achieve its objective and that the aid instrument is appropriate to the same extent, provided the measure complies with all the relevant conditions in the CISAF. Additionally, according to point 31 CISAF, aid under the CISAF can be provided in any form, including subsidised interest rates on new loans. The aid amount under such instruments must be expressed in gross grant equivalent and the nominal amount of the new loan cannot exceed the eligible costs.
- (66) ESA recalls that aid under the measure will be awarded as investment aid in the form of loans with interest rate set below market terms whereunder the aid amount will be expressed in gross grant equivalent and the nominal amount of the loan will be below the eligible costs (see paragraphs (9) and (13)-(15)). Consequently, ESA considers that the measure is appropriate to incentivise investment to ensure sufficient manufacturing capacity in clean technologies, in line with points 27 and 31 CISAF.

4.4.2.2 Undertakings in difficulty and undertakings subject to outstanding recovery orders

- (67) According to point 28 CISAF, “[a]id under this Communication will in principle not be granted to undertakings in difficulty to ensure that only viable undertakings receive aid.” Furthermore, point 33 CISAF establishes that “when assessing aid in favour of a beneficiary that is subject to an outstanding recovery order following a previous ESA decision declaring an aid illegal and incompatible with the functioning of the EEA Agreement, ESA will take account of the amount of aid still to be recovered.”
- (68) The Norwegian authorities have confirmed that undertakings in difficulty will not be eligible for aid under the measure (see paragraph (24)). ESA also notes that, under the measure, the Norwegian authorities will take account of the outstanding aid amounts before granting aid to beneficiaries with outstanding recovery orders as defined in point 33 CISAF (see paragraph (24)). The measure thus complies with points 28 and 33 CISAF.

4.4.2.3 Proportionality of the aid and eligible costs

- (69) Pursuant to point 29 CISAF, “aid is considered proportionate if the amount per beneficiary is limited to the minimum necessary to carry out the aided project or activity. [...] [T]he relevant sections of this Communication allow the EEA States to determine aid amounts administratively based on maximum aid intensities or by reference to the funding gap in line with the specific conditions provided in the applicable section.”
- (70) As noted in paragraph (50), the measure falls within the scope of Section 6.1 CISAF, which allows for setting the aid amounts administratively according to maximum aid intensities set out in points 167-168 CISAF. The Norwegian authorities determine the aid amounts under the measure administratively based on aid intensities that correspond to the maximum aid intensities set out in points

167 and 168 CISAF (see paragraphs (14)-(15)). Therefore, the measure is proportionate pursuant to points 29, 167 and 168 CISAF.

- (71) Further, according to point 166 CISAF, “[t]he eligible costs of the investment project supported by the aid are all investment costs in tangible (such as land, buildings, plant, equipment, machinery) and intangible (such as patent rights, licences, know-how or other intellectual property) required for the production or recovery of the goods listed in point 160 [of the CISAF]. Intangible assets must: i) remain associated with the area concerned and must not be transferred to other areas; ii) be used primarily in the relevant production facility receiving the aid; iii) be amortisable; iv) be purchased under market conditions from third parties unrelated to the buyer; v) be included in the assets of the undertaking that received the aid; and vi) remain associated with the project for which the aid is awarded for at least five years (or three years for SMEs).”
- (72) ESA notes that the eligible investment costs covered under the measure correspond and are restricted to the eligible investment costs listed in point 166 CISAF (see paragraphs (10) and (16)). The requirements related to intangible assets set out in the second sentence of point 166 CISAF are also complied with (see paragraphs (10) and (16)). The measure thus complies with point 166 CISAF.
- (73) According to point 169 CISAF, “[t]o ensure that the investment is viable, the EEA State must ensure that the aid beneficiary provides a financial contribution of at least 25 % of the eligible costs, through its own resources or by external financing, in a form that is free of any public support.”
- (74) ESA recalls the description of the financial contribution requirement under the measure in paragraph (17). This requirement corresponds fully to the wording of point 169 CISAF. The Norwegian authorities have also confirmed that they will ensure that the financial contribution is free of any public funding in accordance with footnote 98 to the CISAF. Consequently, the measure is in line with point 169 CISAF.

4.4.2.4 Avoidance of undue negative effects

- (75) According to point 35 CISAF, “in view of the objectives pursued by the measures falling within scope of this Communication, ESA presumes that such measures will not result in any manifestly negative effects on competition and trade in as far as they comply with all conditions in the applicable sections.” Furthermore, point 36 CISAF provides that “[a]id granted under this Communication cannot be conditioned on the relocation of an activity as such conditions would be harmful to the internal market”. Finally, point 172 CISAF establishes that “the beneficiary has to: (a) confirm that in the two years preceding the application for aid, it has not carried out a relocation to the establishment in which the aided investment is to take place; and (b) commit not to carry out such relocation up to a period of two years after completion of the investment [...]”.
- (76) The Norwegian authorities have explained that the aid granted under the measure will not be made conditional on the relocation of an activity (see paragraph (25)). ESA notes that beneficiaries under the measure are obliged to confirm compliance with relocation requirements that correspond to the requirements in point 172(a) and (b) CISAF (see paragraph (25)). The measure is therefore in line with points 36 and 172 CISAF.

- (77) Finally, since the measure, in light of the assessment above and section 4.4.2.5 of the present decision, complies with all the conditions in the relevant sections of the CISAF, ESA considers that any negative effect of the measure on competition and trade will be limited to the minimum, in line with the presumption in point 35 CISAF.

4.4.2.5 Compliance with cumulation, transparency, monitoring and reporting rules

- (78) The Norwegian authorities have confirmed that the aid granted under the measure may only be cumulated with any other aid or *de minimis* aid, or combined with centrally managed funds, if the specific provisions of point 38 CISAF are respected (see section 3.7 of the present decision). ESA also notes that the Norwegian authorities have confirmed that they will respect the transparency, monitoring and reporting requirements set out in Section 9 CISAF (see section 3.9 of the present decision).

4.4.2.6 Balancing of the positive and negative effects of the aid

- (79) Pursuant to point 37 CISAF, “[p]rovided that the measures within the scope of this Communication comply with all conditions in the applicable sections, ESA will find that the positive effects of the planned aid outweigh the negative effects on competition and trading conditions.”
- (80) When balancing the positive effects against the negative effects of the measure on the functioning of the EEA Agreement in line with point 37 CISAF, ESA has taken due consideration of the fact that the measure facilitates investment projects to ensure sufficient manufacturing capacity in clean technologies. Hence, in line with point 37 CISAF, ESA considers that the positive effects of the measure outweigh its potential negative effects on competition and trade. ESA therefore finds that the measure is compatible with the functioning of the EEA Agreement, pursuant to Article 61(3)(c) of the EEA Agreement, as it fulfils all the relevant conditions of the CISAF.

5 Conclusion

- (81) 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 the aid is compatible with the functioning of the EEA Agreement pursuant to its Article 61(3)(c), it has no objections to the implementation of the measure.
- (82) The Norwegian authorities have confirmed that the notification does not contain any business secrets or other confidential information that should not be published.

For the EFTA Surveillance Authority, acting under [Delegation Decision No 068/17/COL](#),

Yours faithfully,

Arne Røksund
President
Responsible College Member

Melpo-Menie Joséphidès
Countersigning as Director,
Legal and Executive Affairs

This document has been electronically authenticated by Arne Roeksund, Melpo-Menie Josephides.