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við Stjórnartíðindi
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EFTA-STOFNANIR

EFTIRLITSSTOFNUN EFTA

ÁKVÖRÐUN EFTIRLITSSTOFNUNAR EFTA

2005/EES/11/01

nr. 371/04/COL

frá 15. desember 2004

um fertugustu og níundu breytingu á málsmæðferð og efni reglna á sviði ríkisaðstoðar með niðurfellingu 26. kafla reglnanna, „Rammaákvæði um byggðaaðstoð vegna stórra fjárfestingarverkefna sem taka til margra atvinnugreina“

EFTIRLITSSTOFNUN EFTA HEFUR,

með hliðsjón af samningnum um Evrópska efnahagssvæðið ⁽¹⁾, einkum 61., 62. og 63. gr. og bókun 26,

með hliðsjón af samningi milli EFTA-ríkjanna um stofnun eftirlitsstofnunar og dómstóls ⁽²⁾, einkum 24. gr. og b-lið 2. mgr. 5. gr. og 1. gr. í I. hluta bókunar 3,

Samkvæmt 24. gr. samningsins um stofnun eftirlitsstofnunar og dómstóls ber Eftirlitsstofnun EFTA að koma ákvæðum EES-samningsins um ríkisaðstoð til framkvæmda.

Samkvæmt b-lið 2. mgr. 5. gr. samningsins um eftirlitsstofnun og dómstól ber Eftirlitsstofnun EFTA að gefa út auglýsingar eða leiðbeiningar um mál sem EES-samningurinn fjallar um ef sá samningur eða samningurinn um eftirlitsstofnun og dómstól kveða skýrt á um slíkt eða eftirlitsstofnunin álitur það nauðsynlegt.

Minnt er á Málsmæðferð og efni reglna á sviði ríkisaðstoðar ⁽³⁾ sem Eftirlitsstofnun EFTA samþykkti 19. janúar 1994.

Eftirlitsstofnun EFTA samþykkti 4. nóvember 1998 leiðbeiningar um rammaákvæði um byggðaaðstoð vegna stórra fjárfestingarverkefna sem taka til margra atvinnugreina ⁽⁴⁾ og giltu þau í fyrst í þrjú ár til reynslu, en gildistíminn var síðar lengdur til 31. desember 2002 og að því er sumar atvinnugreinar varðaði til 31. desember 2003.

Ný orðsending framkvæmdastjórnar Evrópubandalaganna um fjölgreina rammaákvæði um byggðaaðstoð vegna stórra fjárfestingarverkefna var gefin út 19. mars 2002 ⁽⁵⁾.

Eftirlitsstofnun EFTA samþykkti hliðstæð rammaákvæði með ákvörðun sinni 263/02/COL hinn 18. desember 2002 ⁽⁶⁾ og mynda þau kafla 26A í Leiðbeiningum um ríkisaðstoð.

Í kafla 26A er að finna ný fjölgreina rammaákvæði sem öðluðust gildi ýmist 1. janúar 2003 eða 1. janúar 2004 eftir atvinnugreinum.

Af þessum sökum ber að fella úr gildi eldri rammaákvæði um byggðaaðstoð vegna stórra fjárfestingarverkefna.

⁽¹⁾ Nefnist „EES-samningurinn“ í því sem hér fer á eftir.

⁽²⁾ Nefnist „samningurinn um eftirlitsstofnun og dómstól“ í því sem hér fer á eftir.

⁽³⁾ Leiðbeiningar um beitingu og túlkun 61. og 62. gr. EES-samningsins og 1. gr. bókunar 3 við samninginn um eftirlitsstofnun og dómstól sem Eftirlitsstofnun EFTA samþykkti 19. janúar 1994 og birtar voru 3. september 1994 í *Stjórnartíðindum Evrópubandalaganna* L 231 og *EES-viðbæti við Stjórnartíðindi Evrópubandalaganna* nr. 32. Leiðbeiningunum var síðast breytt með ákvörðun eftirlitsstofnunarinnar nr. 305/04/COL frá 1. desember 2004, sem er enn óbirt. Nefnast „Leiðbeiningar um ríkisaðstoð“ í því sem hér fer á eftir.

⁽⁴⁾ Stjótið. EB L 111 og EES-viðbætur nr. 18, 29.4.1999. Samsvara orðsendingu framkvæmdastjórnarinnar með sama heiti (Stjótið. EB C 107, 7.4.1998, bls. 7).

⁽⁵⁾ Stjótið. EB C 70, 19.3.2002.

⁽⁶⁾ Enn óbirt.

SAMÞYKKT ÁKVÖRDUN ÞESSA:

1. Kafli 26 í Leiðbeiningum um ríkisaðstoð falli brott.
2. EFTA-ríkjunum skal til upplýsingar sent bréf með eintaki af ákvörðun þessari.
3. Í samræmi við d-lið bókunar 27 við EES-samninginn skal framkvæmdastjórn Evrópubandalaganna sent til upplýsingar eintak af ákvörðun þessari.
4. Ákvörðunin skal birt í EES-deild *Stjórnartíðinda Evrópusambandsins* og EES-viðbæti við þau.
5. Ákvörðun þessi telst fullgild á ensku.

Gjört í Brussel 15. desember 2004.

Fyrir hönd Eftirlitsstofnunar EFTA

Hannes Hafstein
Forseti

Bernd Hammermann
Stjórnarmaður

**Auglýst eftir athugasemdum, í samræmi við 2. mgr. 1. gr. í I. hluta
bókunar 3 við samninginn um eftirlitsstofnun og dómstól, um fyrirhugað
kerfi mismunandi almannatryggingagjalda eftir héruðum í Noregi
(mál nr. 56310 – áður nr. 55463)**

2005/EES/11/02

Með ákvörðun 245/04/COL frá 6. október 2004, sem birtist næst á eftir þessari ágripi á hinu opinbera tungumáli, hóf Eftirlitsstofnun EFTA málsmeðferð samkvæmt 2. mgr. 1. gr. í I. hluta bókunar 3 við samning milli EFTA-ríkjanna um stofnun eftirlitsstofnunar og dómstóls (samninginn um eftirlitsstofnun og dómstól). Norskum stjórnvöldum hefur verið sent afrit af ákvörðuninni.

Eftirlitsstofnun EFTA veitir aðilum EES-samningsins og öðrum, sem hagsmunaaðilum, sem leggja fram mánaðar frest frá birtingu þessarar auglýsingar að telja til að leggja fram athugasemdir við umrædda ráðstöfun og skal senda þær á eftirfarandi pósthöfn:

EFTA Surveillance Authority
Rue Belliard/Belliardstraat 35
B-1040 Bruxelles/Brussel

Athugasemdunum verður komið á framfæri við norsk stjórnvöld. Hagsmunaaðilum, sem leggja fram athugasemdir, er heimilt að óska nafnleyndar og skulu slíkar óskir vera skriflegar og rökstuddar.

ÁGRIP

MÁLSMEDFERÐ

Með bréfi sendiráðs Noregs gagnvart Evrópusambandinu dagsettu 26. apríl 2004 tilkynntu norsk stjórnvöld eftirlitsstofnuninni, í samræmi við 3. mgr. 1. gr. í I. hluta bókunar 3 við samninginn um eftirlitsstofnun og dómstól, áform sín um að leggja almannatryggingagjald á fyrirtæki í tilteknum atvinnugreinum og á hinum afmörkuðu landsvæðum 2, 3 og 4 í Noregi samkvæmt lækkuðu gjaldhlutfalli.

LÝSING Á AÐSTOÐINNI

Frá janúar 2005 að telja áforma norsk stjórnvöld að innheimta almannatryggingagjald atvinnurekenda í samræmi við lækkuð gjaldhlutföll sem giltu til ársloka 2003 á gjaldsvæðum 2, 3 og 4 í Noregi. Gjaldhlutföllin voru sem hér segir: á svæði 2 var hlutfallið 10,6%, á svæði 3 var hlutfallið 6,4% og á svæði 4 var það 5,1%. Til samanburðar gildir á svæði 1 óskert gjaldhlutfall, það er 14,1%. Greidd brúttólaun mynda gjaldstofn almannatryggingagjaldsins.

Kerfið, sem tilkynnt hefur verið, mun taka til atvinnugreina sem falla undir 209 NACE-flokka ⁽¹⁾ og eru valdar á grundvelli efnahagsskýrslu ráðgjafarfyrirtækisins ECON þar sem lagt var mat á „samkeppnisfleti“ (*konkurrenseflater*) milli fyrirtækja í Noregi og fyrirtækja í öðrum EES-ríkjum ⁽²⁾.

Tilkynningin byggðist á þeirri forsendu að starfsemi í hinum tilkynntu atvinnugreinum tæki ekki til viðskipta milli EES-landa. Af þeim sökum telja norsk stjórnvöld að fyrirtæki í þessum greinum geti notið afsláttar af almannatryggingagjaldi án þess að slíkt teljist ríkisaðstoð í skilningi 1. mgr. 61. gr. EES-samningsins.

⁽¹⁾ Atvinnugreinaflokkun.

⁽²⁾ Sjá töflu með hinum völdu NACE-kóðum hér á eftir. Talan 0 merkir að ekki sé um að ræða áhrif á viðskipti í þeim greinum að áliti norskra stjórnvalda, en tölurnar 0/2 merkja að sum fyrirtæki í þeim greinum á viðkomandi svæði búi við samkeppni frá öðrum EFTA-ríkjum, en önnur ekki.

Í þessu samhengi er rétt að vísa til kerfis mismunandi almannatryggingagjalds eftir héruðum sem eftirlitsstofnunin samþykkti með ákvörðun sinni 218/03/COL frá 12. nóvember 2003 ⁽³⁾. Samkvæmt því kerfi var gert ráð fyrir því að öll fyrirtæki á svæðum 3 og 4 nyttu afsláttar af almannatryggingagjaldi. Í samræmi við samþykkt eftirlitsstofnunarinnar um aðlögunartímabil ber að hækka þessi gjaldhlutföll smám saman á þriggja ára tímabili þar til einu og sama gjaldhlutfalli, þ.e. 14,1 %, er náð.

Gagnstætt því sem var í eldra kerfinu miðast hið tilkynnta kerfi afsláttar af almannatryggingagjaldi við að gjaldhlutfall verði mismunandi eftir héruðum til frambúðar, þó eingöngu í tilteknum atvinnugreinum, aðallega þjónustugreinum.

MAT

Eftirlitsstofnunin telur vafasamt að hið tilkynnta kerfi sé þess eðlis, eins og norsk stjórnvöld telja, að í því sé ekki fölgín ríkisaðstoð.

Afsláttur af almannatryggingagjaldi leiðir til lækkunar á ríkistekjum á sviði almannatrygginga. Þegar ríkið verður af tekjum sem það hefði fengið að öðrum kosti felur það í sér notkun ríkisfjármuna.

Ívilnandi gjaldhlutfall almannatryggingagjalds væri þannig ávinningur öllum fyrirtækjum á svæðum 2, 3 og 4 í Noregi sem starfa í einhverri hinna skráðu atvinnugreina.

Ráðstöfunin myndi ekki aðeins raska samkeppni gagnvart fyrirtækjum í sömu atvinnugrein sem starfa utan svæðanna sem hið tilkynnta kerfi tekur til, heldur einnig milli fyrirtækja sem starfa á ólíkum svæðum sem njóta afsláttar þar eð gjaldhlutfallið er mismunandi frá einu svæði til annars.

Eftirlitsstofnunin hefur efasemdir um aðferðina sem notuð er til að ákvarða að ekki verði um að ræða nein áhrif á viðskipti milli aðildarríkja EES-samningsins. Hún hefur jafnvel meiri efasemdir um að aðferðin sé í samræmi við túlkun dómstóla á hugtakinu „áhrif á viðskipti“ í skilningi 1. mgr. 61. gr. EES-samningsins.

Með því að afslátturinn nær til meira en 209 greina í atvinnugreinaflokkuninni NACE, að skýr og nákvæm hlutgengisviðmið eru ekki tilgreind og að ekki er komið upp eftirlits- og endurskoðunarkerfi til að tryggja fullnægjandi réttaröryggi og efnahagslega vissu við beitingu kerfisins, telur eftirlitsstofnunin óvíst hvort kerfið felur í sér ríkisaðstoð í skilningi 1. mgr. 61. gr. EES-samningsins.

NIDURSTAÐA

Að áliti eftirlitsstofnunarinnar er óvíst hvort hið tilkynnta kerfi mismunandi almannatryggingagjalds eftir héruðum felur í sér ríkisaðstoð í skilningi 1. mgr. 61. gr. EES-samningsins. Reynist svo vera telur stofnunin vafasamt að kerfið geti talist samrýmanlegt framkvæmd EES-samningsins. Eftirlitsstofnunin er því knúin til að hefja formlega rannsókn í samræmi við 2. mgr. 1. gr. í I. hluta bókunar 3 við samninginn um eftirlitsstofnun og dómstól.

⁽³⁾ Enn óbirt í *Stjórnartíðindum Evrópusambandsins*. Ákvarðanir Eftirlitsstofnunar EFTA á sviði ríkisaðstoðar er að finna á eftirfarandi slóð: www.eftasurv.int/fieldsofwork/fieldstateaid/stateaidregistry

EFTA SURVEILLANCE AUTHORITY DECISION

NO 245/04/COL

OF 6 OCTOBER 2004

ON A PROPOSAL FOR REGIONALLY DIFFERENTIATED RATES OF SOCIAL SECURITY
CONTRIBUTIONS FOR CERTAIN SECTORS

(NORWAY)

THE EFTA SURVEILLANCE AUTHORITY

HAVING REGARD TO the Agreement on the European Economic Area ⁽¹⁾, in particular to Articles 61 to 63 and Protocol 26 thereof,

HAVING REGARD TO the Agreement between the EFTA States on the establishment of a Surveillance Authority and a Court of Justice ⁽²⁾, in particular to Article 24 thereof and Article 1(2) in Part I of Protocol 3 thereof,

HAVING REGARD TO the Authority's Guidelines ⁽³⁾ on the application and interpretation of Articles 61 and 62 of the EEA Agreement,

WHEREAS:

I. FACTS**1. PROCEDURE**

Pursuant to Article 1(3) in Part I of Protocol 3 to the Surveillance and Court Agreement, the Norwegian authorities notified their intention to apply reduced rates of social security contributions to undertakings active in certain sectors and located in designated geographical Zones 2, 3 and 4 in Norway. The notification was sent by letter dated 26 April 2004 from the Norwegian Mission to the European Union, forwarding a letter from the Ministry of Trade and Industry together with a letter from the Ministry of Finance both dated 23 April 2004, received and registered by the EFTA Surveillance Authority (hereinafter: "the Authority") on 27 April 2004 (Event No 278992).

On 3 May 2004, a meeting was held in Oslo between representatives of the Authority and the Norwegian authorities to discuss the notification.

Following this meeting, by letter dated 23 June 2004 (Event No 279843), the Authority requested additional information and clarification from the Norwegian authorities.

The Norwegian authorities replied to the information request by letter dated 12 August 2004 from the Norwegian Mission to the European Union, received and registered by the Authority on 13 August 2004 (Event No 290198).

A further discussion between representatives of the Authority and the Norwegian authorities was held in the framework of a package meeting which took place in Oslo on 23 September 2004.

2. BACKGROUND

On the basis of the Norwegian Social Security Act of 28 February 1997 ("Lov om folketrygd"), all employers in Norway are subject to compulsory contributions to the national social security scheme. These contributions are calculated in relation to gross salaries of employees and differentiated according to the place of residence of the employees. For this purpose, Norway is divided into five geographical zones. Zone 1 covers the most central parts of the southern part of the country. Zone 2

⁽¹⁾ Hereinafter referred to as "the EEA Agreement".

⁽²⁾ Hereinafter referred to as "the Surveillance and Court Agreement".

⁽³⁾ Procedural and Substantive Rules in the Field of State Aid - Guidelines on the application and interpretation of Articles 61 and 62 of the EEA Agreement and Article 1 of Protocol 3 to the Surveillance and Court Agreement, adopted and issued by the EFTA Surveillance Authority on 19 January 1994, published in OJ 1994 L 231, EEA Supplements 03.09.94 No. 32, last amended by the Authority's Decision No. 195/04/COL of 14 July 2004, not yet published, hereinafter referred to as "the State Aid Guidelines".

comprises less central parts of Southern Norway. Zone 3 covers mostly certain mountain regions in Southern Norway. Zone 4 is made up of the most northern part of South Norway and North Norway south of Zone 5. Zone 5 covers the very northernmost part of the country. A detailed overview of the geographical zones is given in Annex I to this Decision.

The Authority opened the formal investigation procedure with respect to the regionally differentiated social security contribution rates in Norway on 19 November 1997 ⁽⁴⁾. On 2 July 1998, the Authority adopted a decision ⁽⁵⁾ in which it found that the system provided, through the State budget, a benefit to certain undertakings, which could not be justified on the basis of the general nature and character of the system and which distorted or threatened to distort competition within the European Economic Area. The system of regionally differentiated social security rates was declared incompatible state aid and had to be brought in line with the rules of the EEA Agreement.

On 2 September 1998, the Norwegian authorities brought an action under Article 36(1) of the Surveillance and Court Agreement before the EFTA Court requesting the annulment of the Decision of 2 July 1998.

The Court dismissed the application for annulment on 20 May 1999 ⁽⁶⁾ and upheld the Authority's decision which considered that the system of differentiated social security contributions constituted state aid within the meaning of Article 61(1) of the EEA Agreement.

With a view to complying with the Authority's decision of 2 July 1998, the Norwegian authorities proposed new regulations in the regionally differentiated social security contributions scheme. On 22 September 1999, the Authority approved the new regulations for a limited period of time, not going beyond 31 December 2003 ⁽⁷⁾.

On 21 December 2000, the European Commission took a negative decision concerning a reduced social security contributions aid scheme notified by Sweden ⁽⁸⁾. In the decision, the Commission pointed out that Norway, by letter dated 27 July 2000, not only submitted comments to the decision to initiate the procedure regarding the Swedish case but also confirmed that it operates a similar scheme.

In the light of the Swedish decision, the Norwegian system was thereafter discussed at several meetings between the Norwegian authorities and the Authority, as well as between the Authority and the services of the European Commission. In view of the similarities between the Norwegian and the Swedish schemes and in order to assure a level playing field within the EEA, the Authority considered it necessary to examine the compatibility of the Norwegian scheme and initiated a formal review of the Norwegian system by letter to the Norwegian authorities dated 4 June 2002 (Doc. No: 02-4189 D).

In its Decision of 25 September 2002 ⁽⁹⁾, the Authority concluded that the regionally differentiated social security contributions scheme did not qualify for the derogation provided for under Article 61(3)(c) of the EEA Agreement and proposed the adoption of appropriate measures requesting the elimination of any incompatible aid involved in the system or to render it compatible with effect from 1 January 2004.

By letter from the Mission of Norway to the European Union dated 29 October 2002, received and registered by the Authority on 31 October 2002 (Doc. No: 02-7855 A), the Norwegian authorities accepted the appropriate measures.

⁽⁴⁾ Decision No. 246/97/COL. All EFTA Surveillance Authority's State Aid Decisions mentioned hereinafter can be found at the Authority's website: <http://www.eftasurv.int/fieldsofwork/fieldstateaid/stateaidregistry/>

⁽⁵⁾ Decision No. 165/98/COL.

⁽⁶⁾ Case E-6/98, *The Government of Norway v EFTA Surveillance Authority* [1999] Report of the EFTA Court, page 76.

⁽⁷⁾ Decision No. 228/99/COL.

⁽⁸⁾ Published on the OJ L 244 of 14 September 2001, page 32.

⁽⁹⁾ Decision No. 172/02/COL.

In March 2003, the Norwegian authorities notified the Authority of a three-year transitional period, from 2004 to 2007, for the progressive adjustment of the rates of social security contributions applicable in Zones 3 and 4 (Doc. No: 03-1846 A). According to the notification, the social security rates would be as follows ⁽¹⁰⁾:

	Rates 2003	Rates 2004	Rates 2005	Rates 2006	Rates 2007
Zone 1	14.1	14.1	14.1	14.1	14.1
Zone 2	10.6	14.1	14.1	14.1	14.1
Zone 3	6.4	8.3	10.2	12.1	14.1
Zone 4	5.1	7.3	9.5	11.7	14.1

Zone 1 covers 76.6 % of the total population in Norway whereas Zone 2 only covers 9.4 %, Zone 3 covers 2.6 % and Zone 4 covers 9.4 %.

By letter dated 15 April 2003 (Doc. No:03-2467 A), the Norwegian authorities had also notified a continuation of regionally differentiated social security contributions in Nord-Troms and Finnmark (Zone 5). This notification was however withdrawn by letter from the Norwegian Ambassador to the European Union dated 4 July 2003 (Doc. No:03-4403 A) as the EFTA States, by common accord in the Standing Committee of the EFTA States on 1 July 2003 (No. 2/2003/SC), and by reference to Article 1(2) of Protocol 3 to the Surveillance and Court Agreement, had decided that the present scheme in Zone 5 was compatible with the EEA Agreement due to the exceptional circumstances in this zone.

After opening the formal investigation procedure by a decision dated 16 July 2003 ⁽¹¹⁾, the Authority authorised the notified three-year transitional period for the regionally differentiated social security contributions in Zones 3 and 4 by Decision No. 218/03/COL of 12 November 2003. In this decision, the Authority noted that without a transitional period, the increase in the social security payments would lead to adverse employment effects. The Authority observed that a gradual phasing out of the differentiated tax rates over a period of three years would mean that the annual cost increases for the undertakings would be spread over the period. On the contrary, an immediate abolishment of the current system would have implied a cost shock to the enterprises concerned. An appropriate transition period seemed advisable in order to mitigate the shock effects and give the undertakings time to adjust to the new economic environment.

3 DETAILED DESCRIPTION OF THE NOTIFIED MEASURE

The Norwegian authorities have notified the Authority of their intention to apply, for certain economic sectors, from 1 January 2005 onwards, the regionally differentiated rates of social security contributions that existed until the end of 2003 ⁽¹²⁾.

Zone 5 is kept outside the notification as the rate there continues to be zero following the Decision of the Standing Committee of the EFTA States No. 2/2003/SC of 1 July 2003.

The notified scheme will only be applicable for certain sectors which, according to the Norwegian authorities, are not exposed to competition from undertakings in other EEA States. The Norwegian authorities assessed the exposure to competition on the basis of an economic report prepared by an independent consultancy firm ECON in cooperation with a Norwegian law firm (hereinafter: "the ECON report"). The ECON report is based on the assessment of the competition interfaces ("konkurranseflater") between undertakings located in Zones 2, 3 and 4 in Norway and those in other EEA States.

⁽¹⁰⁾ Undertakings in certain economic sectors would pay the full rate of 14.1 % as they already did according to the scheme approved by the Authority's decision of 22 September 1999. The Norwegian authorities also informed about their intention to continue applying the rates for 2003 to the extent that that would be in compliance with the *de minimis* rule.

⁽¹¹⁾ Decision No. 141/03/COL.

⁽¹²⁾ Reference is made to the table above.

The ECON report contains a list of sectors supposedly not affected by competition from other EEA States. This list has been drafted on the basis of data on export and import figures to the relevant zones provided by Statistics Norway. In addition, several telephone interviews were made with a selection of enterprises in the services sector in Zones 2, 3 and 4 in Norway. In the introduction to the report, ECON states that there was not enough time or resources to conduct a thorough analysis within all sectors covered by the report. In most cases, the assessment was built on interviews with selected enterprises. Due to this fact, there is a risk of failure. ECON is nonetheless of the opinion that a reasonable picture of competition between EEA States can be drawn from the outcome of the report.

The current notification is thus based on the assumption that activities in the notified sectors are not subject to intra-EEA trade. The Norwegian authorities consider that the notified scheme does not constitute state aid within the meaning of Article 61(1) of the EEA Agreement because, on the basis of the ECON report, there is no trade effect in the sectors benefiting from the intended application of reduced social security rates. Consequently, in view of the Norwegian authorities, undertakings in these sectors can benefit from reduced social security contributions without being granted state aid within the meaning of Article 61(1) of the EEA Agreement.

Contrary to the approved three-year transitional period (Decision No. 218/03/COL), the scheme of regionally differentiated social security rates currently notified proposes an indefinite application of regionally differentiated social security rates exclusively to certain sectors of the economy, mainly within the services segment of the economy.

The list of sectors ⁽¹³⁾ subject to the current notification breaks down as follows, whereby the cipher 0 means that according to the Norwegian authorities there is no effect on trade in these sectors and the ciphers 0/2 indicates that some undertakings of the given sectors within the actual zone are exposed to competition from other EEA States whereas others are not:

NACE Code		Zone 2	Zone 3	Zone 4
01.300	Growing of crops combined with farming of animals (mixed farming)	n.a. ⁽¹⁴⁾	n.a.	0
22.120	Publishing of newspapers	0/2	0/2	0/2
22.210	Printing of newspapers	0/2	0/2	0/2
35.111	Building and repairing of ships and hulls more than 100 g.r.tons	0/2	0/2	0/2
35.113	Building and repairing of ships less than 100 g.r.tons	0/2	0/2	0/2
40.120	Transmission of electricity	0	0	0
45.110	Demolition and wrecking of buildings; earth moving	0	0	0
45.212	General construction of civil engineering works	0	0	0
45.221	Tinsmith work	n.a.	n.a.	0
45.229	Other erection of roof covering and frames	n.a.	n.a.	0
45.230	Construction of motorways, roads, airfields and sport facilities	0	0	0
45.240	Construction of water projects	0	n.a.	n.a.
45.250	Other construction work involving special trades	0	0	0
45.310	Installation of electrical wiring and fittings	0	0	0
45.320	Insulation work activities	n.a.	n.a.	0
45.330	Plumbing	0	0	0
45.340	Other building installation	0	n.a.	0
45.442	Glazing	n.a.	n.a.	0

⁽¹³⁾ NACE list of sectors according to the classification of the Norwegian Statistical Office.

⁽¹⁴⁾ The reference "n.a." hereinafter means "not applicable".

NACE Code		Zone 2	Zone 3	Zone 4
45.450	Other building completion	0	n.a.	0
45.500	Renting of construction or demolition equipment with operator	n.a.	0	0
50.200	Maintenance and repair of motor vehicles	0	0	0
50.301	Commission and wholesale of motor vehicle parts and accessories	0	n.a.	0
50.302	Retail sale of motor vehicle parts and accessories	0	0	0
50.500	Retail sale of automotive fuel	0	0	0
51.170	Agents involved in the sale of food, beverages and tobacco	n.a.	n.a.	0/2
51.180	Agents specializing in the sale of particular products or ranges of products n.e.c.	n.a.	n.a.	0
51.210	Wholesale of grain, seeds and animal feeds	0	0	0
51.220	Wholesale of flowers and plants	n.a.	n.a.	0
51.389	Wholesale of molluscs n.e.c.	n.a.	n.a.	0
51.390	Non-specialized wholesale of food, beverages and tobacco	n.a.	0	0
51.421	Wholesale of clothing	0	0	0
51.434	Wholesale of gramophone records, tapes, CDs, DVDs and videos	n.a.	n.a.	0
51.460	Wholesale of pharmaceutical goods	n.a.	n.a.	0
51.477	Wholesale of sport goods, games and toys	0	n.a.	n.a.
51.479	Wholesale of household goods and personal goods n.e.c.	n.a.	n.a.	0
51.520	Wholesale of metals and metal ores	n.a.	n.a.	0
51.532	Wholesale of lumber	0	0	0
51.533	Wholesale of paints and varnish	n.a.	n.a.	0
51.539	Wholesale of construction materials n.e.c.	0	n.a.	0
51.561	Wholesale of paper and paperboard	0	n.a.	0
51.840	Wholesale of computers, computer peripheral equipment and software	0	0	0
51.850	Wholesale of other office machinery and equipment	n.a.	n.a.	0
51.872	Wholesale of shipping equipment and fishing tackle	n.a.	n.a.	0
51.900	Other wholesale	0	0	0
52.110	Retail sale in non-specialized stores with food, beverages or tobacco predominating	0/2	0/2	0/2
52.120	Other retail sale in non-specialized stores	0	0/2	0/2
52.220	Retail sale of meat and meat products	0	n.a.	n.a.
52.230	Retail sale of fish, crustaceans and molluscs	n.a.	n.a.	0
52.241	Retail sale of bread, cakes and flour confectionery	0	n.a.	0
52.271	Retail sale of health food	n.a.	n.a.	0
52.279	Retail sale of food, beverages and tobacco in specialised stores n.e.c.	n.a.	n.a.	0
52.310	Dispensing chemists	0	0	0
52.330	Retail sale of cosmetic and toilet articles	n.a.	n.a.	0
52.410	Retail sale of textiles	0	0	0

NACE Code		Zone 2	Zone 3	Zone 4
52.420	Retail sale of clothing	0	0	0/2
52.431	Retail sale of footwear	0	0	0
52.441	Retail sale of lighting equipment	n.a.	n.a.	0
52.442	Retail sale of china and glassware	n.a.	n.a.	0
52.443	Retail sale of furniture	0	0	0/2
52.449	Retail sale of non electrical household articles n.e.c.	n.a.	0	0
52.451	Retail sale of electrical household appliances, and radio and television goods	0	0	0
52.453	Retail sale of musical instruments and musical notes	n.a.	n.a.	0
52.461	Retail sale of variety of hardware, paints and glass	0/2	0/2	0/2
52.463	Retail sale of paints and varnish	0	0	n.a.
52.464	Retail sale of wood	n.a.	n.a.	0/2
52.469	Retail sale of hardware, paints and glass n.e.c.	n.a.	0	0
52.481	Retail sale of watches, photographic and optical goods	n.a.	0	0
52.482	Retail sale of gold and silverware	n.a.	0	0
52.483	Retail sale of sport goods, games and toys	n.a.	n.a.	0
52.484	Retail sale of flowers and plants	n.a.	n.a.	0
52.485	Retail sale of computers, office and telecommunication equipment	n.a.	n.a.	0
52.489	Retail sale in specialised stores n.e.c.	n.a.	0	0
52.612	Retail sale of textiles, clothes, footwear, travel accessories and leather goods via mail order houses	0	n.a.	n.a.
52.619	Other retail sale of specialised assortment of goods via mail order houses	0	n.a.	0
52.630	Other non-store retail sale	n.a.	n.a.	0
52.720	Repair of electrical household goods	n.a.	n.a.	0
55.301	Operation of restaurants and cafés	0	0	0
55.302	Operation of snack bars, salad bars and hot dog bars	n.a.	0	0
55.401	Pubs	0	0	0
55.510	Canteens	0	n.a.	0
55.520	Catering	0	n.a.	0
60.220	Taxi operation	n.a.	0	0
63.110	Cargo handling	0	n.a.	0
63.120	Storage and warehousing	n.a.	n.a.	0
63.211	Central agencies for goods and transportation procurement	0	0	0
63.212	Parking places and parking houses	n.a.	n.a.	0
63.213	Toll bar stations	n.a.	n.a.	0
63.219	Other services allied to land transport	0	0	0
63.221	Operation of harbours	n.a.	n.a.	0
63.229	Other supporting water transport activities	n.a.	n.a.	0
63.230	Other supporting air transport activities	0	0	0
63.302	Tourist offices	n.a.	0	0

NACE Code		Zone 2	Zone 3	Zone 4
63.401	Freight forwarding services	0	0	0
63.409	Other forwarding services	n.a.	n.a.	0
64.110	National post activities	0	0	0
64.120	Courier activities other than national post activities	n.a.	0	0
64.210	Fixed telecommunications carriers	0	n.a.	0
64.220	Mobile telecommunications carriers	0	n.a.	0
64.230	Internet service providers	n.a.	n.a.	0
64.240	Other telecommunication activities	n.a.	n.a.	0
65.120	Other monetary intermediation	0	0	0
65.220	Other credit granting	0	n.a.	0
65.239	Other security management	n.a.	n.a.	0
66.010	Life insurance	n.a.	n.a.	0
66.030	Non-life insurance	0	0	0
67.130	Activities auxiliary to financial intermediation	n.a.	n.a.	0
67.200	Activities auxiliary to insurance and pension funding	n.a.	0	0
70.111	House building cooperatives	n.a.	n.a.	0
70.112	Other development and sale of real estate	n.a.	n.a.	0
70.120	Buying and selling of own real estate	n.a.	0	0
70.202	Other letting of own property	0	0	0
70.310	Real estate agencies	n.a.	n.a.	0
70.321	Management of real estate on a fee or contract basis	n.a.	0	0
70.322	Caretaker services	n.a.	n.a.	0
71.110	Renting of automobiles	n.a.	n.a.	0
71.320	Renting of construction and civil engineering machinery and equipment	n.a.	n.a.	0
71.340	Renting of other machinery and equipment n.e.c.	n.a.	n.a.	0
71.400	Renting of personal and household goods n.e.c.	0	n.a.	0
72.500	Maintenance and repair of office, accounting and computing machinery	n.a.	n.a.	0
74.110	Legal activities	n.a.	n.a.	0
74.121	Accounting, book-keeping	0	0	0
74.122	Auditing	0	0	0
74.130	Market research and public opinion polling	n.a.	n.a.	0
74.140	Business and management consultancy activities	0	n.a.	0
74.203	Geological surveying	n.a.	n.a.	0
74.300	Technical testing and analysis	0	0	0
74.400	Advertising	0	n.a.	0
74.501	Labour recruitment of personnel	0	0	0
74.600	Investigation and security activities	0	0	0
74.700	Industrial cleaning	0	0	0
74.810	Photographic activities	n.a.	n.a.	0

NACE Code		Zone 2	Zone 3	Zone 4
74.820	Packaging activities	n.a.	n.a.	0
74.851	Secretarial activities	n.a.	0	0
74.852	Translation activities	n.a.	n.a.	0
74.871	Bill collecting, credit granting activities	n.a.	n.a.	0
74.877	Activities of fairs, exhibitions and congress organisers	n.a.	n.a.	0
74.879	Other business activities n.e.c.	0	0	0
75.110	General (overall) public service activities	0	0	0
75.120	Regulation of the activities of agencies that provide health care, education, cultural services and other social services, excluding social security	0	0	0
75.130	Regulation of and contribution to more efficient operation of business	0	0	0
75.140	Supporting service activities for the government as a whole	0	n.a.	0
75.220	Defence activities	0	0	0
75.230	Justice and judicial activities	0	0	0
75.240	Public security, law and order activities	0	0	0
75.250	Fire service activities	0	0	0
75.300	Compulsory social security activities	0	0	0
80.102	Primary and lower secondary education	0	0	0
80.103	Specialised education for handicap	0	0	0
80.210	General secondary education	0	0	0
80.309	Education at other colleges	n.a.	n.a.	0/2
80.410	Driving school activities	n.a.	n.a.	0
80.421	Folk high school education	0	0	0
80.423	Activities of adult education associations	n.a.	0	0
80.424	Activities of municipal music schools	n.a.	0	0
80.429	Other education	0	0	0
85.114	Rehabilitation institutions	0	0	0
85.116	Mental health hospitals for adults	0	0	n.a.
85.118	Nursing homes	0	0	0
85.121	General practitioners	n.a.	n.a.	0
85.122	Physicians, specialist other than psychiatrist	n.a.	n.a.	0
85.130	Dental practice activities	0	0	0
85.142	Physiotherapy services	n.a.	n.a.	0
85.143	School health services, maternal and child health care	0	n.a.	n.a.
85.144	Other preventive health care	n.a.	0	0
85.147	Ambulance services	0	0	0
85.149	Other health activities	0	0	0
85.200	Veterinary activities	0	0	0
85.311	Child welfare institutions	0	n.a.	n.a.
85.312	Institutions for alcoholic and drug addicts	0	0	0

NACE Code		Zone 2	Zone 3	Zone 4
85.319	Other social care institutions	n.a.	0	0
85.321	Home help services	n.a.	n.a.	0
85.322	Dwellings with accommodation for elderly and disabled	n.a.	n.a.	0
85.323	Child welfare services	0	n.a.	0
85.324	Social welfare services without accommodation for alcoholic and drug addicts	n.a.	0	0
85.325	Family counselling services	n.a.	n.a.	0
85.326	Municipal social service offices activities	n.a.	n.a.	0
85.327	Early childhood education and care institutions	0	0	0
85.331	School-age child care	n.a.	n.a.	0
85.333	Day care activities for elderly and disabled	n.a.	n.a.	0
85.334	Training for work activities for ordinary labour market	0	0	0
85.335	Permanent sheltered work activities	0	0	0
85.336	Social welfare organisations activities	n.a.	n.a.	0
85.337	Reception centres for asylum seekers	0	0	0
85.338	Employment/ training for work activities under the municipal health and social departments	0	n.a.	n.a.
85.339	Other social work activities without accommodation	n.a.	0	n.a.
90.010	Collection and treatment of sewage	0	n.a.	0
90.020	Collection and treatment of other waste	0	0	0
91.110	Activities of business and employers organizations	n.a.	0	0
91.200	Activities of trade unions	n.a.	n.a.	0
91.310	Activities of religious organizations	0	0	0
91.330	Activities of other membership organizations n.e.c.	0	n.a.	0
92.110	Motion picture and video production	n.a.	n.a.	0
92.130	Motion picture projection	n.a.	n.a.	0
92.200	Radio and television activities	0	n.a.	0
92.320	Operation of arts facilities	0	n.a.	0
92.330	Fair and amusement park activities	n.a.	n.a.	0
92.400	News agency activities	n.a.	n.a.	0
92.510	Library and archives activities	0	n.a.	0
92.521	Museum activities	0	0	0
92.522	Preservation of historical sites and buildings	n.a.	0	0
92.610	Operation of sports arenas and stadiums	0/2	0	0
92.621	Sport clubs and associations	0	0	0
92.629	Other sporting activities n.e.c.	n.a.	n.a.	0
92.721	Activities and adventure companies	n.a.	0	n.a.
92.729	Other recreational services n.e.c.	0	0	0
93.010	Washing and dry-cleaning of textile and fur products	0	0	0
93.020	Hairdressing and other beauty treatment	n.a.	0	0
93.030	Funeral and related activities	n.a.	n.a.	0
93.040	Physical well-being activities	0	0	0

Regarding the sectors marked with the ciphers 0/2, the following criteria have been established in order to differentiate between undertakings not subject to competition from undertakings located in other EEA States and those undertakings which are affected by EEA-wide competition in that only the former are entitled to benefit from reduced social security rates:

- *NACE Code 22.120 and 22.210: publishing and printing of newspapers*

Due to language, culture and distance, the publishing and printing of local newspapers is considered to operate only in local markets. A newspaper is considered local as long as it is not nationwide.

- *NACE 35.111 and 35.113: building and repairing of ships and hulls over 100 tons and under 100 tons*

As long as the repair concerns ships operating in Norwegian waters or in acute difficulties, the given shipyards are considered to operate locally and thus not subject to competition from other EEA States.

- *NACE 51.170: agents involved in the sale of food, beverages and tobacco*

The Norwegian authorities have not provided any further explanation on the eligibility criteria applicable to undertakings of this sector. According to the ECON report, on the basis of the retail shops they distribute, it was not possible to separate enterprises subject to competition from those which are not.

- *NACE 52.110: retail sale in non-specialised stores with food, beverages or tobacco predominating*

Undertakings that are located at a distance of more than 150 kilometres from competitors on the other side of the national border are considered not to be exposed to competition from other EEA States. According to the information submitted by the Norwegian authorities, the use of a critical distance of 150 km was established by identifying the nearest competitors situated on the other side of the border to undertakings with the standard industrial classification 52.110, non specialised retail sales. The competition conditions were considered with respect to undertakings located at varying distances from the nearest competitor on the other side of the border. On the basis of the conclusions of the ECON report, the Norwegian authorities stated that the probability that undertakings situated more than 150 km from a competitor are exposed to competition from undertakings in other EEA states is low. The Norwegian authorities acknowledge that whether there is actual competition depends on the assortment of goods offered.

- *NACE 52.120, 52.420 and 52.443: other retail sale in non-specialised stores, retail sale of clothing and retail sale of furniture*

Although the distance to competitors on the other side of the border is of significance, the Norwegian authorities acknowledge that it is difficult to determine an absolute and decisive limit between undertakings affected by intra-EEA trade and those which are not affected. Whereas undertakings located approximately 200 km from a relatively large shopping centre on the other side of the border are exposed to competition, according to the findings of the ECON report, undertakings located closer to the border, but without having any large shopping centre on the other side, are not exposed to competition. Nevertheless, following the same assessment as for NACE 52.110, the Norwegian authorities have explained in the notification that a distance of 200 km seems an appropriate objective criterion to determine the effect on trade for this sector.

- *NACE 52.461 and 52.464: retail sale of variety of hardware, paints and glass and retail sale of wood*

The Norwegian authorities have explained that undertakings located at “a very long distance to the national border” are not exposed to competition from undertakings of other EEA States. On the basis of the information provided, “a very long distance to the national border” means that

it would not be worth travelling back and forth in one day, whereby the distance depends on *inter alia* the road standard and traffic conditions. Undertakings situated in the counties Rogaland, Hordaland, Sogn og Fjordane and Møre og Romsdal can benefit from reduced social security rates since they are not exposed to competition from other EEA States. Undertakings in other counties are excluded.

- *NACE 80.309: education at other colleges*

The notification only covers adult education courses.

- *NACE 92.610: operation of sports arenas and stadiums*

An athletic club is considered to be local when it does not participate in the highest division in its branch of athletics. Other sports installations are considered to be local when they are mainly used by local clubs, the local population in the municipality and daytrip visitors, having no competitive offers in other EEA States.

II. APPRECIATION

1. PROCEDURAL REQUIREMENTS

Pursuant to Article 1(3) in Part I of Protocol 3 to the Surveillance and Court Agreement, “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.”

By submitting a notification by letter dated 26 April 2004 (Event No 278992) for the scheme of reduced social security rates applicable from 1 January 2005, the Norwegian authorities have complied with the above mentioned notification requirement.

2. THE PRESENCE OF STATE AID

In the notification, the Norwegian authorities claim that the proposed scheme of reduced rates of social security contributions does not constitute state aid within the meaning of Article 61(1) of the EEA Agreement because it does not affect trade between the Contracting Parties to the EEA Agreement.

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.”

Thus, in order for a measure to be considered state aid, it must constitute a selective advantage in favour of certain undertakings, be granted through state resources and affect competition and trade between the Contracting Parties to the EEA Agreement. These are cumulative criteria. Accordingly, the failure to fulfil one of them determines that the measure under assessment does not qualify as state aid within the meaning of Article 61(1) of the EEA Agreement.

2.1 State resources

The application of reduced social security contributions represents reduced social security revenues for the State. Whenever the State is foregoing income normally due, there is a consumption of state resources within the meaning of Article 61(1) of the EEA Agreement. Under the notified scheme, the application of reduced rates would diminish the income that the State would receive in the form of social security contributions. This foregone income constitutes state resources.

2.2 Selective advantage

In order to be caught by Article 61(1) of the EEA Agreement, the measure must be selective in that it favours “*certain undertakings or the production of certain goods*”. Moreover, it must confer on certain undertakings an advantage that reduces the costs they normally bear in the course of business and relieves them of charges that are normally borne from their budgets.

Undertakings benefiting from the application of the notified reduced rates of social security contributions are subject to payment of contributions lower than any other undertaking located in Norway subject to the general social security rate of 14.1 %. Instead of paying social security contributions for their employees for an amount equivalent to 14.1 % of their salaries, undertakings active in the selected sectors which are located in Zones 2, 3 and 4 of Norway will, according to the notification, pay contributions corresponding to 10.6 %, 6.4 % and 5.1 % respectively of their employees’ salaries.

The favourable rates of social security contributions thus provide a selective advantage to any undertaking active in any of the sectors included in the list above which are located in Zones 2, 3 and 4 in Norway ⁽¹⁵⁾.

2.3 Distortion of competition

In order to be caught by Article 61(1) of the EEA Agreement, the measure must distort competition.

A State intervention may distort competition between undertakings of the same sector competing within the national boundaries. Undertakings benefiting from an economic advantage granted by the State which reduces their normal burden of costs are placed in a better competitive position than those who cannot enjoy this advantage.

Social security contributions constitute running or operational costs which undertakings must put up with in the normal course of business. The reduction of such costs in the form of lower social security contributions in favour of certain undertakings located in a number of regions in Norway offers an appreciable advantage to the beneficiaries of that tax concession *vis-à-vis* their competitors. Undertakings other than those to which the measure at issue applies will have to pay their social security contributions on less advantageous terms, subject to full rates. The fact that the social security costs are reduced makes the undertakings more competitive. Lower costs as a result of reduced social security contributions may allow undertakings to charge lower prices for their products. They may also offer better economic conditions for employees than undertakings subject to the full rate of social security contributions.

In the opinion of the Authority, given that the rates applicable to the various zones benefiting from the notified scheme would be different, competition would be distorted not only with respect to undertakings located in areas outside the scheme but also amongst those located within the zones covered by the scheme.

2.4 Effect on trade

Finally, for Article 61(1) of the EEA Agreement to be applicable, the notified measure must have an effect on trade between the Contracting Parties to the EEA Agreement.

The Norwegian authorities consider that the notified scheme of reduced rates of social security contributions does not qualify as state aid because it will not have an effect on trade within the meaning of Article 61(1) of the EEA Agreement.

⁽¹⁵⁾ The EFTA Court has already stated in Case E-6/98, *The Government of Norway v EFTA Surveillance Authority*, [1999] Report of the EFTA Court, page 76, para 38, that the application of regional differentiated reduced social security rates confers a selective advantage to certain undertakings which neither derives from the inherent logic of the general system nor results from objective conditions within that general system.

The Norwegian authorities have put forward that the potential beneficiaries of the scheme at hand only participate in purely local activities which do not have an effect on trade. They base their assessment on the ECON report on competition interfaces which has identified a list of sectors supposedly not affected by competition from other EEA States. This list has been drafted on the basis of statistical data on export and import to Zones 2, 3 and 4 as well as on telephone interviews with a selection of enterprises in the services sector. Following the explanations provided in the notification, undertakings in the identified sectors are not exposed to intra-EEA trade. Due to the lack of effect on trade, any state financing granted to undertakings in these sectors will not qualify as state aid within the meaning of Article 61(1) of the EEA Agreement. The Authority has doubts both with regard to the method of data collection, which does not seem systematic, and to the approach followed to determine the lack of effect on trade between the Contracting Parties to the EEA Agreement.

Furthermore, the ECON report produces only a, although not complete, picture of the *status quo*. It bears no analysis of the future situation. Since trade patterns can change at any time, there is no guarantee that the results of the ECON report, although already questionable now, would also remain valid in the future.

The Authority has even more doubts whether the approach followed in the notified scheme is in line with the interpretation of the EFTA Court and the Community Courts of the criterion “effect on trade” within the meaning of Article 61(1) of the EEA Agreement.

The criterion of “effect on trade” as an element for the application of Article 61(1) of the EEA Agreement has traditionally been broadly interpreted by the case law of the Courts of Justice of the European Communities. Whenever an undertaking is placed in an advantageous position there is a distortion of competition which inextricably leads to an effect on trade ⁽¹⁶⁾. Following the case law, this criterion cannot be interpreted in a restricted way to the effect that only aid having a direct effect on trade between EEA States and distorting competition is covered by Article 61(1) of the EEA Agreement ⁽¹⁷⁾. In general terms, a measure is considered to be state aid if it is “capable” of affecting trade between the EEA States. An aid may affect trade between EEA States even if the recipient undertaking, which is in competition with undertakings from other EEA States, does not itself participate in cross border activities ⁽¹⁸⁾. Where a State grants aid to an undertaking, internal supply may be maintained or increased, with the consequence that the opportunities for undertakings established in other EEA States to offer their services to the market of that State are reduced ⁽¹⁹⁾.

The very circumstances in which the aid has been granted may show whether it is liable to affect trade between EEA States or not ⁽²⁰⁾. The fact that aid is granted in respect of purely local activities or to undertakings operating solely at local level and therefore not in competition with other undertakings in EEA States does not by itself preclude the possibility of an effect on trade ⁽²¹⁾. The relatively small amount of aid or the relatively small size of the undertakings which receive it do not as such exclude the possibility that intra-EEA trade might be affected ⁽²²⁾ although it may constitute one of the features to be taken into account for the assessment of whether there is an effect on trade ⁽²³⁾. Anyway, no reference is made in the notification to the size of the undertakings which benefit from the application of reduced social security rates.

The Authority has doubts whether the notified scheme provides the necessary mechanisms to guarantee the absence of effect on trade in all instances.

⁽¹⁶⁾ Case 730/79, *Philip Morris v Commission* [1980] ECR 2671, para 11.

⁽¹⁷⁾ Joined Cases T-298/97, T-312/97 e.a., *Alzetta a.o. v Commission* [2000] ECR-2319, para 76-78.

⁽¹⁸⁾ See in this context, Case T-55/99, *CETM v Commission* [2000] ECR II-3207, para 86.

⁽¹⁹⁾ Case C-303/88, *Italy v Commission* [1991] ECR I-1433, para 27; Case T-55/99, *CETM v Commission* [2000] ECR II-3207, para 86.

⁽²⁰⁾ Joined Cases 296 and 318/82, *Netherlands and Leeuwarder Papierwarenfabriek v Commission* [1985] ECR 809.

⁽²¹⁾ Case C-280/00, *Altmark Trans GmbH a.o v Nahverkehrsgesellschaft Altmark GmbH* [2003] ECR I (not yet reported).

⁽²²⁾ See in this context, *inter alia*, Case C-142/87, *Belgium v Commission* [1990] ECR I-959, para 43; Case T-55/99, *CETM v Commission* [2000] ECR II-3207, para 92 or Case T-214/95, *Vlaams Gewest v Commission* [1998] ECR II-2319, para 85.

⁽²³⁾ See in this context, *inter alia*, Commission Decision N711/2001, *United Kingdom – Community Investment Tax Credit*.

There are no clear criteria for the eligibility of undertakings under the proposed scheme of reduced rates of social security contributions within the sectors identified in the ECON report. As a rule, a general scheme should contain precise and clear criteria to ensure that the Authority has no doubts that the undertakings possibly benefiting from it are also entitled to such aid. Contrary to individual aid awards, a scheme can only be approved in abstract terms whereby it must be ensured that trade is not affected for single undertakings which may benefit from it ⁽²⁴⁾.

Reference should be made to the Authority's Decision of 12 November 2003 ⁽²⁵⁾ authorising a transitional period of three years in order to progressively adjust the reduced social security rates applicable to Zones 3 and 4 in Norway to the generally valid rate of 14,1 %. This scheme, from which all undertakings located in Zones 3 and 4 benefit regardless of the sector of activity, was considered to constitute state aid, exception being made of "de minimis" aid amounts.

The scheme notified at this time proposes the application of reduced social security rates which vary amongst the three zones. Contrary to the scheme mentioned-above, not all undertakings located in the selected Zones 2, 3 and 4 would benefit from the proposed reduced rates, but only those which operate within a given list of economic sectors.

The scheme covers a very broad and varied spectrum of undertakings ⁽²⁶⁾. It is impossible to ensure that all beneficiaries within each of the 209 notified NACE sectors are not exposed to trade within the meaning of Article 61(1) of the EEA Agreement. Trade would be affected whenever an undertaking would take advantage of its reduced running costs to expand its market outside the Norwegian borders or would carry this advantage over to more competitive pricing which would prevent foreign undertakings from entering the market. The Authority questions whether it is feasible to assure the lack of effect on trade with respect to a scheme which covers such a varied range of undertakings. In this respect, the Norwegian authorities have themselves acknowledged the difficulty of determining clear and absolute limits between the pure local operation of an activity and its operation with a potential effect on trade.

Moreover, in some of the notified sectors, which are characterised by deregulation and liberalisation, it is difficult to demonstrate that any financial intervention from the State in general does not have an effect on trade. In all areas where secondary legislation has been adopted to open and regulate the establishment of the internal market, such as financial services, telecommunications, etc. or in areas which are subject to specific state aid rules, such as shipbuilding, it cannot be taken for granted that the given activity is sheltered from intra-EEA trade.

The Norwegian authorities have not explained in the notification why some sectors are exposed or partially exposed to competition in certain areas but not in others. This is for instance the case of retail sale in non-specialised stores (NACE 52.120), retail sale of clothing (NACE 52.420) or retail sale of furniture (NACE 52.443). According to the notification, undertakings active in these sectors and located in Zones 2 and 3 are not subject to EEA-wide trade while they are partially exposed if they are located in Zone 4.

The same differentiation can be found in the notification in sectors which are not supposed to be exposed to intra-EEA trade in some areas and accordingly are subject to the notification in one of the zones whereas they are not notified in others. By way of example, this is the case of wholesale of household goods (NACE 51.479), wholesale of shipping equipment and fishing

⁽²⁴⁾ See in this context, *inter alia*, Case E-6/98 *The Government of Norway v EFTA Surveillance Authority*, [1999] Report of the EFTA Court, page 76, paras 56 and 57 where the EFTA Court stated that, in particular, as far as the rules of a scheme are general and abstract in character, the analysis of the impact on trade of a scheme can only be carried out at a general abstract level whereby the impact of the scheme on a market, sector or specific product does not have to be established.

⁽²⁵⁾ Decision No. 218/03/COL.

⁽²⁶⁾ According to the Norwegian authorities, whereas most but not all sectors in manufacturing industry are supposed to be exposed to foreign competition and consequently not supposed to benefit from the currently notified reduced social security rates, 213 branches out of a total of 285 branches in the service sector in Zones 2, 3 and 4 are presumed not to be exposed to foreign competition and thus not to affect trade. In other words, according to the notification, all undertakings in 75 % of all service sectors are not exposed to competition and trade within the EEA.

tackle (NACE 51.872) or renting of automobiles (NACE 71.110) amongst others.

The ECON report, on the basis of which the notified social security scheme has been prepared, follows a sectoral approach. Therefore, it seems inconsistent not to include in the notification all sectors identified in the report as supposedly not being exposed to intra-EEA trade in all three areas covered by the scheme.

The scheme of regionally differentiated social security rates as it has been notified does not contain any general safeguards to ensure the necessary legal and economic certainty in its application concerning the effect on trade.

Furthermore, the scheme is unlimited in time and does not provide for a review clause of the criteria and conditions of application.

Under these circumstances, the Authority has serious doubts whether the effect on trade can automatically be excluded with respect to all potential beneficiaries of reduced rates of social security contributions.

2.5 Conclusion

In view of the foregoing, the Authority cannot exclude that the proposed regionally differentiated social security rates might affect trade between the Contracting Parties to the EEA Agreement.

For these reasons, the Authority has serious doubts about the classification of the notified scheme as a non-aid measure falling outside the scope of Article 61(1) of the EEA Agreement.

3. COMPATIBILITY OF THE AID

Should the measure constitute state aid within the meaning of Article 61(1) of the EEA Agreement, the Authority has doubts regarding its compatibility with the rules of the EEA Agreement.

The Norwegian authorities have argued that the measure at issue does not constitute state aid. Therefore, they have not put forward any arguments concerning its compatibility. However, after assessing the likely involvement of state aid, it has to be considered whether such aid could be compatible on the basis of Article 61(2) and (3) of the EEA Agreement.

The Authority is of the opinion that none of the derogations mentioned in Article 61(2) of the EEA Agreement can be applied to the case at hand.

The Authority has doubts whether the system of reduced rates of social security contributions can be considered compatible on the basis of Article 61(3) of the EEA Agreement. A reduction in the running costs of an undertaking such as the social security contributions constitutes operating aid. Such aid, given to undertakings in certain regions, is normally prohibited.

The application of reduced rates of social security contributions cannot be considered within the framework of Article 61(3)(a) of the EEA Agreement since none of the Norwegian regions qualify for this provision which requires an abnormally low standard of living or serious underemployment. Furthermore, the aid granted in the form of reduced rates of social security contributions does not satisfy the requirements laid down in the regional aid guidelines.

The reduced rates of social security contributions do not seem to promote the execution of an important project of common European interest or to remedy a serious disturbance in the economy of a State, as it is requested for compatibility on the basis of Article 61(3)(b) of the EEA Agreement.

Concerning Article 61(3)(c) of the EEA Agreement, in its Decision No. 218/03/COL of 12 November 2003, with regard to state aid in the form of regionally differentiated social security contributions, the Authority considered that a continuation of the Norwegian scheme would be incompatible with Article 61(3)(c) of the EEA Agreement and the State Aid Guidelines. However, the Authority deemed

a transitional period to be necessary for Zones 3 and 4 to dampen the shock effects that would follow from an immediate application of the full social security tax rates. A period of three years was considered appropriate on the basis of the information provided by the Norwegian authorities, which demonstrated that undertakings would need three years to adjust to the new economic reality.

For undertakings located in Zones 2, 3 and 4 which are active in the sectors listed in the notification, the notified measure implies a return to the rules which were declared incompatible aid by the Authority in 2002 for not qualifying for a derogation under Article 61(3)(c) of the EEA Agreement. The fundamental features of the notified scheme are the same as the ones of the scheme subject to the prior decision of the Authority mentioned above with the difference of the sectoral scope of application of the notified measure which is limited to undertakings active in a given list of sectors. Consequently, there is a negative presumption regarding the compatibility of the notified measure with the state aid rules of the EEA Agreement.

On the basis of the information currently available to it, the Authority is not in a position to declare the reduced rates of social security contributions regarding all sectors included in the notified list which are located in Zones 2, 3 and 4 in Norway to be compatible with the EEA Agreement.

4. CONCLUSION

Based on the information submitted by the Norwegian authorities, the Authority cannot exclude that the notified measure involves aid within the meaning of Article 61(1) of the EEA Agreement.

Furthermore, the Authority has doubts that the measure can be declared compatible with the functioning of the EEA Agreement on the basis of Article 61(3)(c) of the EEA Agreement.

Consequently, and in accordance with Article 4(4) in Part II of Protocol 3 to the Surveillance and Court Agreement, the Authority is obliged to open the formal investigation procedure provided for in Article 1(2) in Part I of Protocol 3 of the Surveillance and Court Agreement. The decision to open proceedings is without prejudice to the final decision of the Authority.

In light of the foregoing considerations, the Authority, acting under the procedure laid down in Article 1(2) in Part I of Protocol 3 to the Surveillance and Court Agreement, requests Norway to submit its comments and to provide all such information as may help to assess the aid scheme notified, within one month of the date of receipt of this Decision.

The Norwegian authorities are reminded not to put the proposed measure into effect.

HAS ADOPTED THIS DECISION:

1. The Authority has decided to open the formal investigation procedure pursuant to Article 1(2) in Part I of Protocol 3 to the Surveillance and Court Agreement regarding the notified scheme of reduced rates of social security contributions in Zones 2, 3 and 4 in Norway.
2. The Norwegian Government is invited, pursuant to Article 6(1) in Part II of Protocol 3 to the Surveillance and Court Agreement, to submit its comments on the opening of the formal investigation procedure within one month from the notification of this Decision.
3. Other Contracting Parties to the EEA Agreement and interested parties shall be informed by the publishing of this Decision in the EEA Section of the Official Journal of the European Union and the EEA Supplement thereto, inviting them to submit comments within one month from the date of publication of this Decision.
4. This Decision is authentic in the English language.

Done at Brussels, 6 October 2004

For the EFTA Surveillance Authority

Hannes Hafstein
President

Einar M. Bull
College Member

*ANNEX I***Geographical zones and 2003 tax rates**

- *Zone I: 14.1 per cent tax.*

This zone includes all municipalities not mentioned below under zone II-V.

- *Zone II: 10.6 per cent tax.*

This zone includes:

- in Nord-Trøndelag county, the municipalities of Meråker, Frosta, Leksvik, Mosvik, Verran,
 - in Sør-Trøndelag county, the municipalities of Ørland, Agdenes, Rissa, Bjugn, Rennebu, Meldal, Midtre Gauldal, Selbu,
 - in Møre og Romsdal county, the municipalities of Vanylven, Sande, Herøy, Norddal, Stranda, Stordal, Rauma, Nasset, Midsund, Sandøy, Gjemnes, Tingvoll, Sunndal, Haram, Aukra, Eide,
 - in Sogn og Fjordane county, all municipalities,
 - in Hordaland county, the municipalities of Etne, Ølen, Tysnes, Kvinnherad, Jondal, Odda, Ullensvang, Eidfjord, Ulvik, Granvin, Kvam, Modalen, Fedje, Masfjorden, Bømlo,
 - in Rogaland county, the municipalities of Hjelmeland, Suldal, Sauda, Kvitsøy, Utsira, Vindafjord, Finnøy,
 - in Vest-Agder county, the municipalities of Åseral, Audnedal, Hægebostad, Sirdal,
 - in Aust-Agder county, the municipalities of Gjerstad, Vegårshei, Åmli, Iveland, Evje og Hornnes, Bygland, Valle, Bykle,
 - in Telemark county, the municipalities of Drangedal, Tinn, Hjartdal, Seljord, Kviteseid, Nissedal, Fyresdal, Tokke, Vinje, Nome,
 - in Buskerud county, the municipalities of Flå, Nes, Gol, Hemsedal, Ål, Hol, Sigdal, Rollag, Nore and Uvdal,
 - in Oppland county, the municipalities of Nord-Fron, Sør-Fron, Ringeby, Gausdal, Søndre Land, Nordre Land,
 - in Hedmark county, the municipalities of Nord-Odal, Eidskog, Grue, Åsnes, Våler, Trysil, Åmot.
- *Zone III: 6.4 per cent tax.*

This zone includes:

- in Nord-Trøndelag county, the municipality of Snåsa,
 - in Sør-Trøndelag county, the municipalities of Hemne, Snillfjord, Oppdal, Røros, Holtålen, Tydal,
 - in Oppland county, the municipalities of Dovre, Lesja, Skjåk, Lom, Vågå, Sel, Sør-Aurdal, Etnedal, Nord-Aurdal, Vestre Slidre, Øystre Slidre, Vang,
 - in Hedmark county, the municipalities of Stor-Elvdal, Rendalen, Engerdal, Tolga, Tynset, Alvdal, Follidal, Os
- *Zone IV: 5.1 per cent tax.*

This zone includes:

- in Troms county, municipalities not included among those listed below under zone V,
- in Nordland county, all municipalities,

- in Nord-Trøndelag county, the municipalities of Namsos, Namdalseid, Lierne, Røyrvik, Namsskogan, Grong, Høylandet, Overhalla, Fosnes, Flatanger, Vikna, Nærøy, Leka,
 - in Sør-Trøndelag county, the municipalities of Hitra, Frøya, Åfjord, Roan, Osen,
 - in Møre og Romsdal county, the municipality of Smøla.
- *Zone V: 0 per cent tax.*

This zone includes:

- in Finnmark county, all municipalities,
- in Troms county, the municipalities of Karlsøy, Lyngen, Storfjord, Kåfjord, Skjervøy, Nordreisa and Kvænangen.

EFTA-DÓMSTÓLLINN

**Kæra Eftirlitsstofnunar EFTA gegn Konungsríkinu
Noregi sem lögð var fram 11. janúar 2005
(Mál E-1/05)**

2005/EES/11/03

Hinn 11. janúar 2005 lagði Eftirlitsstofnun EFTA fram fyrir EFTA-dómstólnum kæru gegn Konungsríkinu Noregi; í fyrirsvari eru Niels Fenger og Per Andreas Bjørgan, umboðsmenn Eftirlitsstofnunar EFTA, Rue Belliard 35, B-1040 Bruxelles/Brussel.

Kröfur sóknaraðila eru sem hér segir:

1. Dómstóllinn lýsi yfir að með því að fella ekki úr gildi ákvæði um tafarlausa greiðslu kostnaðar vegna gerðar tryggingasamnings, sbr. aðra málsgrein 3. gr. norskrar reglugerðar nr. 1167 frá 21. nóvember 1989 um skiptingu kostnaðar, taps, tekna, sjóða o.s.frv. milli tryggingafélaga sem tilheyra einni og sömu samsteypu og milli útibúa og samninga eins og sama tryggingafélags og 10. gr. norskrar reglugerðar nr. 827 frá 22. september 1995 um tryggingaþjónustu og stofnun útibús tryggingafélags sem hefur höfuðstöðvar í öðru EES-ríki, hafi Konungsríkið Noregur vanefnt skuldbindingar sínar skv. 33. gr. gerðarinnar sem um getur í 11. lið IX. viðauka við samninginn um Evrópskt efnahagssvæði (tilskipun Evrópuþingsins og ráðsins 2002/83/EB frá 5. nóvember 2002 um liftryggingar) með ákvæðum til aðlögunar að EES-samningnum skv. bókun 1 við þann samning.

2. Dómstóllinn dæmi Konungsríkið Noreg til greiðslu málskostnaðar.

Lagagrundvöllur, málsvæði og lagarök til stuðnings kærinni:

- Samkvæmt 33. gr. ofangreindrar gerðar má aðildarríkið, sem skuldbinding stofnast í, „ekki meina tryggingataka að gera samning við tryggingafélag sem hefur rekstrarleyfi samkvæmt 4. gr. nema samningurinn brjóti í bága við lagaákvæði sem sett hafa verið til verndar almannahagsmunum í aðildarríkinu sem skuldbindingin stofnast í“. [*Óstaðfest þýðing. Aths. þýð.*]
- Í inngangsorðum gerðarinnar segir: „Í samhengi innra markaðar er það hagur tryggingataka að eiga vól á sem flestum tegundum mismunandi trygginga sem bjóðast í bandalaginu til þess að geta valið þá tryggingu sem hentar þeim best Á innra markaði fyrir tryggingar mun neytendum bjóðast meira og fjölbreyttara úrval samninga.“ [*Óstaðfest þýðing. Aths. þýð.*]
- Samkvæmt 10. gr. norskrar reglugerðar nr. 827 frá 22. september 1995 ber erlendum tryggingafélögum að reikna og innheimta kostnað vegna gerðar tryggingasamnings í samræmi við aðra málsgrein 3. gr. reglugerðar nr. 1167 frá 21. nóvember 1989 til þess að geta selt tryggingar sínar í Noregi.
- Vegna þessa ákvæðis getur tryggingataki í Noregi ekki gert samning við tryggingafélag sem dreifir kostnaði vegna gerðar tryggingasamnings á lengri tíma; þetta fækkar því þeim kostum sem standa neytendum til boða.
- Jafnframt er hætt við því að ákvæðið takmarki framboð á öðrum tryggingum með því að fæla tryggingafélög, sem hafa rekstrarleyfi í öðrum EES-rikjum, frá því að selja tryggingar sínar í Noregi.

EB-STOFNANIR

FRAMKVÆMDASTJÓRNIN

**Tilkynning um fyrirhugaða samfylkingu fyrirtækja
(mál COMP/M.3648 – Gruner + Jahr/Motor-Presse)**

2005/EES/11/04

1. Framkvæmdastjórninni barst 2. mars 2005 tilkynning samkvæmt 4. gr. reglugerðar ráðsins (EB) nr. 139/2004 ⁽¹⁾ um fyrirhugaða samfylkingu þar sem þýska fyrirtækið Gruner + Jahr AG & Co. KG (G + J), sem er undir yfirráðum Bertelsmann AG, öðlast með hlutafjárkaupum að fullu yfirráð í skilningi b-liðar 1. mgr. 3. gr. fyrrnefndrar reglugerðar yfir þýska fyrirtækinu Motor-Presse Stuttgart GmbH & Co. KG (MPS) sem er sameinað fyrirtæki þýsku útgáfufyrirtækjanna Vereinigte Motor-Verlage GmbH & Co. KG (VMV) og Motor-Presse-Verlag GmbH & Co. KG (MPV).
2. Starfsemi hlutaðeigandi fyrirtækja er sem hér segir:
 - G + J: tímaritaútgáfa
 - MPS, VMV og MPV: útgáfa sértímarita
3. Að lokinni frumathugun telur framkvæmdastjórnin að samfylkingin, sem tilkynnt hefur verið, geti fallið undir gildissvið reglugerðar (EB) nr. 139/2004. Fyrirvari er þó settur um endanlega ákvörðun.
4. Hagsmunaaðilar eru hvattir til að senda framkvæmdastjórninni athugasemdir sem þeir kunna að hafa fram að færa um hina fyrirhuguðu samfylkingu.

Athugasemdir verða að berast framkvæmdastjórninni innan tíu daga frá því að tilkynning þessi birtist í Stjtið. ESB (C 58, 8. mars 2005). Þær má senda með símbréfi (faxnr. (32) 22 96 43 01 / 22 96 72 44) eða í pósti, með tilvísuninni COMP/M.3648 – Gruner + Jahr/Motor-Presse, á eftirfarandi pósthfang:

European Commission
Directorate-General for Competition
Merger Registry
J-70
B-1049 Bruxelles/Brussel

⁽¹⁾ Stjtið. ESB L 24, 29.1.2004, bls. 1.

**Tilkynning um fyrirhugaða samfylkingu fyrirtækja
(mál COMP/M.3678 – Goldman Sachs/Cerberus/TET/JV)**

2005/EES/11/05

Mál sem kann að verða tekið fyrir samkvæmt einfaldaðri málsmeðferð

1. Framkvæmdastjórninni barst 24. febrúar 2005 tilkynning samkvæmt 4. gr. reglugerðar ráðsins (EB) nr. 139/2004 ⁽¹⁾ um fyrirhugaða samfylkingu þar sem bandarísku fyrirtækin Goldman Sachs Mortgage Company, sem er undir yfirráðum hins bandaríska Goldman Sachs Group, Inc. (Goldman Sachs), og The Cerberus Group (Cerberus) öðlast með hlutafjárkaupum í sameiningu yfirráð í skilningi b-liðar 1. mgr. 3. gr. fyrrnefndrar reglugerðar yfir hluta breska fyrirtækisins Transamerica European Trailers (TET).
2. Starfsemi hlutaðeigandi fyrirtækja er sem hér segir:
 - Goldman Sachs: fjárfestingabankastarfsemi og verðbréfavíðskipti
 - Cerberus: fjárfestingar í óskráðum félögum og fjárfestingasamval
 - TET: kaupleiga tengivagna til atvinnunota
3. Að lokinni frumathugun telur framkvæmdastjórnin að samfylkingin, sem tilkynnt hefur verið, geti fallið undir gildissvið reglugerðar (EB) nr. 139/2004. Fyrirvari er þó settur um endanlega ákvörðun. Hafa ber í huga að þetta mál kann að verða tekið fyrir samkvæmt málsmeðferðinni sem kveðið er á um í tilkynningu framkvæmdastjórnarinnar um einfaldaða málsmeðferð við meðhöndlun tiltekinnar samfylkinga samkvæmt reglugerð ráðsins (EB) nr. 139/2004 ⁽²⁾.
4. Hagsmunaaðilar eru hvattir til að senda framkvæmdastjórninni athugasemdir sem þeir kunna að hafa fram að færa um hina fyrirhuguðu samfylkingu.

Athugasemdir verða að berast framkvæmdastjórninni innan tíu daga frá því að tilkynning þessi birtist í Stjtið. ESB (C 56, 5. mars 2005). Þær má senda með símbréfi (faxnr. (32) 22 96 43 01 / 22 96 72 44) eða í pósti, með tilvísuninni COMP/M.3678 – Goldman Sachs/Cerberus/TET/JV, á eftirfarandi pósthfang:

European Commission
Directorate-General for Competition
Merger Registry
J-70
B-1049 Bruxelles/Brussel

⁽¹⁾ Stjtið. ESB L 24, 29.1.2004, bls. 1.

⁽²⁾ Tilkynninguna er að finna á vefsetri aðalskrifstofu samkeppnismála (DG COMP): http://europa.eu.int/comm/competition/mergers/legislation/consultation/simplified_tru.pdf.

**Tilkynning um fyrirhugaða samfylkingu fyrirtækja
(mál COMP/M.3716 – AS Watson/Marionnaud)**

2005/EES/11/06

1. Framkvæmdastjórninni barst 3. mars 2005 tilkynning samkvæmt 4. gr. reglugerðar ráðsins (EB) nr. 139/2004 ⁽¹⁾ um fyrirhugaða samfylkingu þar sem franska fyrirtækið AS Watson SAS, sem tilheyrir hongkongsku samsteypunni Hutchison Whampoa Limited, öðlast að fullu yfirráð í skilningi b-liðar 1. mgr. 3. gr. fyrrnefndrar reglugerðar yfir franska fyrirtækinu Marionnaud Parfumeries SA (Marionnaud) með yfirtökuboði sem var tilkynnt 1. febrúar 2005.
2. Starfsemi hlutaðeigandi fyrirtækja er sem hér segir:
 - AS Watson: smásöluverslun með heilsuvörur, fegrunarvörur, ilmvatn sem munaðarvöru og snyrtivörur
 - Marionnaud: smásöluverslun með ilmvatn sem munaðarvöru og snyrtivörur
3. Að lokinni frumathugun telur framkvæmdastjórnin að samfylkingin, sem tilkynnt hefur verið, geti fallið undir gildissvið reglugerðar (EB) nr. 139/2004. Fyrirvari er þó settur um endanlega ákvörðun.
4. Hagsmunaaðilar eru hvattir til að senda framkvæmdastjórninni athugasemdir sem þeir kunna að hafa fram að færa um hina fyrirhuguðu samfylkingu.

Athugasemdir verða að berast framkvæmdastjórninni innan tíu daga frá því að tilkynning þessi birtist í Stjtið. ESB (C 60, 10. mars 2005). Þær má senda með símbréfi (faxnr. (32) 22 96 43 01 / 22 96 72 44) eða í pósti, með tilvísuninni COMP/M.3716 – AS Watson/Marionnaud, á eftirfarandi póstfang:

European Commission
Directorate-General for Competition
Merger Registry
J-70
B-1049 Bruxelles/Brussel

⁽¹⁾ Stjtið. ESB L 24, 29.1.2004, bls. 1.

**Tilkynning um fyrirhugaða samfylkingu fyrirtækja
(mál COMP/M.3721 – Stora Enso/Scaldia/PdF)**

2005/EES/11/07

1. Framkvæmdastjórninni barst 1. mars 2005 tilkynning samkvæmt 4. gr. reglugerðar ráðsins (EB) nr. 139/2004 ⁽¹⁾ um fyrirhugaða samfylkingu þar sem finnska fyrirtækið Stora Enso Oyj öðlast með hlutafjárkaupum að fullu yfirráð í skilningi b-liðar 1. mgr. 3. gr. fyrrnefndrar reglugerðar yfir hollenska fyrirtækinu Scaldia BV og franska fyrirtækinu Papeteries de France (PdF).
2. Starfsemi hlutaðeigandi fyrirtækja er sem hér segir:
 - Stora Enso: framleiðsla og sala á skógarafurðum, einkum pappír og pappa, pappírsdeigi og söguðum viði
 - Scaldia: heildsöluverslun með pappír, dreifing á tölvu- og skrifstofuvörum
 - PdF: heildsöluverslun með pappír
3. Að lokinni frumathugun telur framkvæmdastjórnin að samfylkingin, sem tilkynnt hefur verið, geti fallið undir gildissvið reglugerðar (EB) nr. 139/2004. Fyrirvari er þó settur um endanlega ákvörðun.
4. Hagsmunaaðilar eru hvattir til að senda framkvæmdastjórninni athugasemdir sem þeir kunna að hafa fram að færa um hina fyrirhuguðu samfylkingu.

Athugasemdir verða að berast framkvæmdastjórninni innan tíu daga frá því að tilkynning þessi birtist í Stjtið. ESB (C 59, 9. mars 2005). Þær má senda með símbréfi (faxnr. (32) 22 96 43 01 / 22 96 72 44) eða í pósti, með tilvísuninni COMP/M.3721 – Stora Enso/Scaldia/PdF, á eftirfarandi póstfang:

European Commission
Directorate-General for Competition
Merger Registry
J-70
B-1049 Bruxelles/Brussel

⁽¹⁾ Stjtið. ESB L 24, 29.1.2004, bls. 1.

**Tilkynning um fyrirhugaða samfylkingu fyrirtækja
(mál COMP/M.3722 – Nutreco/Stolt-Nielsen/Marine Harvest JV)**

2005/EES/11/08

1. Framkvæmdastjórninni barst 3. mars 2005 tilkynning samkvæmt 4. gr. reglugerðar ráðsins (EB) nr. 139/2004 ⁽¹⁾ um fyrirhugaða samfylkingu þar sem hollenska fyrirtækið Nutreco Holding NV (Nutreco) og lúxemborgska fyrirtækið Stolt-Nielsen SA öðlast í sameiningu yfirráð í skilningi b-liðar 1. mgr. 3. gr. fyrrnefndrar reglugerðar yfir hollenska fyrirtækinu Marine Harvest NV með kaupum á hlutafé í nýstofnuðu samáhættufyrirtæki.
2. Starfsemi hlutaðeigandi fyrirtækja er sem hér segir:
 - Nutreco: gæðamatvæli og gæðafóður, fiskur, fiskeldisfóður, alifugla- og svínarækt
 - Stolt-Nielsen: flutningaþjónusta, fiskeldi, þjónusta við starfsemi á hafi úti, innkaupaþjónusta fyrir útgerðarfyrirtæki
 - Marine Harvest: framleiðsla og sala víða um heim á laxi og öðrum eldisfiski, meðal annars þorski og lúðu
3. Að lokinni frumathugun telur framkvæmdastjórnin að samfylkingin, sem tilkynnt hefur verið, geti fallið undir gildissvið reglugerðar (EB) nr. 139/2004. Fyrirvari er þó settur um endanlega ákvörðun.
4. Hagsmunaaðilar eru hvattir til að senda framkvæmdastjórninni athugasemdir sem þeir kunna að hafa fram að færa um hina fyrirhuguðu samfylkingu.

Athugasemdir verða að berast framkvæmdastjórninni innan tíu daga frá því að tilkynning þessi birtist í Stjtið. ESB (C 60, 10. mars 2005). Þær má senda með símbréfi (faxnr. (32) 22 96 43 01 / 22 96 72 44) eða í pósti, með tilvísuninni COMP/M.3722 – Nutreco/Stolt-Nielsen/Marine Harvest JV, á eftirfarandi póstfang:

European Commission
Directorate-General for Competition
Merger Registry
J-70
B-1049 Bruxelles/Brussel

⁽¹⁾ Stjtið. ESB L 24, 29.1.2004, bls. 1.

Lokaskýrsla skýrslufulltrúa í máli COMP/M.3333 – Sony/BMG**2005/EES/11/09**

(í samræmi við 15. gr. ákvörðunar framkvæmdastjórnarinnar 2001/462/EC, KSE frá 23. maí 2001 um verksvið skýrslufulltrúa í tilteknum samkeppnismálum – Stjtið. EB L 162, 19.6.2001, bls. 21)

Framkvæmdastjórnin hefur birt lokaskýrslu skýrslufulltrúa í máli M.3333 – Sony/BMG. Nokkrar athugasemdir komu fram.

Um nánari upplýsingar sjá Stjtið. ESB C 52 frá 2. mars 2005.

**Álit ráðgjafarnefndar um samfylkingu fyrirtækja sem samþykkt var á
71. fundi nefndarinnar hinn 18. nóvember 1999 og varðar drög að ákvörðun
í máli COMP M.1608 – KLM/Martinair III (viðbótarmálsmeðferð)**

2005/EES/11/10

Framkvæmdastjórnin hefur birt álit ráðgjafarnefndar um samfylkingu fyrirtækja sem samþykkt var á 71. fundi nefndarinnar hinn 18. nóvember 1999 og varðar drög að ákvörðun í máli COMP M.1608 – KLM/Martinair III (viðbótarmálsmeðferð).

Um nánari upplýsingar sjá Stjtið. ESB C 47 frá 23. febrúar 2005.

**Álit ráðgjafarnefndar um samfylkingu fyrirtækja sem samþykkt var á
127. fundi nefndarinnar hinn 9. júlí 2004 og varðar drög að ákvörðun
í máli COMP/M.3333 – Sony/BMG**

2005/EES/11/11

Framkvæmdastjórnin hefur birt álit ráðgjafarnefndar um samfylkingu fyrirtækja sem samþykkt var á 127. fundi nefndarinnar hinn 9. júlí 2004 og varðar drög að ákvörðun í máli COMP/M.3333 – Sony/BMG.

Um nánari upplýsingar sjá Stjtið. ESB C 52 frá 2. mars 2005.

**Auglýst eftir umsóknum um leyfi til að vinna kolvatnsefni á leitarsvæðinu
Q13 á hollenska landgrunninu**

2005/EES/11/12

Efnahagsráðherra Konungsríkisins Hollands gjörir kunnugt að borist hefur umsókn um leyfi til að vinna kolvatnsefni á leitarsvæðinu Q13 á kortinu í 3. viðauka við námareglugerð (Mijnbouwregeling) (*Staatscourant* (hollenska lögbirtingablaðið) nr. 245, 2002).

Með vísan til 2. mgr. 3. gr. tilskipunar Evrópuþingsins og ráðsins 94/22/EC frá 30. maí 1994 um skilyrði fyrir veitingu og notkun leyfa til að leita að, rannsaka og vinna kolvatnsefni, og auglýsingar samkvæmt 15. gr. námalaga (Mijnbouwwet) (*Staatsblad* (hollensku stjórnartíðindin) nr. 542, 2002), gefur efnahagsráðherra hér með öðrum, sem þess kynnu að óska, kost á að sækja um leyfi til að vinna kolvatnsefni á leitarsvæðinu Q13 á hollenska landgrunninu.

Tekið verður á móti umsóknum í 13 vikur eftir að auglýsingin birtist í *Stjórnartíðindum Evrópusambandsins* (C 49, 25. febrúar 2005) og ber að senda þær efnahagsráðherra: de Minister van Economische Zaken, ter attentie van de directeur Energie productie („persoonlijk in handen“), Prinses Beatrixlaan 5, te Den Haag, Nederland.

Umsóknir sem berast eftir að fresturinn rennur út verða ekki teknar til greina. Ákvörðun um umsóknirnar verður tekin innan níu mánaða eftir að fresturinn rennur út.

Nánari upplýsingar fást í síma (+31-70) 379 66 94.

**Orðsending írskra stjórnvalda samkvæmt tilskipun Evrópuþingsins og
ráðsins 94/22/EB frá 30. maí 1994 um skilyrði fyrir veitingu og notkun leyfa til
að leita að, rannsaka og vinna kolvatnsefni**

2005/EES/11/13

Auglýsing um leyfisveitingalotu 2005 – Norðausturhluti Rockall-dældarinnar

Í samræmi við a-lið 2. mgr. 3. gr. ofangreindrar tilskipunar gjörir samgöngu-, sjávar- og auðlindaráðherra kunnugt að breyting hefur orðið á þeim svæðum sem unnt er fá leyfi til að nýta frá því sem auglýst var í *Stjórnartíðindum Evrópubandalaganna C 299* hinn 27. október 1994.

**Veiting leyfa til leitar að kolvatnsefnum í norðausturhluta Rockall-dældarinnar á jaðri
efnahagslögsögunnar**

Ákveðið hefur verið að svæði í norðausturhluta Rockall-dældarinnar, sem tekur til 65 heilla leitarsvæða og 12 leitarsvæðahluta, skuli skilgreint sem jaðarsvæði og boðið út í lotu leyfisveitinga til olíuleitar. Umsóknarfrestur í þessari lotu rennur út 31. maí 2005 og fyrir þann tíma verður hvorki úthlutað vinnsluleyfum né leyfisvildunum fyrir þau leitarsvæði sem eru í boði.

Skrá um leitarsvæði (65 heil leitarsvæði og 12 leitarsvæðahlutar)

Leitarsvæði 4/11 (hluti), 4/12 (hluti), 4/13 (hluti), 4/16, 4/17, 4/18 (hluti), 4/19 (hluti), 4/20 (hluti), 4/21, 4/22, 4/23, 4/24, 4/25, 4/26, 4/27, 4/28, 4/29, 4/30

Leitarsvæði 5/16 (hluti), 5/17 (hluti), 5/18 (hluti), 5/19 (hluti), 5/20 (hluti), 5/21, 5/22, 5/23, 5/24, 5/25 (hluti), 5/26, 5/27, 5/28, 5/29, 5/30

Leitarsvæði 10/18, 10/19, 10/20, 10/23, 10/24, 10/25, 10/28, 10/29, 10/30

Leitarsvæði 11/1, 11/2, 11/3, 11/4, 11/5, 11/6, 11/7, 11/8, 11/9, 11/10, 11/11, 11/12, 11/13, 11/14, 11/15, 11/16, 11/17, 11/18, 11/19, 11/21, 11/22, 11/26, 11/27

Leitarsvæði 12/1, 12/6

Leitarsvæði 18/2, Leitarsvæði 18/3, 18/4, 18/5, 18/7, 18/8, 18/9, 18/10

Leitarsvæði 19/1, 19/6

Frestur til að leggja fram umsóknir er til 31. maí 2005.

Nánari upplýsingar um leyfisveitingalotu 2005 – Norðausturhluti Rockall-dældarinnar – fást hjá:

Petroleum Affairs Division
Department of Communications, Marine and Natural Resources
Beggars Bush
Haddington Road
Dublin 4
Ireland

Vefsetur: www.pad.ie
Sími: +353 (0)1 678 26 93

Ríkisaðstoð
Mál C 21/2004 (áður N 590/B/2001)
Ítalía

2005/EES/11/14

Framkvæmdastjórnin hefur ákveðið að hefja málsmeðferð í samræmi við 2. mgr. 88. gr. EB-sáttmálans vegna a-liðar 2. mgr. 99. gr. (að því er varðar landbúnað) og 1. og 2. mgr. 124. gr. héraðslaga nr. 32/2000 um framkvæmd héraðspróunaráætlunar (*programma operativo regionale, POR*) 2000–2006 og endurskoðun áætlana um aðstoð við fyrirtæki (Sikiley), sjá Stjtið. ESB C 52 frá 2. mars 2005.

Framkvæmdastjórnin veitir aðildarríkjum EES og öðrum hagsmunaaðilum eins mánaðar frest frá birtingu þessarar tilkynningar í Stjtið. ESB til að koma athugasemdum sínum varðandi þessar ráðstafanir á framfæri við:

European Commission
Directorate-General for Agriculture
Directorate H2
Office: Loi 130 5/120
B-1049 Bruxelles/Brussel

Bréfasími: (32) 22 96 76 72

Athugasemdunum verður komið á framfæri við stjórnvöld á Ítalíu. Hagsmunaaðilum, sem leggja fram athugasemdir, er heimilt að óska þess skriflega að farið verði með nafn þeirra eða heiti sem trúnaðarmál, enda sé óskin rökstudd.

Ríkisaðstoð
Mál C 23/2004 (áður N 153/2003)
Grikkland

2005/EES/11/15

Framkvæmdastjórnin hefur ákveðið að hefja málsmeðferð í samræmi við 2. mgr. 88. gr. EB-sáttmálans vegna aðstoðar sem veitt er fyrirtækjum í sýslunum Kastoríu og Evboiu (ráðherratilskipun nr. 69826/B1461 með áorðnum breytingum skv. tilskipunum nr. 2035824/5887, 2045909/7341/0025, 2071670/11297 og 72742/B1723, sjá Stjtið. ESB C 52 frá 2. mars 2005.

Framkvæmdastjórnin veitir aðildarríkjum EES og öðrum hagsmunaaðilum eins mánaðar frest frá birtingu þessarar tilkynningar í Stjtið. ESB til að koma athugasemdum sínum varðandi þessar ráðstafanir á framfæri við:

European Commission
Directorate-General for Agriculture
Directorate H2
Office: Loi 130 5/120
B-1049 Bruxelles/Brussel

Bréfasími: (32) 22 96 76 72

Athugasemdunum verður komið á framfæri við stjórnvöld á Grikklandi. Hagsmunaaðilum, sem leggja fram athugasemdir, er heimilt að óska þess skriflega að farið verði með nafn þeirra eða heiti sem trúnaðarmál, enda sé óskin rökstudd.

Ríkisaðstoð
Mál C 29/2004 (áður N 328/2003)
Ítalía

2005/EES/11/16

Framkvæmdastjórnin hefur ákveðið að hefja málsmeðferð í samræmi við 2. mgr. 88. gr. EB-sáttmálans vegna frumvarps til héraðslaga skv. ákvörðun héraðsstjórnar (*Giunta Regionale*) nr. 16/54 frá 17. júní 2003 um aðstoð við sykurverksmiðju í Villasor til að mæta tapi af völdum þurrka árin 2001 og 2002 (Sardinía), sjá Stjtið. ESB C 51 frá 1. mars 2005.

Framkvæmdastjórnin veitir aðildarríkjum EES og öðrum hagsmunaaðilum eins mánaðar frest frá birtingu þessarar tilkynningar í Stjtið. ESB til að koma athugasemdum sínum varðandi þessar ráðstafanir á framfæri við:

European Commission
Directorate-General for Agriculture
Directorate H2
Office: Loi 130 5/120
B-1049 Bruxelles/Brussel

Bréfasími: (32) 22 96 76 72

Athugasemdunum verður komið á framfæri við stjórnvöld á Ítalíu. Hagsmunaaðilum, sem leggja fram athugasemdir, er heimilt að óska þess skriflega að farið verði með nafn þeirra eða heiti sem trúnaðarmál, enda sé óskin rökstudd.

Ríkisaðstoð
Mál C 37/2004 (áður NN 51/2004)
Finnland

2005/EES/11/17

Framkvæmdastjórnin hefur ákveðið að hefja málsmeðferð í samræmi við 2. mgr. 88. gr. EB-sáttmálans vegna fjárfestingaraðstoðar sem veitt er Componenta Corporation, málmíðnaðarfyrirtæki með starfsemi í ýmsum löndum, sjá Stjtið. ESB C 49 frá 25. febrúar 2005.

Framkvæmdastjórnin veitir aðildarríkjum EES og öðrum hagsmunaaðilum eins mánaðar frest frá birtingu þessarar tilkynningar í Stjtið. ESB til að koma athugasemdum sínum varðandi þessar ráðstafanir á framfæri við:

European Commission
Directorate-General for Competition
State Aid Greffe
SPA 3, 6/5
B-1049 Bruxelles/Brussel

Bréfasími: (32) 22 96 12 42

Athugasemdunum verður komið á framfæri við stjórnvöld í Finnlandi. Hagsmunaaðilum, sem leggja fram athugasemdir, er heimilt að óska þess skriflega að farið verði með nafn þeirra eða heiti sem trúnaðarmál, enda sé óskin rökstudd.