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ADMINISTRATION, REFORM AND CHURCH AFFAIRS

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Comments to the draft Guidelines on regional state aid for 2014-2020

The Norwegian authorities refer to the letter from the EFTA Surveillance Authority (the Authority) dated 2 August 2013, whereby the Authority asked for comments on the draft Guidelines on regional state aid for 2014-2020.

The Norwegian authorities welcome the opportunity to comment on the draft. We have the following comments:

1 Interpretation of the criteria for designation of areas eligible for operating aid

According to paragraph (15) of the draft, operating aid may be considered compatible with the internal market in very sparsely populated areas to prevent or reduce depopulation. In paragraph (19) (x) very sparsely populated areas are defined as “Statistical regions at level 2 with less than 8 inhabitants per km (based on Eurostat data on population density for 2010) or parts of such Statistical regions at level 2 designated by the EFTA State concerned in accordance with paragraph (147) of these guidelines;”

Paragraph (147) in the draft guidelines refers to the designation of “predefined c-areas” related to the general regional aid map:

” For sparsely populated areas, an EFTA State should in principle designate Statistical regions at level 2 with less than 8 inhabitants per km² or Statistical regions level 3 with less than 12.5 inhabitants per km². However, a EFTA State may designate parts of Statistical regions at level 3 with less than 12.5 inhabitants per km² or other contiguous

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areas adjacent to those Statistical regions at level 3, provided that the areas designated have less than 12.5 inhabitants per km² and that their designation does not exceed the specific allocation of 'c' coverage referred to in paragraph 140."

Paragraph (147) opens for flexibility when designating the eligible areas, such as the possibility to include contiguous areas adjacent to the relevant Statistical regions. In the current regional aid map, the Norwegian authorities has adapted this flexible approach to ensure that regional aid is applied where it is most needed and to avoid discrimination between adjacent areas experiencing the same difficulties, due to administrative borders at Statistical level 3. We refer to this method as "swapping".

In paragraph (19) (x) of the draft guidelines, the Authority introduces the same flexible approach when designating the areas eligible for operating aid.

This introduces a new set of rules for the designation of areas eligible for operating aid compared to existing guidelines for the period 2007-2013. The new rules

- ◆ introduce a maximum percentage of national population coverage for operating aid. Two Statistical regions at level 2 in Norway fulfil the criterion of 19 (x) of 8 inhabitants per km². This implies a maximum national population coverage for operating aid of 17,2 percentage.
- ◆ replace the flexibility rules from the current guidelines of including smaller adjacent areas to eligible Statistical regions at level 2 in the operating aid area, with the method of "swapping".

The Norwegian authorities have the understanding that the European Commission, when approving the regional aid guidelines 2014-2020, including the new flexibility rules linking together paragraph (19) (x) and paragraph (147), did not intend to reduce the flexibility needed for designating the areas eligible for operating aid. Norway therefore proposes that in the guidelines a new paragraph is added with the following text:

"For operating aid this implies that EFTA states may also designate parts of Statistical regions at level 2 with less than 8 inhabitants per km², or other contiguous areas adjacent to those regions, provided that the areas designated have less than 8 inhabitants per km² and that their designation does not imply that the specific allocation of population in the level 2 regions that fulfil the population density criteria is exceeded."

An alternative to include this text as a new paragraph in the guidelines, would be to include the text as a footnote to paragraph (19) (x).

2 Comments to the scope of regional aid

2.1 Investment aid

The principles set out in the guidelines shall, according to paragraph (10), be applied in all sectors of economic activity falling within the scope of the EEA Agreement. This entails, among others, that projects related to the exploration for, development and production of oil and gas (upstream oil and gas projects) would be eligible for state aid under the guidelines, provided that such projects are to fully or partly be carried out onshore, and provided all other relevant conditions are fulfilled. However, according to paragraph (11) of the proposed guidelines, they will "*not apply... in the energy sector*". Footnote 13 states that the compatibility of state aid to energy projects will be assessed on the basis of the future energy and environmental aid guidelines.

The energy and environmental aid guidelines have not yet been published. Norway understands that signals from the Commission imply that "energy" in the context of the future guidelines will include projects such as energy saving, district heating, energy infrastructure, and pipelines for the transmission and distribution of oil and gas. However, upstream oil and gas projects do not seem to be part of the energy projects to be included in the future guidelines on energy and environmental aid.

On this basis, Norway understands that upstream oil and gas projects will continue to be eligible for state aid under the Guidelines on regional state aid for 2014-2020. Norway kindly asks the Authority to confirm this understanding.

Furthermore, the Commission Guidelines on regional state aid for 2014-2020, includes a paragraph (13) with the following wording:

"Regional investment aid to research infrastructures may be regarded to be compatible with the internal market if, in addition to the general conditions laid down in these guidelines the aid is made conditional on giving transparent and non-discriminatory access to this infrastructure."

This paragraph is not included in the Authority's draft guidelines. Regional investment aid may be of relevance for Norwegian beneficiaries, therefore we kindly ask the Authority to consider whether this paragraph should be included in the Guidelines on regional state aid for 2014-2020.

2.2 Operating aid

General schemes that are open to all sectors cover a large number of undertakings. To exempt certain economic sectors from such schemes implies increased administrative costs. Exempting certain sectors might also distort competition within a region. To avoid unnecessary administrative costs and maintain an effective framework for general

regional aid schemes, it is important with as few sectoral exceptions as possible. This is of great importance especially when it comes to operational aid schemes open to all (eligible) sectors which are designed as schemes for reduction of taxes or social security contributions.

We therefore invite the Authority to clarify that regional operating aid is allowed for undertakings comprised by paragraph (11) and (16) when such aid is granted under general schemes which are open to all sectors and which are designed to offset additional transport or employment costs.

The Norwegian authorities suggest adding a footnote to paragraph (15):

“Operating aid in very sparsely populated areas that is granted under general schemes which are open to all sectors and which are designed to offset additional transport or employment costs may be considered compatible also for sectors and undertakings comprised by paragraphs (11) and (16) to avoid disproportional administrative burdens.”

The proposed footnote is similar to the last part of the text in paragraph (67) in the current ESA guidelines.

3 European Territorial Cooperation – ETC (Interreg)

Paragraph (93) of the Commission’s regional aid guidelines reads as follows:

“For an initial investment linked to European Territorial Cooperation (ETC) projects meeting the criteria of the Regulation laying down the specific provisions for the support of the European Regional Development Fund to the ETC cooperation goal (43), the aid intensity which applies to the area in which the initial investment is located will apply to all beneficiaries participating in the project. If the initial investment is located in two or more assisted areas, the maximum aid intensity for the initial investment will be the one applicable in the assisted area where the largest part of the eligible costs are incurred. Initial investments carried out by large undertakings in ‘c’ areas may only benefit from regional aid in the context of ETC projects if they are initial investments in favour of new activities or new products.”

In the draft guidelines, the Authority has deleted the above text. This paragraph is highly relevant for Norway (and Iceland) as we participate in 12 European Territorial Cooperation programmes. We will continue to participate in the same number of programmes in the period 2014-2020. It is important that Norwegian partners in projects under these programmes are treated in the same ways with regard to regional state aid as partners from EU Member States. Hence, the Norwegian authorities argue that paragraph (93) is relevant for the EFTA States and should be included in the Authority’s Guidelines on regional state aid for 2014-2020.

4 Other issues

4.1 Paragraph (164) in the Commission's guidelines

Paragraph (164) of the Commission Guidelines on regional state aid for 2014-2020 reads as follows:

“To ensure continuity in the regional aid maps and a minimum scope of action for all Member States, the Commission considers that each Member State should not lose more than half of its total coverage compared to the period 2007-2013 and that each Member State should have a minimum population coverage.”

This paragraph has been omitted in the Authority's draft. While we see that the clause will probably not be decisive for the calculation of the population ceiling of any of the EFTA States, the Norwegian authorities still consider that the clause is not irrelevant for the EFTA States, and therefore should be included in the guidelines.

4.2 Wording of certain paragraphs

The Norwegian authorities question whether the wording of certain paragraphs is consistent. Reference is in particular made to paragraphs (145) and (149). In paragraph (145) the Authority refers to the Commission Guidelines, and “Member States”. Furthermore, in paragraph (149), the Authority refers to the EU-27 average. The Norwegian authorities kindly ask the authority to consider whether it would be possible to change the wording in order to refer more consistently to EFTA-States instead of EU Member States and to EEA and not EU-27.

Yours sincerely,

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