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Decision No 046/24/COL

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

**Subject: Amendment to the Norwegian CO<sub>2</sub> compensation scheme  
– increased price floor**

## 1 Summary

- (1) The EFTA Surveillance Authority (“ESA”) wishes to inform Norway that, having assessed the notified amendment to the scheme on compensating undertakings active in certain energy-intensive industries for increases in electricity prices resulting from the EU Emissions Trading System for the period 2021-2030 (“the measure”), it considers that the measure constitutes State aid within the meaning of Article 61(1) of the EEA Agreement. ESA decides not to raise objections 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 20 March 2024.<sup>1</sup>

## 3 Description of the measure

### 3.1 Background

- (3) By [Decision No 171/22/COL](#)<sup>2</sup> (“the approval decision”) ESA approved the scheme on compensating undertakings active in certain energy-intensive industries for increases in electricity prices resulting from the EU Emissions Trading System for the period 2021-2030 (“the scheme”).
- (4) The EEA EFTA States take part in the EU Emissions Trading System (“the EU ETS”), established by Directive 2003/87/EC (“the ETS Directive”).<sup>3</sup> The EU ETS is a “cap and trade” system that sets a cap for the total volume of greenhouse gas emissions from certain installations and operators<sup>4</sup> and allows trading of emission

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<sup>1</sup> Document Nos 1445073 and 1445071.

<sup>2</sup> OJ C 476, 15.12.2022, p. 32 and EEA Supplement No 84, 15.12.2022, p. 2.

<sup>3</sup> Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC ([OJ L 275, 25.10.2003, p. 32](#)), as subsequently amended. Incorporated into the EEA Agreement at point 21a) of Annex XX by EEA Joint Committee Decision No 146/2007 of 26 October 2007.

<sup>4</sup> Annex I of the ETS Directive lists the categories of activities to which the Directive applies.

allowances within the cap.<sup>5</sup> The current fourth phase from 2021 will last until 2030 and is designed to achieve the EU's 2030 emission reduction targets.<sup>6</sup>

- (5) The scheme compensates undertakings in certain energy-intensive industries for increases in electricity prices resulting from the pass-on of the costs of greenhouse gas emissions under the EU ETS ("the indirect emission costs"), as defined in ESA's Guidelines on certain State aid measures in the context of the system for greenhouse gas emission allowance trading post 2021 ("the ETS Guidelines"),<sup>7</sup> as supplemented.<sup>8</sup>
- (6) On 8 March 2023, by [Decision No 043/23/COL](#)<sup>9</sup> ("the second decision"), ESA approved an amendment to the scheme. In the second decision the Norwegian authorities introduced a price floor to the scheme at NOK 200 for the remainder of the duration of the scheme, 2022-2030.
- (7) Reference is made to the approval decision for further details on the conditions of the scheme. Moreover, reference is made to the second decision for the description on the introduction of the price floor.

### 3.2 The measure

- (8) According to the Norwegian authorities, the cost of the scheme has increased due to increased prices in the European Union Allowance ("EUA").<sup>10</sup> Therefore, the Norwegian authorities have notified an increase to the EUA price floor from NOK 200 to NOK 375 for the support year 2023, which will be paid by 15 April 2024. The increase in the EUA price floor from NOK 200 to NOK 375 will result in a decrease in support from approximately NOK 8.8 billion to NOK 6.4 billion in year 2023.
- (9) The Norwegian authorities have confirmed that the same prices will be applied for all beneficiaries equally.
- (10) As explained in the second decision, the EUA price floor means that the beneficiaries only receive compensation for indirect costs that have occurred due to the EUA price over a certain limit. By way of example, with the notified measure, the applicable EUA forward price for the aid year 2023 is NOK 844, with the EUA price floor at NOK 375, the beneficiaries will only receive compensation for indirect costs due to an EUA price of NOK 469. The EUA price floor means that the "Pt-1" element<sup>11</sup> of the aid calculation formulas<sup>12</sup> only takes into account the part of EUA price at year t-1 exceeding NOK 375.

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<sup>5</sup> See the European Commission's EU ETS Handbook, available [here](#).

<sup>6</sup> See the European Commission's websites, where information on the EU ETS is available [here](#).

<sup>7</sup> ESA's [Guidelines](#) on certain State aid measures in the context of the system for greenhouse gas emission allowance trading post 2021 (OJ L 130, 15.4.2021, p. 3, and EEA Supplement No 27, 15.4.2021, p. 3).

<sup>8</sup> [Supplements](#) to ESA's Guidelines on certain State aid measures in the context of the system for greenhouse gas emission allowance trading post 2021 (OJ L 204, 4.8.2022, p. 3, and EEA Supplement No 51, 4.8.2022, p. 3).

<sup>9</sup> OJ C 220, 22.6.2023, p. 25 and EEA Supplement No 46, 22.6.2023, p. 4.

<sup>10</sup> According to paragraph 15(7) of the ETS Guidelines, EUA means a transferable allowance to emit 1 tonne of CO<sub>2</sub> equivalent during a specified period.

<sup>11</sup> Pt-1 is the EUA forward price at year t-1 (EUR/tCO<sub>2</sub>).

<sup>12</sup> The approval decision, paragraphs 14 and 15.

- (11) The increased EUA price floor would reduce the budgetary impact of the scheme from NOK 8.8 billion to NOK 6.4 billion for the 2024 budget. In its budgetary decision for 2024, the Parliament budgeted NOK 6.4 billion to the CO<sub>2</sub> compensation scheme.

### 3.3 National legal basis

- (12) The legal basis of the scheme is the Regulation on CO<sub>2</sub> compensation for the manufacturing industry in Norway for the period 2021-2030 (“the Regulation”).<sup>13</sup> The Regulation is based on the relevant provisions of Norway's budget adopted each year by the Norwegian Parliament.
- (13) The notified amendment is reflected in the Norwegian Parliament’s budget decision for 2024.<sup>14</sup>
- (14) The Norwegian authorities will further amend Articles 6 and 10 of the Regulation to reflect the measure.

### 3.4 Budget and duration

- (15) The increase in the EUA price floor is expected to reduce the total costs of the scheme by approximately NOK 18 billion, from NOK 94 billion (with an EUA price floor of NOK 200) to NOK 76 billion (with an EUA price floor of 375). The EUA price floor will therefore reduce the compensation to each undertaking corresponding to the value of an EUA price of NOK 375. The effect of the price floor is illustrated in the table below:

EUA forward price:	New EUA price to be applied in calculation of compensation (after the application of an EUA price floor at NOK 375):	Reduction for each undertaking in percent:
NOK 2 000	NOK 1 625	18,7 %
NOK 1 500	NOK 1 125	25 %
NOK 1 000	NOK 625	37,5 %
NOK 750	NOK 375	50 %
NOK 375 or less	0	100 %

- (16) The estimated annual cost of the scheme, with and without the EUA price floor is illustrated below:

Support year	2021 <sup>15</sup>	2022 <sup>16</sup>	2023 <sup>17</sup>	2024 <sup>18</sup>	2025	2026	2027	2028	2029	2030	Total
With EUA price floor of NOK 200, in	3,6	4,5	8,8	11,2	11,2	11,1	11,1	11	10,9	10,9	<b>94</b>

<sup>13</sup> In Norwegian: Forskrift om CO<sub>2</sub>-kompensasjon for industrien for perioden 2021–2030 ([FOR-2022-11-11-1964](#)).

<sup>14</sup> See the national budget for 2024, page 43, post 74 here (in Norwegian): [Statsbudsjettet 2024 \(stortinget.no\)](#).

<sup>15</sup> The EUA price floor is not applicable for the first aid year, where full compensation was granted.

<sup>16</sup> EUA forward price has already been determined (NOK 548,18).

<sup>17</sup> EUA forward price has already been determined (NOK 844,28).

<sup>18</sup> EUA forward price has already been determined (NOK 1019,30).

billion NOK											
With EUA price floor of 375 from 2023, in billion NOK	3,6	4,5	6,4	8,8	8,8	8,8	8,7	8,7	8,6	8,6	<b>76</b>
EUA price in NOK (before price floor)	268,29	548,18	844,28	1019	1026	1026	1026	1026	1026	1026	N/A

## 4 Presence of State aid

### 4.1 Introduction

- (17) 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.”
- (18) 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.
- (19) ESA has concluded that the scheme constitutes State aid within the meaning of Article 61(1) of the EEA Agreement.<sup>19</sup> There is nothing in the current notification which alters this conclusion. The measure only increased the EUA price floor, which will reduce the aid paid to the beneficiaries but leaves the scheme otherwise unchanged.
- (20) On this basis, ESA concludes that the notified measure constitutes State aid within the meaning of Article 61(1) of the EEA Agreement.

## 5 Lawfulness of the aid

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

<sup>19</sup> See paragraph 37 of the approval decision and paragraph 15 of the second decision.

## 6 Compatibility of the aid

- (23) ESA can declare State aid compatible with the functioning of the EEA Agreement under its Article 61(3)(c) provided that certain compatibility conditions are fulfilled.
- (24) ESA's ETS Guidelines set out the conditions under which aid measures in the context of the EU ETS may be considered compatible with the functioning of the EEA Agreement under Article 61(3)(c) thereof.
- (25) In its approval decision, ESA concluded that the scheme is compatible with the functioning of the EEA Agreement, pursuant to its Article 61(3)(c). ESA assessed the scheme's compatibility on the basis of section 3.1 of the ETS Guidelines, which sets out the conditions under which aid may be deemed compatible.
- (26) The notified measure does not affect the compatibility assessment set out in the approval decision nor in the second decision.<sup>20</sup> As the increased price floor applies equally to all beneficiaries under the scheme it is in line with paragraph 23 of the ETS Guidelines, which states that within the eligible sector, EEA EFTA States need to ensure that the choice of beneficiaries is made on the basis of objective, non-discriminatory and transparent criteria and that the aid is granted in principle in the same way for all competitors in the same sector if they are in a similar factual situation.<sup>21</sup> ESA notes that there is nothing in the ETS Guidelines which precludes the EEA EFTA States from increasing the EUA price floor, which aims at limiting aid paid to beneficiaries under the scheme.

## 7 Conclusion

- (27) On the basis of the foregoing assessment, ESA considers that the measure constitutes State aid with the meaning of Article 61(1) of the EEA Agreement. Since ESA has no doubts that this aid is compatible with the functioning of the EEA Agreement, pursuant to its Article 61(3)(c), it has no objections to the implementation of the measure.
- (28) 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](#),

Arne Røksund  
President  
Responsible College Member

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

*This document has been electronically authenticated by Arne Roeksund, Sigrun Ingibjorg Gisladdottir.*

<sup>20</sup> Section 6 of the approval decision and paragraph 21 of the second decision.

<sup>21</sup> Paragraph 69 of the approval decision.