ESA | EFTA Surveillance Authority

Brussels, 15 December 2022
Case No: 89633
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Decision No 227/22/COL

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

Subject: **Prolongation of and amendments to certain tax incentives for zero-emission vehicles**

1 Summary

(1) The EFTA Surveillance Authority ("ESA") wishes to inform Norway that, having assessed the notified amendments and prolongation of the existing zero VAT rating measures in favour of zero-emission vehicles ("the measures" or "the zero VAT rating measures"), it considers that the measures constitute State aid within the meaning of Article 61(1) of the EEA Agreement and decides not to raise objections[1] to the measures, as they are compatible with the functioning of the EEA Agreement, pursuant to its Article 61(3)(c).

(2) The measures concern the prolongation of: (i) the existing zero VAT rate on supply and import of battery electric vehicles ("BEVs"), but with the introduction of a threshold of NOK 500 000 and a standard VAT rate (25%) on the amount exceeding the threshold; and (ii) the existing zero VAT rate for leasing of BEVs, with additional rules to reflect the threshold of NOK 500 000.

(3) The term "electric vehicles" comprises BEVs, and fuel cell electric vehicles ("FCVs"). BEVs are propelled by one or more electric motors powered by rechargeable battery packs. No other fuel source is used, and there is no internal combustion engine on BEVs. Other types of hybrid electric vehicles are excluded from the definition of BEVs. FCVs are electric vehicles that use a fuel cell instead of a battery, or in combination with a battery, to power its electric motor. In the following, the terms "electric vehicles" ("EVs") and "zero emission vehicles" ("ZEVs") will be used for both BEVs and FCVs unless it is specified otherwise.

(4) The prolongation of the zero VAT rate for BEVs, with the introduction of a threshold, is limited to passenger vehicles. In the following the term "BEPVs" will be used for battery electric passenger vehicles. Passenger vehicles are defined as passenger cars, motorcycles, mopeds, motor caravans, class 1 vans and minibuses.

[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.

(5) Commercial electric vehicles, such as class 2 vans, trucks, buses and other vehicles not defined as passenger vehicles will be subject to standard VAT rate from 1 January 2023.

(6) ESA has based its decision on the following considerations.

2 Procedure

(7) The Norwegian authorities notified the measures on 7 December 2022.[2]

3 Description of the measures

3.1 Policy background

(8) The Paris Agreement,[3] adopted under the United Nations Framework Convention on Climate Change ("UNFCCC"), sets out the long-term objective of limiting global warming to well below 2°C compared to pre-industrial times, and pursuing efforts to limit the temperature increase further to 1.5°C, in order to reduce the risks and impacts of dangerous climate change.[4] These goals are linked to the commitment under the agreement of all parties pursuing efforts of bringing greenhouse gas[5] ("GHG") emissions to net-zero by the second half of the 21st century.[6]

(9) The European Union ("the EU"), its Member States and the EEA EFTA States are among the parties to the Paris Agreement.[7] Under the Paris Agreement, each country must determine, communicate, and regularly report on the contributions that it intends to achieve to mitigate climate change.[8] In its 2020 submission of the nationally determined contribution, Norway committed to reduce its GHG emissions by at least 55% by 2030 compared to the 1990-level.[9]

(10) Norway has agreed to implement the Effort Sharing Regulation ("ESR"), which regulates emissions not covered by the EU Emissions Trading System ("EU ETS").[10] Norway is therefore legally bound to reduce its non-ETS emissions by 40% by 2030 compared to the 2005-level. Norway has also committed to meet its annual emission allocation each year in the period 2021–2030. According to the Norwegian authorities' preliminary assessment of emissions in 2021, the Norwegian emissions exceeded the emission allocation for 2021 by approximately 500 000 tonnes of CO_2 equivalents ("tCO_2e").

(11) In the Norwegian political strategy to fulfil the commitments under the ESR uptake of EVs is considered to be essential. Therefore, the Norwegian authorities intend to introduce EVs in the passenger vehicle segment at large scale, as this is a segment where one has seen a growing popularity of the BEPV models already available.

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[2] Document Nos 1335837 and 1335839.
[3] The Paris Agreement was adopted at on 12 December 2015 at the twenty-first session of the Conference of the Parties to the UNFCCC (COP21) held in Paris from 30 November to 13 December 2015, and entered into force on 4 November 2016.
[4] Article 2(1)(a) of the Paris Agreement.
[5] Greenhouse gases trap the sun's heat in the atmosphere thereby causing a greenhouse effect.
[6] Article 4(1) of the Paris Agreement.
[7] The EU formally ratified the Paris Agreement on 5 October 2016. See more information here.
[8] Article 4(2) of the Paris Agreement.
[9] See the Nationally Determined Contribution registry information on Norway.
[10] See EEA Joint Committee Decision No 269/2019.

(12) More than half of Norwegian GHG emissions are in the non-ETS sector, where the transport sector is the primary source of emissions. Within the transport sector, the passenger car segment is the largest emitter with emissions of 4.1 million tCO_2e in 2020. This is equivalent to the GHG emissions from vans, trucks and busses combined and over one quarter of the total GHG emissions in the transport sector.[11]

(13) The Norwegian authorities have, in the White Paper on the National Transport Plan for 2018–2029[12], listed several targets to achieve its emission reduction goals:

(i). in 2025, 100% of new private cars and light vans will be ZEVs. All new city buses will be ZEVs or use biogas;
(ii). by 2030, all new heavy vans, 75% of new long-distance buses, and 50% of new lorries will be ZEVs; and
(iii). by 2030, the distribution of goods in major city areas will be more or less emission free.

(14) The White Paper on National Transport Plan 2018–2029 was adopted by the Parliament in June 2017. Among these targets, it is the target for zero emission passenger cars that by far has the largest potential when it comes to GHG emissions reduction.

(15) The report *Klimakur* 2030,[13] which was finalised in 2020, performed a comprehensive analysis of the possible measures to reduce emissions from the non-ETS sector. In total 60 measures were assessed, which if implemented, could together reduce emissions by 50% over the period 2021-2030. If the targets for ZEVs in the National Transport Plan 2018-2029 are met, the corresponding reductions could be almost 6 million tCO_2e in the period 2021-2030. This is more than a quarter of the calculated non-ETS sector emission gap for Norway, given a target of 45% reduction.

(16) In addition, the Norwegian authorities have emphasized that while the targets for ZEVs are political goals in their own right, they play a critical role in achieving the overall reduction targets. The zero rating of ZEVs in the VAT system has been, and still will be, with the introduction of a threshold, merely one of several measures to achieve these targets.

3.2 General overview of the Norwegian VAT system

(17) VAT was introduced in Norway with effect from 1 January 1970. VAT is a tax levied on the final consumption of goods and services and is considered as a fiscal tax to secure State revenue.

[11] Statistics Norway, table 08940: *Greenhouse gases, by source (activity), energy product, contents, year and pollutant.*
[12] https://www.regjeringen.no/en/historical-archive/solbergs-government/Ministries/sd/press-releases/2017/a-national-transport-plan-for-better-and-safer-daily-travel/id2548623/
[13] Klimakur 2030 is a report written by Norwegian public agencies, led by the Norwegian Environmental Agency. In the report, the authors have calculated the GHG reduction potential in Norway in the non-ETS in the years 2021-2030. The report also points to what measures can be implemented in order for Norway to reach the GHG reduction potential. The report was published on the 31 of January 2020.

(18) The VAT provisions are laid down in the Act on Value Added Tax of 19 June 2009 No. 58 1("the VAT Act") and the Regulation concerning Value Added Tax of 15. December 2009 No. 15402 ("the VAT Regulation").

(19) The obligation to pay VAT and the VAT rates are adopted annually by the Norwegian Parliament. Exemptions and zero rates are laid down in the VAT Act and are not adopted annually. However, since exemptions and zero rates have economic effects, their adoption and repeal form a part of the annual budget process.

(20) Norwegian VAT is levied on the supply of goods and services falling within the scope of the VAT Act. The importation and self-supply of goods and services are also considered taxable events.

(21) Persons engaged in trade or business, whose taxable supplies exceed a financial limit of NOK 50 000 over a period of 12 months, must be registered in the VAT register and are liable to pay the tax.

(22) According to section 8-1 of the VAT Act, a registered person may deduct input VAT on goods and services for use in the business. The deduction right for businesses implies that VAT is not finally levied until the goods or services are sold to a customer without a right to deduction. VAT is therefore a tax on the final consumption.

(23) When reporting VAT to the tax authorities, the input VAT will be set off against the output VAT for the same period. If the input VAT exceeds the output VAT, the excess amount of input VAT shall be refunded by the tax authorities.

(24) The general VAT rate is 25% of the net price (taxable base). The VAT rate on foodstuff is 15%. Certain services are levied a reduced rate of 12%, e.g., passenger transport, admission fees to cinemas and museums, and hotel accommodation.

(25) Certain supplies, including health care and social services, are exempted from VAT. An exemption means that no output VAT is levied on the supply of the exempted goods and services, and suppliers are not entitled to deduct input VAT.

(26) Some goods and services, however, are levied output VAT, but at a zero rate. Suppliers of such goods and services are still entitled to deduct input VAT. Most of the zero rated groups of goods and services have existed since the introduction of the VAT in Norway, e.g. the zero rating on newspapers, books, periodicals, and electricity for domestic use in northern parts of Norway.

(27) Due to the right to deduct input VAT, the zero rate only affects the sales of goods or services to private persons and other businesses without a right to deduct input VAT.

(28) Sales of used motor vehicles, i.e., previously registered in the Norwegian Central Motor Registry, are also subject to zero VAT rate. Previously registered vehicles are subject to the re-registration tax when the vehicle is registered on a new owner. This system has been in place since the introduction of the VAT system in 1970.

(29) The zero VAT rating for the sale and import of EVs was introduced 1 July 2001 and extended to include leasing of EVs and supply/import of batteries for such vehicles 1 July 2015.

3.3 Measures previously approved by ESA

3.3.1 Measures approved by ESA in Decision No 150/15/COL

(30) ESA approved the following measures in its Decision No 150/15/COL as compatible State aid within the meaning of Article 61(3)(c) of the EEA Agreement:

(i). zero VAT rating for the supply and import of ZEVs;
(ii). zero VAT rating for the leasing of ZEVs;
(iii). zero VAT rating for the supply and import of batteries for ZEVs;
(iv). reduced annual vehicle tax for ZEVs;
(v). exemption from road tolls for ZEVs;
(vi). free boarding on classified national road ferries; and
(vii). favourable income tax calculation for private use of company ZEVs.

(31) These measures were found by ESA to constitute indirect aid in favour of the manufacturers and dealers of ZEVs and batteries (jointly "the manufacturing sector").[14] The first three measures were approved until 31 December 2017. The approval of the remaining measures was not limited in time.

(32) In the same decision, ESA further found that the following measures constituted existing aid measures, as they have been in place before the EEA Agreement entered into force in Norway on 1 January 1994:

- exemption from registration tax;
- free charging at public charging stations; and
- free parking in public parking.

(33) Regarding the measures listed in the previous paragraph, ESA did not initiate the existing aid procedure set out in Section V 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").

3.3.2 Measures approved by ESA's Decision No 228/17/COL

(34) In its Decision No 228/17/COL, ESA approved the following measures as compatible State aid within the meaning of Article 61(3)(c) of the EEA Agreement:

(i). a prolongation of the zero VAT rating for the supply and import of ZEVs;
(ii). a prolongation of the zero VAT rating for the leasing of ZEVs;
(iii). a prolongation of the zero VAT rating for the supply and import of batteries;
(iv). a new exemption for ZEVs from annual tax/insurance tax;
(v). a new exemption for ZEVs from re-registration tax; and
(vi). a new more favourable depreciation rate for electric cargo vans.

(35) As in its Decision No 150/15/COL, ESA concluded that these measures constituted indirect aid to the manufacturing sector.[15] ESA found that the zero VAT rating measures were compatible with the functioning of the EEA Agreement for three years from 1 January 2018 till 31 December 2020, while the remaining

[14] ESA Decision No 150/15/COL, paragraphs 83 and 118.
[15] ESA Decision No 228/17/COL, paragraphs 65, 69 and 70.

measures were found compatible for six years from 1 January 2018 till 31 December 2023.

3.3.3 Measures approved by ESA's Decision No 148/20/COL

(36) In its Decision No 148/20/COL ("the current scheme"), ESA approved the following measures as compatible State aid within the meaning of Article 61(3)(c) of the EEA Agreement:

(i). a prolongation of the zero VAT rating for the supply and import of ZEVs;
(ii). a prolongation of the zero VAT rating for the leasing of ZEVs; and
(iii). a prolongation of the zero VAT rating for the supply and import of batteries for ZEVs.

(37) ESA found that these measures did not alter its previous conclusion in finding that these measures constitute indirect aid to the manufacturing sector.[16] The prolongation of the zero VAT measures were found to be compatible with the functioning of the EEA Agreement for two years from 1 January 2021 until 31 December 2022.

3.3.4 Scaling down existing measures

(38) The following existing measures are already being scaled down by the Norwegian authorities:

(i). **Insurance tax**: EVs were previously exempted from insurance tax. Insurance tax was introduced for EVs with a reduced rate in 2021, and with the same rates as conventional vehicles in 2022.
(ii). **Re-registration tax:** EVs have been exempted from re-registration tax since 2018. As from 1 May 2022 EVs are subject to re-registration tax with a reduced rate at ¼ of the rate for other cars.[17] As from 1 January 2023, this will be changed, and the same rate applied to conventional fuel vehicles will be applied to EVs.
(iii). **Favourable income tax calculation:** as from the income year 2022, the taxable benefit from the private use of the employee's EV is increased from 60% to 80% of that of a conventional car with the same listing price.[18] As from the income year 2023, the favourable income tax calculation for employees benefitting from private use of electric company vehicles will be abolished.
(iv). **Reduced rates on toll-roads:** the maximum rate for toll-roads and toll-rings for EVs will be increased. The current maximum rate is 50%, which will be increased to 70% of the rates for conventional vehicles.
(v). **Fast charging infrastructure:** charging at publicly accessible charging stations used to be free of charge at many locations. This practice has disappeared in recent years and payment is required for charging at almost all public charging stations.

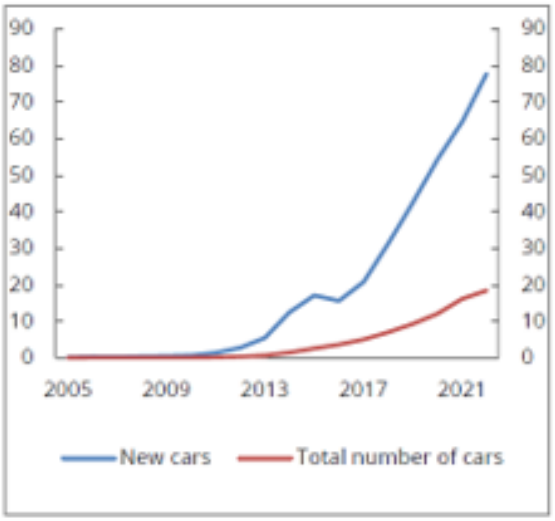
[16] ESA Decision No 148/20/COL, paragraphs 81.
[17] ESA Decision No 068/22/COL.
[18] *Ibid*.

3.4 Current market status and availability

3.4.1 Status of the battery electrical vehicle market in Norway

(39) The sale of BEPVs has increased considerably over the last decade. The share of new BEPVs registered in Norway, as a percentage of all new passenger cars, has increased from 18% in 2015 to 64.5% in 2021. In 2022 (January–August), 78% of the new passenger cars sold were BEPVs. The development of BEPVs, as share of newly registered passenger cars, is shown in the blue line in Figure 1.

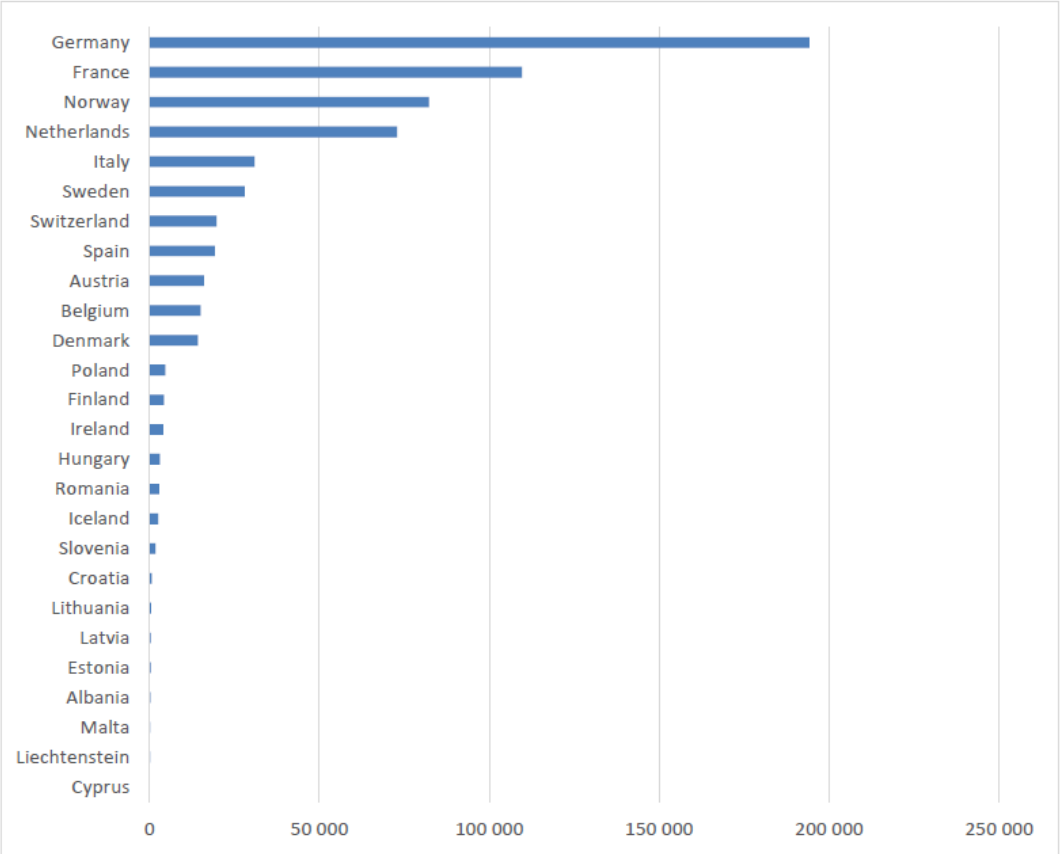
Figure 1 – share of electric vehicles per year of new passenger cars and of the stock of passenger cars in Norway 2005 – August 2022**.**



Source: OFV

(40) Figure 2 shows the total number of BEPVs sold in European countries in 2020. The figure illustrates that the number of sold BEPVs in Norway is high in absolute terms, compared to other bigger European countries. Only Germany and France have larger sales number than Norway.

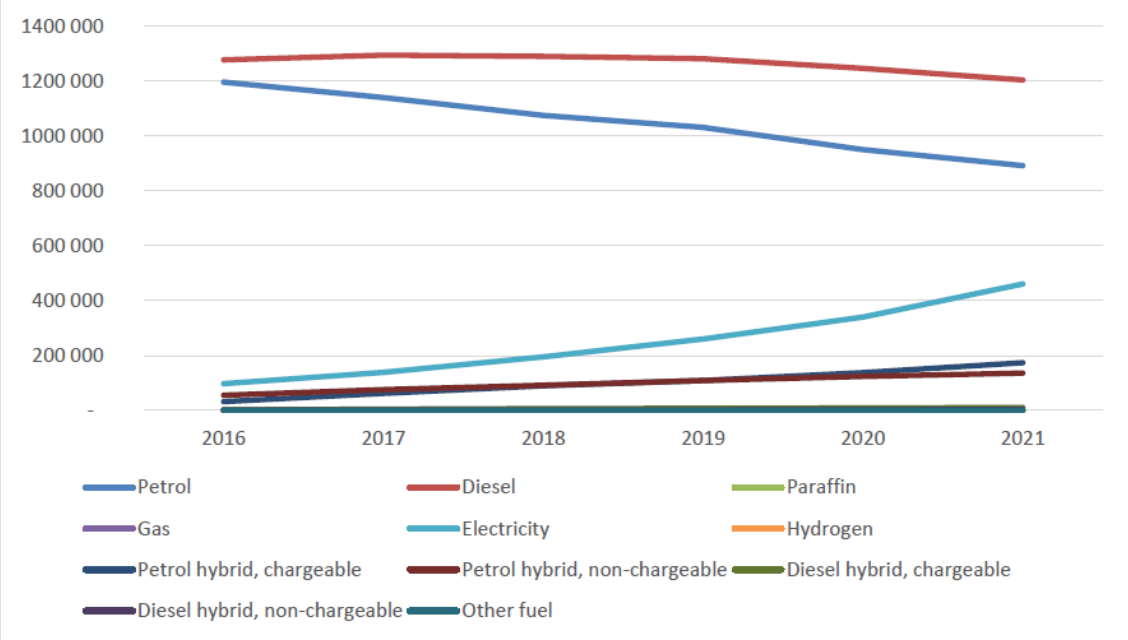
Figure 2 - Number of battery electric vehicles of new passenger cars in European countries (2020):



Source: Eurostat

(41) However, the Norwegian authorities have explained that the total number of BEPVs is still small compared to the number of conventional fossil fuel vehicles in Norway. The development of registered vehicles by fuel type in the stock of passenger cars is shown in Figure 3 below. The light blue line depicts the share of BEPVs that reached 16% at the start of 2022. In the beginning of 2022, 461 000 BEPVs were registered in Norway. The numbers of BEPVs and hybrid cars have been increasing, but the total numbers are still significantly lower than petrol and diesel cars.

Figure 3 – Stock of registered vehicles by type of fuel in Norway.



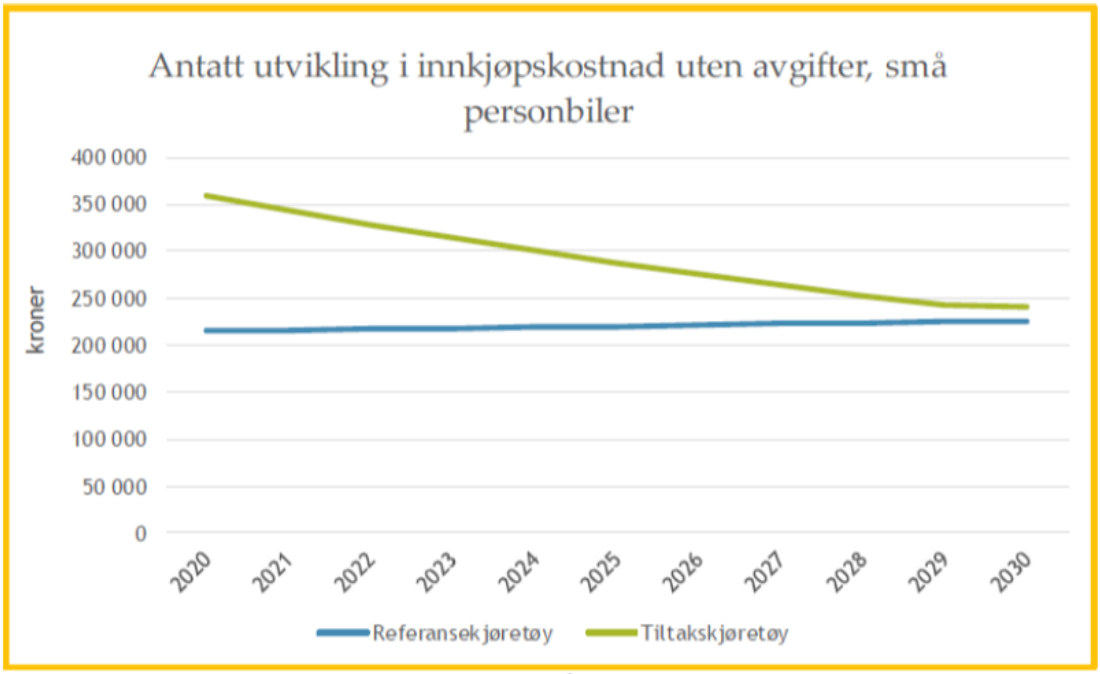
Registered vehicles, by type of fuel and year. Source: Statistics Norway

(42) The Norwegian authorities have further underlined that environmentally harmful emissions from vehicles represent a negative externality that economic agents may disregard when making the decision to buy or lease a new vehicle. Economic theory suggest that these agents may not be willing to pay for the extra costs linked to environmental protection, if those costs are not compulsory or subsidised. In other words, consumers will have little incentive to acquire (more costly) goods (in this case BEPVs) that limit environmental pollution, since consumers will typically consider only their own private costs and benefits, without taking into account the environmental effect of their choices.[19]

(43) Furthermore, the cost of producing a BEPV is still higher than the cost of producing a conventional vehicle, and this is reflected in the purchasing price. In the analysis performed by the Norwegian Environmental Agency in *Klimakur* 2030, they estimated the additional cost for battery-electric passenger cars compared to a conventional car, in two car segments. Without taxes, both segments were significantly more expensive.[20] The analysis in *Klimakur* 2030 expected the purchase price of battery electric passenger cars to decrease by 4-5% annually in the period 2021-2030. The figures 4 and 5 below are based on the Norwegian Environmental Agency's analysis in *Klimakur* 2030 and show expected development in investment for small and large passenger cars, without taxes.

Figure 4 – expected development in purchaser price without taxes, small passenger cars.

[19] ESA's Decision No 148/20/COL, paragraph (96) and Decision No 228/17/COL, paragraph (94).
[20] In *Klimakur* 2030, the reference vehicle for small ICE passenger cars is a gasoline powered Volkswagen Golf. The reference vehicle for large ICE passenger cars is a gasoline powered Volkswagen Tiguan. The so called "tiltakskjøretøy" or "model vehicle" is a hypothetical battery electric version with more or less the same qualities. There exists one "tiltakskjøretøy" mirroring the small ICE passenger car and one mirroring the large ICE passenger car.

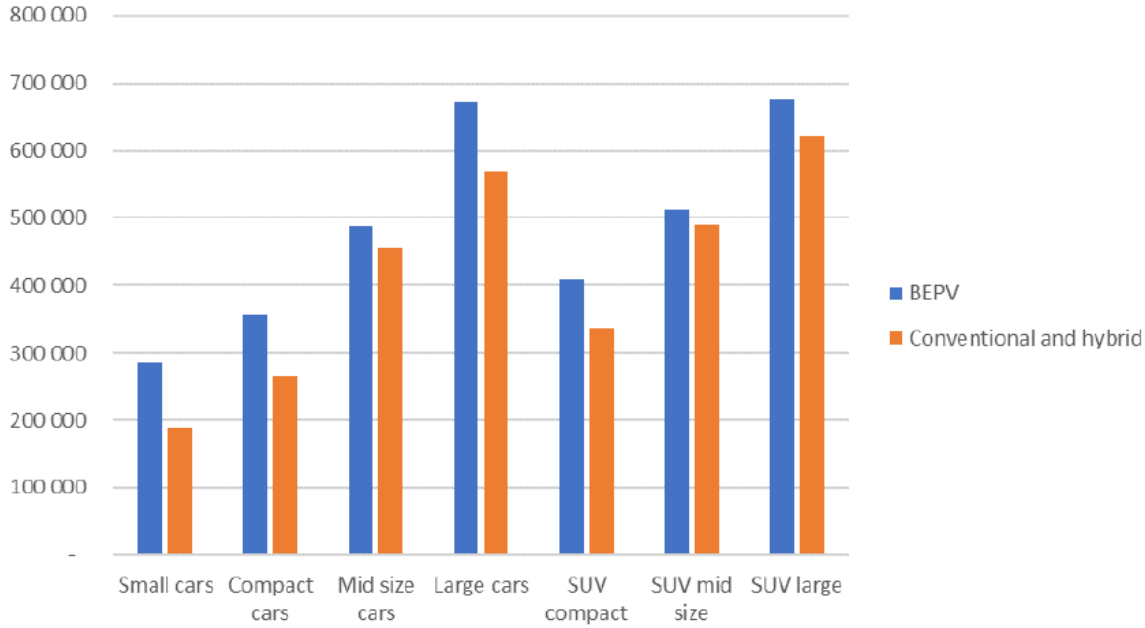


Figur 14. Utvikling i innkjøpskostnad uten avgifter for små personbiler (2019-kroner).

Source: *Klimakur* 2030.

(44) An analysis (Figure 5, below) of the prices of the most common models[21] of new cars sold in Norway the last 12 months confirms that before taxes, BEPVs are still more expensive than conventional and hybrid cars. This is valid for all passenger car classes.

Figure 5 - Price of BEPVs and conventional/hybrid cars, before taxes. Grouped by passenger car class.



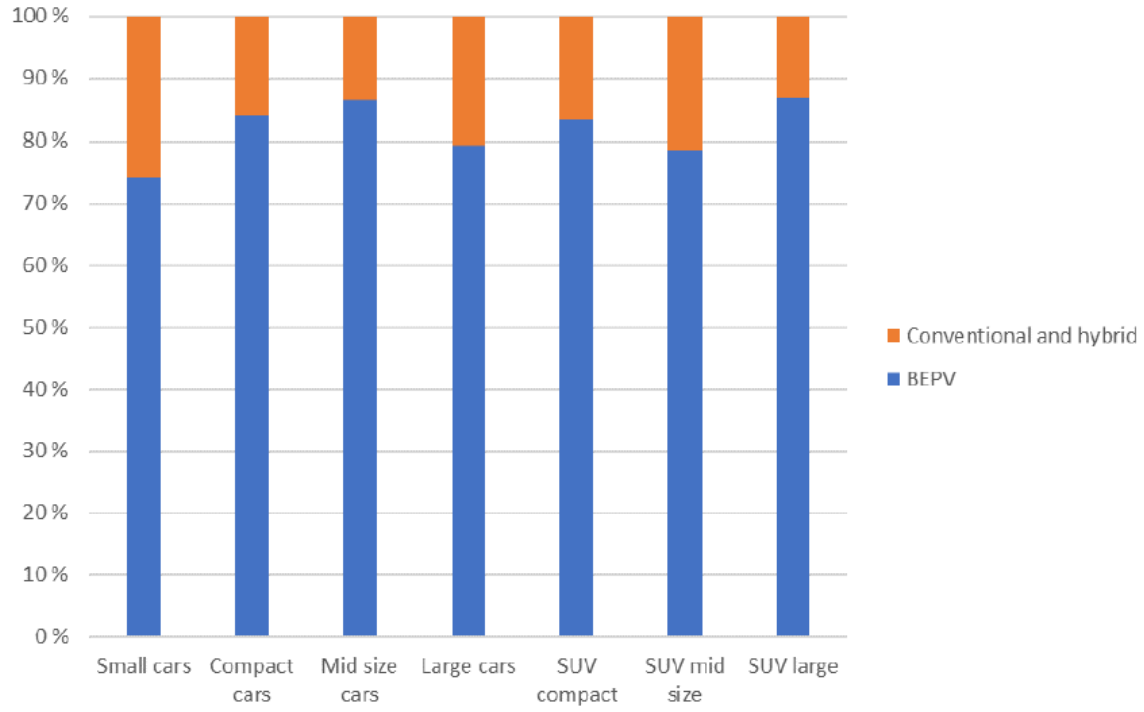
Source: Ministry of Climate and Environment

[21] Based on information of available passenger car vehicle models from https://www.vegvesen.no/kjoretoy/kjop-og-salg/nybilvelger/.

(45) According to the Norwegian Environmental Agency, the costs of small and large BEPVs in 2022 has developed in line with the prognosis from *Klimakur*, and the average price of the top ten models for large and small BEPVs are NOK 317 600 and NOK 510 758, respectively. The future price development of conventional cars is however considered to be more uncertain. This is due to a combination of factors, including car producers' plans on phasing out production of conventional vehicles, the EU Commission's proposal on strengthening CO_2 emission standards from 2030 to 2035,[22] and other EU countries' plans to phase out petrol- and diesel vehicles from new car sales by 2030.[23]

(46) When comparing the BEPV share grouped by the different vehicle classes (Figure 6, below), conventional and hybrid cars represent a significant share of new vehicles in all classes. The BEPV share is lowest in the small car class, and highest for large SUVs. According to the Norwegian authorities, this is an indication that a significant share of consumers consider BEPVs, even if they have lower purchase prices, to be inferior to conventional and hybrid cars.

Figure 6 - Share of BEPVs and conventional/hybrid cars in new sales, last 12 months.



Source: Ministry of Climate and the Environment

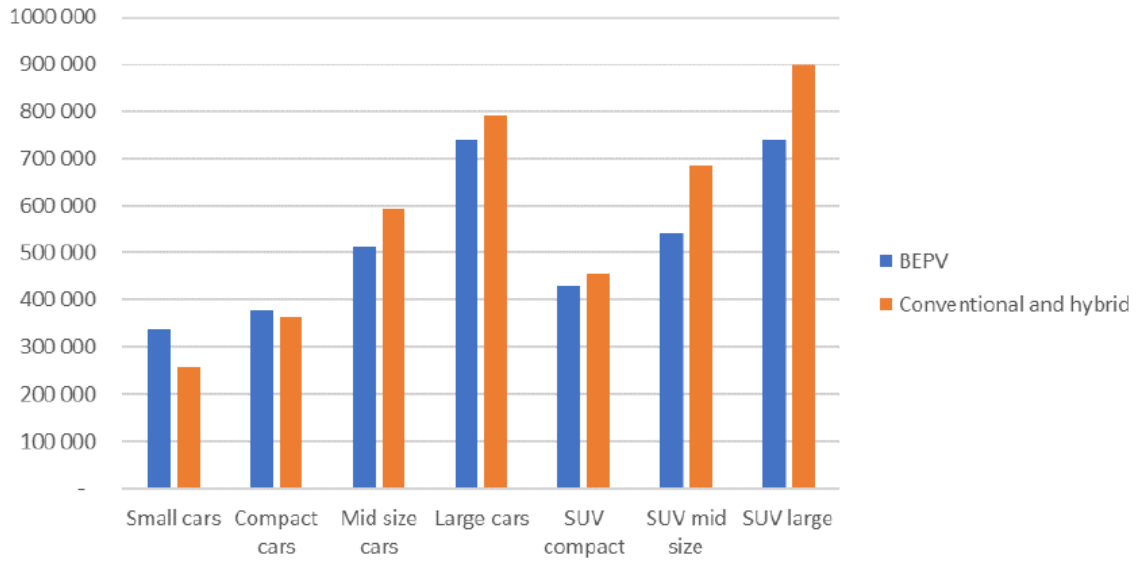
(47) The Norwegian authorities explain that without the VAT exemption, BEPVs would be significantly more expensive across all categories. Compared to conventional vehicles, especially small/mid-sized and more moderately priced cars, BEPVs would become much less competitive. A continued VAT exemption, but with the introduction of a threshold of NOK 500 000, would lead to price increases only for BEPVs above that threshold. On average, these are the groups which appear to

[22] The Commission has proposed EU fleet-wide CO_2 emission reduction targets of 100% for new passenger cars and vans by 2035, with an intermediate target for 2030. https://ec.europa.eu/clima/eu-action/european-green-deal/delivering-european-green-deal/co2-emission-performance-standards-cars-and-vans_en

[23] https://theicct.org/publication/update-on-government-targets-for-phasing-out-new-sales-of-internal-combustion-engine-passenger-cars/

currently have a more significant price advantage compared to conventional vehicles, and slightly higher BEPV shares.

Figure 7 - Comparison of purchase costs (in NOK) in 2022 between BEPVs and conventional/hybrid cars, including taxes and introducing VAT for BEPVs above NOK 500 000.



Source: Ministry of Climate and the Environment

(48) In addition to higher costs, BEPVs have real and perceived disadvantages compared to conventional cars. The Norwegian authorities have referred to the study 'Battery electric vehicle user experiences in Norway's maturing market' (TØI-report 1719/2019), which collected user experiences and opinions from both owners of ZEVs and owners of conventional fuel vehicles. According to the study, the owners of conventional fuel vehicles list the following as the most important disadvantages with ZEVs: Driving range, car size, practical characteristics like size of the storage/luggage space and missing possibilities for tow bar, all of which are important for long travels and flexible car use.

(49) The Norwegian authorities have explained that when surveying existing owners of EVs, costs have consistently been the main motivation for choosing BEPVs over conventional vehicles. In the Norwegian EV association's survey for 2021, 59% of BEPV owners stated that low costs were their main motivation for buying a BEPV, while only 19% stated that environmental concerns were their main motivation. [24]

(50) According to the Norwegian authorities, the impact of the different support instruments for BEPVs have been subject to several surveys. Survey results of consumer choices indicate that economic aspects (the exemption from registration tax and the zero VAT rate) have been the most important factor for the majority of people in the choosing of an EV over a conventional car. According to the survey *Elbilisten*, the zero VAT rate is the most important EV advantage.[25]

[24] *Elbilisten* is an annual survey conducted by the Norwegian EV Association since 2013. In 2021, the survey was sent to Norwegian EV owners (both member and non-members of the association) and received 15 464 answers. The purpose of the survey is to examine Norwegian EV owners' car use, attitudes and experiences with EV and charging. See here and here.
[25] *Ibid*.

(51) Furthermore, according the Norwegian authorities, BEPVs are also considered to have lower operating expenditures related to fuel costs and maintenance. Electricity as a fuel, per kilometre, has historically been much cheaper than petrol and diesel. This is partly due to lower energy prices and higher efficiency of BEPVs, and partly due to fuel taxes. However, the Norwegian authorities have explained that the developments in energy prices in the recent months have disproportionately increased the average electricity prices relative to fossil fuel prices. As a result, the benefit of reduced expenditures for BEPVs compared to conventional vehicles have been decreased.

(52) The Norwegian authorities submit that the comprehensive set of measures in place to incentivise the purchase of BEPVs instead of fossil fuel vehicles, has led to Norway having the highest rate of BEPVs in the world (see Figure 2). The market shares of new BEPVs have increased over the last years, in line with the trajectory to achieve Norway's climate targets. Therefore, to continue on the trajectory, the Norwegian authorities find it necessary to continue the zero VAT rating measures, although partially scaled down.

3.5 The notified measures

3.5.1 Introduction

(53) The notified measures refer to the zero VAT rating for supply, import and leasing of BEPVs.

(54) The existing scheme is approved by ESA until 31 December 2022. With the measures, the Norwegian authorities have notified a prolongation and amendments to the existing scheme until 31 December 2024.

(55) The notified measures introduce a threshold of NOK 500 000, which implies a zero VAT rating up to an amount of NOK 500 000, and the use of the standard VAT rate (25%) on amounts exceeding the threshold of NOK 500 000. Moreover, the measures are limited to BEPVs.

3.5.2 Technical implementation and delimitation

(56) The threshold of NOK 500 000 will apply to the supply, import and leasing of BEPVs.

(57) The current zero VAT rating covers all types of ZEVs, including passenger vehicles and different types of commercial vehicles, such as vans, trucks and buses. The vast majority of commercial vehicles are acquired by businesses entitled to deduct input VAT, and hence do not benefit from the zero VAT rate. The Norwegian authorities have explained that the introduction of a threshold in the zero VAT rate measure will complicate the tax calculation for all businesses that acquire or lease commercial vehicles without affecting these businesses, or their customers financially.

(58) On this background, the zero rate will be abolished for commercial vehicles. The measure of zero VAT rate with the introduction of a threshold will apply only to BEPVs.

(59) The introduction of a threshold in the zero VAT rate measure will normally not affect the taxable person's right to deduct input VAT. Businesses involved in car hire services (including leasing) and passenger transport have right to deduct

input VAT when acquiring passenger vehicles. Such businesses will therefore be entitled to deduct input VAT for the part of the purchase price that exceeds the threshold of NOK 500 000 when acquiring electric passenger vehicles.[26]

(60) Under the existing scheme, both sales and leasing of electric vehicles are exempted from VAT, the rules are therefore neutral in the choice between purchase and leasing. With the introduction of the threshold, the purchasing price of expensive cars will be increased. To avoid that the new measure will provide incentives to lease BEPVs above the threshold, the VAT on the leasing of BEPVs that cost more than NOK 500 000 will be calculated following this formula:

$$M_L = \frac{P - G}{P} * l * m$$

(61) The formula is explained as:

- M_L = VAT on leasing;
- P = purchase price ex. VAT;
- G = threshold (NOK 500 000);
- I = rent; and
- m = VAT rate (25%).

(62) For businesses with the right to deduct input VAT, the VAT on the rent will be deductible.

3.5.3 National legal basis, the aid granting authority and beneficiaries

(63) The national legal basis is the VAT Act. As explained above in paragraph (19), the obligation to pay VAT, and the subsequent rates are adopted through the annual (plenary) decision of the Norwegian Parliament. Whereas the VAT Act derives its legal authority from the plenary decision, the Act itself is not subject to annual adaptation. Moreover, the Norwegian authorities have explained that the VAT Act will be amended to reflect the amendments introduced by the measures.[27]

(64) All end users, private users and undertakings, are able to purchase, lease or import BEPVs for their own use. Consequently, all end users are eligible for zero VAT rating up to an amount of NOK 500 000 per BEPV.

(65) Since there are no electric cars manufactured in Norway, the direct beneficiaries of the measures are considered to be the consumers, i.e. the final users. This includes both private individuals and businesses.

(66) Due to the right to deduct input VAT for undertakings, VAT is in principle not an expense for undertakings registered in the Norwegian VAT system. With the exception of undertakings involved in car-hire services (including leasing) and passenger transport, the right to deduct VAT does not comprise VAT on passenger vehicles. As a consequence, without the zero VAT rate, VAT would be a cost for undertakings acquiring BEPVs, in the same way that VAT is a cost for undertakings acquiring conventional passenger vehicles. Consequently,

[26] Section 8.4 in the VAT Act.
[27] In section 6-7 and with a new Section 6-8, of the VAT Act.

undertakings established in Norway will benefit directly from the notified measures of zero VAT rating under the threshold of NOK 500 000 per BEPV.

(67) The Norwegian authorities have further pointed out that manufacturers and dealers of BEPVs, and undertakings buying, importing or leasing BEPVs to use as company cars may therefore obtain an indirect advantage.

3.5.4 Budget, duration and revenue effects

(68) The Norwegian authorities have notified the prolongation of the measures for a period of 2 years from 1 January 2023 to 31 December 2024.

(69) The zero VAT rate with a threshold of NOK 500 000 for BEPVs results in a loss of revenue compared to a situation where BEPVs are charged the standard rate (25 %) in the VAT system. The size of the loss depends on the vehicle sales. In 2022, the value of the zero rating for BEVs is estimated to amount to approximately NOK 13.4 billion.

(70) Introducing VAT on purchase amounts over NOK 500 000 is estimated to generate additional revenue of approximately NOK 1.2 billion in 2023, compared to a continuation of the existing measures without the threshold.

4 Presence of State aid

4.1 Introduction

(71) 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."

(72) 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.

(73) In its Decision No 148/20/COL, ESA considered that the zero VAT rating measures concerned, constituted State aid to the manufacturers and dealers of ZEVs (indirect beneficiaries referred to as "the manufacturing sector").[28] Considering the amendments introduced by the measures, the NOK 500 000 threshold and limiting the zero VAT rating to BEPVs, ESA finds that there is nothing in the present case to alter the conclusions drawn in Decision No 148/20/COL.[29] ESA therefore considers that the notified measures constitute State aid within the meaning of Article 61(1) of the EEA Agreement.

5 Lawfulness of the aid

(74) 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

[28] Decision No 148/20/COL, paragraph 77.
[29] *Ibid*, paragraph 81.

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."

(75) The Norwegian authorities have notified the measures and have yet to let them enter into force. They have therefore complied with the obligations under Article 1(3) of Part I of Protocol 3.

6 Compatibility of the aid

6.1 Introduction

(76) In derogation from the general prohibition of State aid laid down in Article 61(1) of the EEA Agreement, aid may be declared compatible if it can benefit from one of the derogations enumerated in the Agreement. The Norwegian authorities invoke Article 61(3)(c) of the EEA Agreement as the basis for the assessment of the compatibility of the aid measures.

(77) Article 61(3)(c) of the EEA Agreement provides that ESA may declare compatible "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". Therefore, in order to declare the aid compatible, first, the aid must be intended to facilitate the development of certain economic activities or of certain economic areas and, second, the aid must not adversely affect trading conditions to an extent contrary to the common interest.[30]

(78) Under the first condition, ESA examines how the aid facilitates the development of certain economic activities or areas. Under the second condition, ESA weighs up the positive effects of the aid for the development of said activities or areas and the negative effects of the aid in terms of distortions of competition and adverse effects on trade.

(79) For most cases, these conditions are outlined in ESA's State aid guidelines. However, in the present case there are no existing State aid guidelines applicable to the measures at hand, ESA will therefore assess the measures directly under Article 61(3)(c) of the EEA Agreement.

6.2 Facilitation of development of certain economic activities or areas

6.2.1 Economic activities or areas supported

(80) Under Article 61(3)(c) of the EEA Agreement, in order to be considered compatible, the measure must contribute to the development of certain economic activities or areas.

(81) The objective of the measures is to enhance the share of BEPVs in the vehicle stock in Norway, in order to reduce CO_2 emissions from the transport sector. With the measures, the costs borne by the buyer are reduced and the purchase or lease of BEPVs are incentivised. The measures thereby effectively lead to the decarbonisation of the Norwegian transport sector.

(82) Furthermore, the measures also facilitate the development of BEPVs, including the manufacturing of BEPVs by car manufacturers.

[30] Judgment of 22 September 2020, *Austria* v *Commission* (*Hinkley Point C*), C-594/18 P, EU:C:2020:742, paragraphs 18–20.

(83) In view of the above, ESA considers that the measures facilitate the development of certain economic activities, as required by Article 61(3)(c) of the EEA Agreement.

6.2.2 Incentive effect

(84) State aid is only compatible with the functioning of the EEA Agreement if it has an incentive effect and so effectively facilitates the development of certain economic activities or areas. To establish whether the measure has an incentive effect, it must be demonstrated that it changes the behaviour of the undertakings concerned in such a way that it engages in an activity which it would not carry out without the aid or which it would carry out in a restricted or different manner.

(85) The prolongation of zero VAT rate with the introduction of a threshold is meant to continue to stimulate a higher demand for BEPVs instead of conventional vehicles.

(86) Studies have shown that the lowering or removing of VAT on particular goods or services leads to a reduction in the prices of the goods or services, more or less corresponding to the monetary equivalent of the lower VAT rate.[31] Without the VAT exemption, BEPVs would be significantly more expensive, and compared to conventional vehicles, especially small/mid-sized and more moderately priced cars, BEPVs would become much less competitive, see paragraphs (44) and (47) above.

(87) ESA notes that the share of EVs in Norway has increased following the adoption of the measures, see paragraphs (39) and (40). It is further clear from the survey answers from existing BEPV-owners in Norway, that a significant share of the BEPVs would not have been purchased without the zero VAT rate. ESA therefore finds that the VAT advantage is an important factor to increase the purchase of BEPVs.

(88) Based on the foregoing, ESA concludes that the zero VAT rate under the threshold of NOK 500 000 has an incentive effect for consumers by bolstering their demand for BEPVs.

(89) In view of the above, ESA considers that in the absence of the notified measures, the demand for BEPVs would not have been the same, and consequently the development of the economic activities, and the objective of achieving emission reductions would not have been facilitated to the same extent. Therefore, the aid measures have an incentive effect.

6.2.3 Compliance with relevant EEA law

(90) If a State aid measure, the conditions attached to it (including its financing method when the financing method forms an integral part of the state aid measure), or the activity it finances entail a violation of relevant EEA law, the aid cannot be declared compatible with the functioning of the EEA Agreement.[32]

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[31] See for example, DG TAXUD, Study on reduced VAT applied to goods and services in the Member States of the European Union - Final report, 21 June 2007, page 10.

[32] Judgments of 19 September 2000, *Germany* v *Commission*, C-156/98, EU:C:2000:467, paragraph 78; 22 December 2008, *Régie Networks*, C-333/07, EU:C:2008:764, paragraphs 94–116; 22 September 2020, *Austria* v *Commission* (*Hinkley Point C*), C-594/18 P, EU:C:2020:742, paragraph 44; 14 October 2010, *Nuova Agricast*, C-390/06, EU:C:2008:224, paragraphs 51–51.

(91) ESA has no indications that the measures, the conditions attached to them, or the activity they finance entail a violation of relevant EEA law.

6.3 Whether the aid adversely affects trading conditions to an extent contrary to the common interest

6.3.1 Introduction

(92) ESA has not only identified positive effects of the planned aid for the development of the abovementioned economic activities and economic areas, but also possible negative effects that it may have in terms of distortions of competition and adverse effects on trade. These positive and negative effects must then be weighed up.

6.3.2 Markets affected by the aid

(93) No electric cars are manufactured in Norway. Therefore, the measures confer an advantage on the end users, the buyers, importers and lessors of BEPVs. Furthermore, they confer an indirect advantage in favour of the manufacturers and dealers of BEPVs. This indirect advantage includes increased demand for BEPVs compared to a reference situation absent the aid. Consequently, these markets constitute the markets affected by the aid. Additionally, the measures may have an effect on BEPV supply chains.

6.3.3 Positive effects of the aid

(94) The aid contributes to reduce CO_2 emissions from the transport sector by incentivising the purchase and leasing of BEPVs through the VAT measures, see paragraphs (39), (50) and (57).

(95) The Norwegian authorities consider the zero VAT rate to be an integral and necessary part to reach the target of completely transitioning to ZEVs and achieve the target reductions of CO_2-emission. With the introduction of a threshold of NOK 500 000, the zero VAT rate will be more targeted towards the vehicles that require more support, while scaling back the amount of support for the more expensive vehicles. According to the Norwegian authorities, this policy is considered necessary to reach the ambitious climate goals.

(96) Furthermore, ESA notes that the transport sector is the primary source of CO_2 emissions, where the passenger car segment is the largest emitter, see paragraph (12) above. The measures therefore contribute to climate change mitigation by supporting the purchase and lease of BEPVs.

(97) ESA further considers that the policy objectives of Norway, which align with European and international policies and objectives, contribute to green outcomes in the common interest.

(98) Based on the foregoing, ESA considers that the measures will continue to have positive effects on facilitating the development of the identified economic activities and on climate and energy efficiency, which are objectives promoted in national and European policies and objectives.

6.3.4 Limited negative effects of the aid

6.3.4.1 Introduction

(99) Article 61(3)(c) of the EEA Agreement requires an assessment of any negative effects on competition and on trade. The aid must not adversely affect trading conditions to an extent contrary to the common interest.

(100) The notified measures, as assessed by ESA in Decisions Nos 148/20/COL and 228/17/COL, have been found to only grant aid to the indirect beneficiaries. In the previous Decisions, ESA found that the feature of the measures imply a limited potential distortion of competition and trade.[33] Furthermore, ESA notes that there is no discrimination between operators in the manufacturing sector.

(101) As will be further explained below, ESA considers that the measures are necessary, appropriate and proportionate. Therefore, the measures do not entail undue distortions of competition and trade, and the overall balancing exercise has a positive outcome.

6.3.4.2 Necessity of the aid

(102) A State aid measure is necessary if it is targeted towards situations where aid can bring about a material improvement that the market cannot deliver itself.

(103) The Norwegian authorities have provided information on purchase price differences between BEPVs and conventional cars in today's market (see paragraphs (45) to (47) and figure 7). The price comparison shows that the prices of BEVs, in all segments, are still substantially higher than comparable fossil-fuel cars before taxes are added.

(104) Furthermore, ESA considers that there are still both perceived and real disadvantages related to EVs, such as limitations in range, size of the storage space and charging capacity. These disadvantages can represent a significant non-monetary cost for a BEPV buyer and needs to be included in the calculation of costs and benefits of buying a BEPV instead of a fossil fuelled car. There are also other disadvantages related to buying an EV, uncertainties regarding the expected lifetime of batteries and the BEPVs value in the second hand market. Due to such disadvantages, BEPVs may still be considered by many car buyers as an inferior alternative to fossil fuel vehicles.

(105) Therefore, with the notified measures, the perceived and real disadvantages are offset by making BEPVs cheaper than conventional cars. ESA considers that this is necessary, in order for BEPVs to maintain a sufficiently high market share, and to achieve the necessary emission reductions in the coming few years.

(106) Moreover, in ESA's previous decisions,[34] it has been considered that environmentally harmful CO_2 (and other) emissions represent a negative externality that economic agents may disregard when taking the decision to buy a new vehicle (see paragraph (42) above). Negative environmental externalities

[33] See Decision No 148/20/COL paragraphs (123) and (124), and Decision No 228/17/COL paragraph (154).

[34] See Decision No 228/17/COL and Decision No 178/21/COL paragraph 127.

therefore represent a market failure[35] (i.e. a situation that the market will not resolve on its own), which justifies State intervention in the market.

(107) ESA also recalls that the Guidelines on State aid for climate, environmental protection and energy 2022[36] accept that market failures can exist due to negative environmental externalities, and that public intervention may be necessary to increase the level of environmental protection.

(108) Having considered the cost of the BEPVs without the measures, and the information provided by the Norwegian authorities, ESA finds that the measures are necessary to address the negative externalities and the market failure.

6.3.4.3 Appropriateness of the aid

(109) EEA EFTA States can make different choices with regard to policy instruments and State aid control does not impose a single way to intervene in the economy. However, State aid under Article 61(1) of the EEA Agreement can only be justified by the appropriateness of a particular instrument to contribute to the development of the targeted economic activities or areas.

(110) ESA normally considers that a measure is an appropriate instrument where the EEA EFTA State can demonstrate that alternative policy options would not be equally suitable to contribute to the development of economic activities or areas and where it can demonstrate that alternative, less distortive, aid instruments would not deliver equally efficient outcomes.

(111) As described above in section 3.3.3, Norway has numerous measures to promote the uptake of ZEVs. Since the 1990s, ZEVs have been exempted from registration tax, benefitted from free parking and have been exempted from tolls etc. The zero VAT rate for the supply and import of EVs was adopted in 2001.

(112) According to the Norwegian authorities, the economic aspects (the exemption from registration tax and the zero VAT rate) have been the most important factor for the majority of people when choosing an EV over a conventional car. None of the other measures alone are considered to enable BEPVs to compete with conventional cars. Furthermore, according to the Norwegian authorities, several targeted measures are considered necessary to achieve the policy objectives.

(113) However, as explained above in section 3.3.4, the Norwegian authorities are scaling back many of the existing measures, to ensure the original purpose and the sustainability of the systems.

(114) As the existing measures are scaled down, the incentives to purchase or lease BEPVs are also reduced. In this regard, the Norwegian authorities have underlined the importance of the zero VAT rate measures for BEPVs in the future.

(115) Furthermore, the Norwegian authorities have explained that the zero VAT rate as a measure has been both a substantial economic incentive to favour ZEVs, but also a measure where the impact of it has been easy to calculate. The Norwegian

[35] On this subject see: "*Economic principles of state aid control*". Available at: http://ec.europa.eu/dgs/competition/economist/ibc.pdf.

[36] ESA Decision No 029/22/COL of 9 February 2022 amending the substantive rules in the field of State aid by introducing new Guidelines on State aid for climate, environmental protection and energy 2022, OJ L 277, 27.10.2022, p. 218–313, paragraphs 10 and 34 (a).

authorities have considered that for consumers, incentives at the time of buying a vehicle can be more effective than incentives over the lifetime of owning a vehicle.

(116) Based on the above, ESA considers that the zero VAT measures have been and still are important and appropriate measures to increase the share of BEPVs in Norway, and to reduce the price difference between BEPVs and conventional fossil fuel vehicles. Moreover, the measures increase demand for environmentally friendly modes of transport and further Norway's target to reduce harmful CO_2 emissions.

6.3.4.4 Proportionality of the aid

(117) State aid is proportionate if the aid amount per beneficiary is limited to the minimum needed to incentivise the additional investment or activity in the area concerned.

(118) The measures aim to increase the market share of BEPVs, in order to reduce CO_2-emissions from the transport sector. As stated above, the share of BEPVs is still significantly lower than petrol and diesel cars, see paragraph (41).

(119) Based on the information provided by the Norwegian authorities, ESA notes that absent the VAT measures, the BEPVs would be significantly more expensive, and become much less competitive. By lowering the price of BEPVs, it makes BEPVs more attractive to consumers, and make BEPVs able to compete with conventional vehicles. Furthermore, the introduction of a threshold of NOK 500 000, makes the measures more targeted towards the vehicles that require support, while scaling back the amount of support for the more expensive vehicles.

(120) Furthermore, ESA notes that the continued strong growth in the share of ZEVs in the coming years will be necessary, in order for Norway to reach the 2025-target (see paragraph (13)).

(121) In Decisions Nos 148/20/COL and 228/17/COL, ESA excluded overcompensation by finding that: (i) the measures only entailed State aid for the indirect beneficiaries (the manufacturing sector), and aid intensity received by those beneficiaries is significantly reduced; and (ii) there were still significant differences between conventional vehicles and ZEVs (limited range, a limited number of models, longer charging time and uncertainty regarding the second-hand market). The measures were therefore considered to be proportionate to the aim to be achieved without resulting in overcompensation. In addition, the market developments, Norway's climate goals and the relatively short duration of the prolongation, was considered by ESA, and it was concluded that the measures continue to be proportionate to the aim to be achieved.

(122) As regards to the notified measures, ESA considers that they do not affect ESA's conclusion in the previous decisions. In particular, ESA considers that the introduction of the threshold, that the measures are confined to BEPVs only, and the limitation in time, ensures that the measures are targeted to achieve the objectives of the measure. Based on the above considerations, ESA concludes that the measures are proportionate.

6.3.4.5 Conclusion on limited negative effects

(123) In light of the above arguments, ESA concludes that any negative effects of the aid on competition and on trade are limited.

6.3.5 Balancing positive and negative effects of the aid

(124) For the aid to be compatible with the functioning of the EEA Agreement, the limited negative effects of the aid measure in terms of distortion of competition and adverse impact on trade between Contracting Parties must be outweighed by positive effects, in terms of contribution to the facilitation of the development of economic activities or areas. It must be verified that the aid does not adversely affect trading conditions to an extent contrary to the common interest.

(125) ESA considers that the measures will enable undertakings and consumers to invest in BEPVs, which leads to important environmental benefits and benefits for the economic development of emission friendly transport. Moreover, they will contribute to the promotion of climate and environmental policies and objectives.

(126) The notified measures are further considered to minimise the distortion on competition, as it is granted to indirect beneficiaries, and is considered to be necessary and proportionate. There is also no discrimination between operators in the manufacturing sector.

(127) ESA concludes that the positive effects of the measure outweigh possible distortions of competition and adverse impact on trade, since the measures contributes to reduce the emissions from transport in an environmentally friendly manner. Therefore, the aid does not unduly affect trading conditions to an extent contrary to the common interest.

6.4 Transparency

(128) The Norwegian authorities have confirmed that the aid award, should it exceed EUR 100 000, will be published in the national transparency register.

(129) Therefore, the measures fulfil the transparency requirements.

7 Conclusion

(130) On the basis of the foregoing assessment, ESA considers that the measures constitute State aid within 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)(c), it has no objections to the implementation of the measures.

(131) 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,

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