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Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

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II

(Acts whose publication is not obligatory)

EUROPEAN ECONOMIC AREA
EFTA SURVEILLANCE AUTHORITY

EFTA SURVEILLANCE AUTHORITY DECISION

No 262/02/COL

of 18 December 2002

amending for the thirty-fifth time the Procedural and Substantive Rules in the Field of State Aid by introducing new guidelines relating to the methodology for analysing state aid linked to stranded costs

THE EFTA SURVEILLANCE AUTHORITY,

HAVING REGARD TO the Agreement on the European Economic Area ⁽¹⁾, in particular to Articles 61 to 63 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 and Article 1 of Protocol 3 thereof,

WHEREAS under Article 24 of the Surveillance and Court Agreement the EFTA Surveillance Authority shall give effect to the provisions of the EEA Agreement concerning State aid,

WHEREAS under Article 5(2)(b) of the Surveillance and Court Agreement, the EFTA Surveillance Authority shall issue notices or guidelines on matters dealt with in the EEA Agreement, if that Agreement or the Surveillance and Court Agreement expressly so provides or if the EFTA Surveillance Authority considers it necessary,

RECALLING the Procedural and Substantive Rules in the Field of State Aid ⁽³⁾ adopted on 19 January 1994 by the EFTA Surveillance Authority ⁽⁴⁾,

WHEREAS, on 26 July 2001, the European Commission adopted a Communication setting out the principles on which it will analyse State aid linked to stranded costs in the electricity sector ⁽⁵⁾,

WHEREAS this Communication is also of relevance for the European Economic Area,

WHEREAS a uniform application of the EEA State aid rules is to be ensured throughout the European Economic Area,

WHEREAS, according to point II under the heading 'GENERAL' at the end of Annex XV to the EEA Agreement, the EFTA Surveillance Authority is to adopt, after consultation with the Commission, acts corresponding to those adopted by the EC Commission, in order to maintain equal conditions of competition,

⁽¹⁾ Hereinafter referred to as the EEA Agreement.

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

⁽³⁾ Hereinafter referred to as the State Aid Guidelines.

⁽⁴⁾ Initially published in OJ L 231, 3.9.1994, EEA Supplement No 32.

⁽⁵⁾ The Communication is available on the Commission's website:

http://europa.eu.int/comm/competition/state_aid/legislation/stranded_costs/en.pdf

HAVING consulted the European Commission,

RECALLING that the EFTA Surveillance Authority has consulted the EFTA States in a multilateral meeting on 19 October 2001 on the subject,

HAS DECIDED AS FOLLOWS:

1. The State Aid Guidelines shall be amended by adding a new Chapter 21; *Methodology for analysing State aid linked to stranded costs*. The new chapter is contained in Annex I to this Decision.
2. The EFTA States shall be informed by means of a letter, including a copy of the Decision and Annex I. The EFTA States shall be requested to signify their agreement to the proposed appropriate measure (reporting obligation in point 21.4.(5)(c)) as set out in Annex I within 20 working days from the date on which the letter is notified to them.
3. The European Commission shall be informed, in accordance with point (d) of Protocol 27 of the EEA Agreement, by means of a copy of this Decision, including Annex I.
4. The Decision, including Annex I, shall be published in the EEA Section of and the EEA Supplement to the *Official Journal of the European Communities* after the EFTA States have signified their agreement to the appropriate measures.
5. The Decision shall be authentic in the English language.

Done at Brussels, 18 December 2002.

For the EFTA Surveillance Authority

Einar M. BULL
President

Hannes HAFSTEIN
College Member

ANNEX

21. METHODOLOGY FOR ANALYSING STATE AID LINKED TO STRANDED COSTS**21.1. INTRODUCTION**

- (1) European Parliament and Council Directive 96/92/EC of 19 December 1996 concerning common rules for the internal market in electricity ⁽¹⁾ (hereinafter referred to as "the Directive" or "Directive 96/92/EC") laid down the principles for opening up the European electricity industry to competition.
- (2) The abovementioned Directive was incorporated into the EEA Agreement by Decision of the EEA Joint Committee No 168/1999 ⁽²⁾.
- (3) The gradual transition from a situation of largely restricted competition to one of genuine competition at EEA level must take place under acceptable economic conditions that take account of the specific characteristics of the electricity industry. This concern is already reflected to a very large extent in the text of the Directive itself.
- (4) In order to enable them to cope with a number of very specific situations, Article 24 of the Directive allows EFTA States to defer application of some of the provisions of the Directive for a transitional period. State aid mechanisms designed to allow electricity undertakings to adapt to the introduction of competition under favourable conditions do not fall within the scope of the derogations provided for in Article 24.
- (5) The purpose of these Guidelines is to clarify how the Authority intends, in the light of Directive 96/92/EC, to apply the rules of the EEA Agreement to State aid of this kind. These Guidelines does not prejudice the rules on State aid that result from other relevant frameworks, guidelines and notices. In particular, the Authority will continue to authorize regional aid and environmental aid in accordance with the respective guidelines. Similarly, aid that could not be authorized under Article 61 of the EEA Agreement will, where appropriate, be open to examination in the light of Article 59(2) of the EEA Agreement.

21.2. TRANSITIONAL MEASURES AND STATE AID

- (1) Article 24 of the Directive 96/92/EC, as adapted by Article 1(i) of Decision No 168/1999 of the EEA Joint Committee of 26 November 1999, stipulates that transitional measures derogating temporarily from the Directive may be authorized by the Authority ⁽³⁾:

"Those EFTA States in which commitments or guarantees of operation given before the entry into force of Decision No 168/1999 of the EEA Joint Committee of 26 November 1999 may not be honoured on account of the provisions of that Decision, may apply for a transitional regime pursuant to Article 24(1) and (2). Applications for a transitional period must be notified to the EFTA Surveillance Authority no later than six months after the entry into force of Decision No 168/1999 of the EEA Joint Committee of 26 November 1999".

- (2) Given the present state of play, the Authority considers that decisions taken by it pursuant to Article 24 can create a transitional regime only where it has previously found that the measures notified by the EFTA Member States pursuant to that Article are incompatible with the Directive's provisions set out in Chapters IV, V, VI and VII. Under Article 24 of the Directive, the Authority alone may authorize derogations from those provisions.
- (3) Accordingly, a system of levies introduced by an EFTA State via a fund to offset the costs of commitments or guarantees that might not be honoured on account of the application of Decision No 168/1999 does not constitute a measure that could benefit from a Authority decision granting a transitional regime under Article 24 of Directive 96/92/EC; such a measure does not require a derogation from the relevant chapters of the Directive. It may, on the other hand, constitute State aid, which is covered by Article 61 of the EEA Agreement and Protocol 3 to the Agreement between the EFTA States on the establishment of a Surveillance Authority and a Court of Justice.

⁽¹⁾ OJ L 27, 30.1.1997, p. 20.

⁽²⁾ OJ L 61, 1.3.2001, p. 23, and EEA Supplement No 11, 1.3.2001, p. 221.

⁽³⁾ Article 3 of Decision No 168/1999 states: "This Decision shall enter into force on 27 November 1999, provided that all the notifications under Article 103(1) of the Agreement have been made to the EEA Joint Committee."

- (4) The purpose of these Guidelines is to show how the Authority intends to apply the EEA Agreement rules on State aid in the case of aid measures designed to compensate for the cost of commitments or guarantees that it might no longer be possible to honour on account of Decision 168/1999. In particular, the Guidelines do not apply to measures that could not be classified as State aid within the meaning of Article 61(1) of the EEA Agreement.

21.3. DEFINITION OF ELIGIBLE STRANDED COSTS

- (1) Such commitments or guarantees of operation are normally referred to as “stranded costs”. They may, in practice, take a variety of forms: long-term purchase contracts, investments undertaken with an implicit or explicit guarantee of sale, investments undertaken outside the scope of normal activity, etc. In order to rank as eligible stranded costs that could be recognized by the Authority, such commitments or guarantees must satisfy the following criteria:
- (a) The “commitments or guarantees of operation” that could give rise to stranded costs must predate 27 November 1999, the date of entry into force of Decision No 168/1999.
 - (b) The existence and validity of such commitments or guarantees will be substantiated in the light of the underlying legal and contractual provisions and of the legislative context in which they were made.
 - (c) Such commitments or guarantees of operation must run the risk of not being honoured on account of the provisions of Directive 96/92/EC. In order to qualify as stranded costs, commitments or guarantees must consequently become non-economical on account of the effects of the Directive and must significantly affect the competitiveness of the undertaking concerned. Among other things, this must result in that undertaking's making accounting entries (e.g. provisions) designed to reflect the foreseeable impact of the commitment or guarantee.

Especially where, as a result of the commitments or guarantees in question, the viability of the undertakings might be jeopardised in the absence of aid or any transitional measures, the commitments or guarantees are deemed to meet the requirements laid down in the preceding paragraph.

The effect of such commitments or guarantees on the competitiveness or viability of the undertakings concerned will be assessed at the consolidated level. For commitments or guarantees to constitute stranded costs, it must be possible to establish a cause-and-effect relationship between the entry into force of Decision 168/1999 and the difficulty that the undertakings concerned have in honouring or securing compliance with such commitments or guarantees. In order to establish such cause-and-effect relationship, the Authority will take into account any fall in electricity prices or market share losses suffered by the undertakings concerned. Commitments or guarantees that could not have been honoured irrespective of the entry into force of Decision 168/1999 do not constitute stranded costs.

- (d) Such commitments or guarantees must be irrevocable. Should an undertaking have the possibility of revoking against payment, or modifying, such commitments or guarantees, account will have to be taken of this fact in calculating the eligible stranded costs.
- (e) Commitments or guarantees linking enterprises belonging to one and the same group cannot, as a rule, qualify as stranded costs.
- (f) Stranded costs are economic costs that must correspond to the actual sums invested, paid or payable by virtue of the commitments or guarantees from which they result: flat-rate calculations cannot, therefore, be accepted unless it can be shown that they reflect economic realities.
- (g) Stranded costs must be net of the income, profits or added value associated with the commitments or guarantees from which they arise.
- (h) Stranded costs must be valued net of any aid paid or payable in respect of the assets to which they relate. In particular, where a commitment or a guarantee of operation corresponds to an investment, which is the subject of State aid, the value of the aid must be deducted from any stranded costs resulting from the commitment or guarantee.

- (i) Wherever stranded costs arise from commitments or guarantees that are difficult to honour on account of Decision 168/1999, calculation of the eligible stranded costs will take account of the actual change over time in the economic and competitive conditions prevailing on the national and common electricity markets. In particular, where commitments or guarantees could constitute stranded costs because of the foreseeable fall in electricity prices, calculation of the stranded costs must take account of actual movements in electricity prices.
- (j) Costs depreciated before the transposition of Decision 168/1999 into national law cannot give rise to stranded costs. However, provisions or depreciation of assets entered in the balance sheet of the undertakings concerned with the explicit aim of taking account of the foreseeable effects of the Decision may correspond to stranded costs.
- (k) Eligible stranded costs may not exceed the minimum level necessary to allow the undertakings concerned to continue to honour or secure compliance with the commitments or guarantees called into question by Decision 168/1999 ⁽¹⁾. Consequently, they will have to be calculated by taking into account the most economic solution (in the absence of any aid) from the point of view of the undertakings concerned. This may involve, among other things, the termination of commitments or guarantees giving rise to stranded costs or the disposal of all or some of the assets giving rise to stranded costs (where this does not run counter to the very principles of the commitments or guarantees themselves).
- (l) Costs which some undertakings may have to bear after the time horizon indicated in Article 26 of the Directive (26 November 2006) cannot, as a rule, constitute eligible stranded costs within the meaning of this methodology ⁽²⁾. However, if it appears necessary, the Authority may in due course take into account such commitments or guarantees and, if appropriate, consider them as eligible stranded costs during the next stage of opening up the common electricity market.
- (m) For EFTA States which open up their markets more quickly than is required by the EEA Joint Committee Decision No 168/1999, the Authority may agree to regard as eligible stranded costs under this methodology costs which some undertakings may have to bear after the time horizon indicated in Article 26 of the Directive if such costs result from commitments or guarantees which meet the criteria under points (a) to (l) in section 21.3 above and provided that they are limited to a period not extending beyond 31 December 2010.

21.4. STRANDED COSTS AND STATE AID

- (1) The general principle laid down in Article 61(1) of the EEA Agreement is that State aid is prohibited. However, paragraphs 2 and 3 of that Article provide for a number of derogations from this general rule. Furthermore, in accordance with Article 59(2) of the EEA Agreement, "undertakings entrusted with the operation of services of general economic interest or having the character of a revenue-enhancing monopoly" are subject to the rules contained in the EEA Agreement, in particular the rules on competition, in so far as the application of those rules does not obstruct the performance, in law or in fact, of the particular tasks assigned to them. In any event, trade must not be affected to an extent contrary to the interests of the Contracting Parties.
- (2) The State aid corresponding to the eligible stranded costs defined in these Guidelines is designed to facilitate the transition for electricity undertakings to a competitive electricity market. The Authority may take a favourable view of such aid to the extent that the distortion of competition is counterbalanced by the contribution made by the aid to the attainment of a common objective that market forces could not achieve. Indeed, the distortion of competition that results from aid paid to facilitate the transition for electricity undertakings from a largely closed market to one that has been partially liberalized cannot be contrary to the common interest where it is limited in time and in its effects, since liberalization of the electricity market is in the general interest of the EEA market and supplements moves to establish the internal market. The Authority also takes the view that aid granted for stranded costs enables electricity undertakings to reduce the risks relating to their historic commitments or investments and may thus encourage them to maintain their investments in the long term. Finally, if there were no compensation for stranded costs, there would be a greater risk that the undertakings concerned might pass on the entire cost of their non-economical commitments or guarantees to their captive customers.

⁽¹⁾ In the case of a long-term contract of sale or purchase, the stranded costs will, therefore, be calculated by comparison with the conditions on which, in a liberalised market, the undertaking would normally have been able to sell or purchase the product under consideration, all things being equal.

⁽²⁾ It must be understood that investments which cannot be recouped or are not economically viable as a result of the liberalisation of the internal market in electricity may constitute stranded costs within the meaning of this methodology, including in cases where they are, in principle, to extend beyond 2006. Furthermore, commitments or guarantees which must absolutely continue to be honoured after 26 November 2006 because failure to do so might give rise to major risks concerning protection of the environment, public safety, social protection of workers or the security of the electricity network may, if duly justified, constitute eligible stranded costs according to this methodology.

- (3) Aid to compensate for stranded costs in the electricity industry can be further justified in relation to other liberalized sectors by the fact that liberalization of the electricity market has not been accompanied by either faster technological progress or increased demand and by the fact that it is hardly conceivable, in the interests of environmental protection, security of supply and the smooth operation of the EEA countries' economies, to wait until electricity undertakings encounter difficulties before considering whether to grant them state support.
- (4) In this context, the Authority takes the view that aid designed to offset stranded costs normally qualifies for the derogation under Article 61(3)(c) of the EEA Agreement if it facilitates the development of certain economic activities without adversely affecting trading conditions to an extent contrary to the common interest.
- (5) Without prejudice to the specific provisions resulting from the Authority's guidelines on the application of the EEA State aid provisions, including the guidelines on State aid for environmental protection ⁽¹⁾, the Authority may, in principle, accept as being compatible with Article 61(3)(c) of the EEA Agreement aid designed to offset eligible stranded costs which satisfied the following criteria:
- (a) The aid must serve to offset eligible stranded costs that have been clearly determined and isolated. It may under no circumstances exceed the amount of the eligible stranded costs.
 - (b) The arrangements for paying the aid must allow account to be taken of future developments in competition. Such developments may be gauged in particular by way of quantifiable factors (prices, market shares, other relevant factors indicated by the EFTA State). Since changes in the conditions of competition have a direct effect on the amount of eligible stranded costs, the amount of the aid paid will necessarily be conditional on the development of genuine competition, and the calculation of aid paid over time will have to take account of changes in the relevant factors in order to gauge the degree of competition achieved.
 - (c) The EFTA State must undertake to send to the Authority an annual report that, in particular, describes developments in the competitive situation on its electricity market by indicating among other things the changes observed in the relevant quantifiable factors. The annual report will give details of how the stranded costs taken into account for the relevant year have been calculated and will specify the amounts of aid paid.
 - (d) The degressive nature of aid intended to offset stranded costs will be viewed favourably by the Authority when making its assessment; it will, in fact, help the undertaking concerned to speed up its preparations for a liberalized electricity market.
 - (e) The maximum amount of aid that can be paid to an undertaking to offset stranded costs must be specified in advance. It must take account of productivity gains that may be achieved by the undertaking.
- Similarly, the detailed arrangements for calculating and financing aid designed to offset stranded costs and the maximum period for which such aid can be granted must be clearly spelt out in advance. Notification of the aid will specify in particular how calculation of the stranded costs will take account of changes in the various factors mentioned in point (b).
- (f) In order to avoid any cumulation of aid, the EFTA State will undertake in advance not to pay any rescue or restructuring aid to undertakings that are to benefit from aid in respect of stranded costs. The Authority takes the view that the payment of compensation for stranded costs linked to investments in assets that offer no prospects of long-term viability does not facilitate the transition of the electricity industry to a liberalized market and cannot therefore qualify for the derogation under Article 61(3)(c) of the EEA Agreement.
- (6) However, the Authority entertains the most serious misgivings regarding aid intended to offset stranded costs which do not satisfy the above criteria or which are likely to give rise to distortions of competition contrary to the common interest for the following reasons:
- (a) The aid is not linked to eligible stranded costs that meet the above definition or to clearly defined and individualized stranded costs or exceeds the amount of eligible stranded costs.

⁽¹⁾ OJ L 237, 6.9.2001, p. 16.

- (b) The aid is intended to safeguard all or some of the income pre-dating the entry into force of Decision 168/1999, without taking strictly into account the eligible stranded costs that might result from the introduction of competition.
- (c) The amount of aid is not likely to be adjusted to take due account of the differences between the economic and market assumptions initially made when estimating stranded costs and real changes in them over time.

21.5. METHOD OF FINANCING AID INTENDED TO OFFSET STRANDED COSTS

- (1) EFTA States are free to choose the methods of financing aid intended to offset stranded costs which they consider to be the most appropriate. However, in order to authorize such aid, the Authority will make sure that the financing arrangements do not give rise to effects that conflict with the objectives of Directive 96/92/EC or with the interests of the Contracting Parties. The interests of the Contracting Parties take into account, among other things, consumer protection, free movement of goods and services, and competition.
- (2) The financing arrangements must not have the effect of deterring outside undertakings or new players from entering certain national or regional markets. In particular, aid intended to offset stranded costs cannot be financed out of levies on electricity in transit between EEA States or from levies linked to the distance between the producer and the consumer.
- (3) The Authority will also ensure that the arrangements for financing aid intended to offset stranded costs result in fair treatment for eligible and non-eligible consumers. To this end, the annual report referred to in point (c) in section 21.4. will give the breakdown by eligible and non-eligible consumers of the sources of finance intended to offset the stranded costs. Where non-eligible consumers participate in the financing of stranded costs directly through the tariff for the purchase of electricity, this must be clearly stated. The contribution imposed on either group (eligible or non-eligible) must not exceed the proportion of stranded costs to be offset that corresponds to the market share accounted for by those consumers.
- (4) Where funds are raised by private undertakings with a view to financing aid mechanisms designed to offset stranded costs, the management of those funds will have to be clearly separate from that of the normal resources of those undertakings. Such investments must not benefit the undertakings managing them.

21.6. OTHER ASSESSMENT FACTORS

- (1) In examining State aid intended to offset stranded costs, the Authority takes particular account of the size and level of interconnection of the network concerned and of the structure of the electricity industry. Aid for a small network with a low degree of interconnection with the rest of the EEA will be less likely to give rise to substantial distortions of competition.
- (2) This methodology for stranded costs is without prejudice to the application, in the regions covered by Article 61(3)(a) of the EEA Agreement, of the guidelines on national regional aid ⁽¹⁾. Pursuant to Article 59(2) of the EEA Agreement, where application of the rules on State aid to stranded costs obstructs the performance, in law or in fact, of the particular tasks assigned to undertakings entrusted with the operation of services of general economic interest or having the character of a revenue-producing monopoly, those rules may be derogated from provided that trade is not affected to an extent contrary to the interests of the Contracting Parties.
- (3) The rules laid down in this methodology for State aid intended to offset stranded costs arising from Decision 168/1999 apply independently of the public or private ownership of the undertakings concerned.

⁽¹⁾ OJ L 111, 29.4.1999 and EEA Supplement No 18. See in this context chapter 25 of the State aid Guidelines.

EFTA SURVEILLANCE AUTHORITY DECISION**No 263/02/COL****of 18 December 2002****amending for the thirty-sixth time the Procedural and Substantive Rules in the Field of State Aid by introducing a new chapter 26A: Multisectoral framework on regional aid for large investment projects**

THE EFTA SURVEILLANCE AUTHORITY,

HAVING REGARD TO the Agreement on the European Economic Area ⁽¹⁾, in particular to Articles 61 to 63 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 and Article 1 of Protocol 3 thereof,

WHEREAS, under Article 24 of the Surveillance and Court Agreement, the EFTA Surveillance Authority shall give effect to the provisions of the EEA Agreement concerning State aid,

WHEREAS, under Article 5(2)(b) of the Surveillance and Court Agreement, the EFTA Surveillance Authority shall issue notices or guidelines on matters dealt with in the EEA Agreement, if that Agreement or the Surveillance and Court Agreement expressly so provides or if the EFTA Surveillance Authority considers it necessary,

RECALLING the Procedural and Substantive Rules in the Field of State Aid ⁽³⁾ adopted on 19 January 1994 by the EFTA Surveillance Authority ⁽⁴⁾, in particular the provisions contained Chapter 26 (Multisectoral Framework on regional aid for large investment projects) thereof,

WHEREAS, on 7 March 2002, the European Commission adopted a new communication ⁽⁵⁾ setting out the principles on which it will assess the compatibility with the Treaty in regional aid for large investment projects,

WHEREAS this Communication is also of relevance for the European Economic Area,

WHEREAS a uniform application of the EEA State aid rules is to be ensured throughout the European Economic Area,

WHEREAS, according to point II under the heading 'GENERAL' at the end of Annex XV to the EEA Agreement, the EFTA Surveillance Authority is to adopt, after consultation with the Commission, acts corresponding to those adopted by the EC Commission, in order to maintain equal conditions of competition,

HAVING consulted the European Commission,

RECALLING that the EFTA Surveillance Authority has consulted the EFTA States in a multilateral meeting on 19 October 2001 on the subject,

HAS DECIDED AS FOLLOWS:

1. The State Aid Guidelines shall be amended by introducing a new Chapter 26A: Multisectoral Framework on regional aid for large investment projects, by the text contained in Annex I to this Decision.

⁽¹⁾ Hereinafter referred to as the EEA Agreement.

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

⁽³⁾ Hereinafter referred to as the State Aid Guidelines.

⁽⁴⁾ Initially published in OJ L 231, 3.9.1994, EEA Supplement No 32.

⁽⁵⁾ OJ C 70, 19.3.2002, p. 8.

2. Chapter 22, Aid to the synthetic fibres industry, and Chapter 23, Aid to the motor vehicle industry, of the present State Aid Guidelines, shall be deleted.
3. The EFTA States shall be informed by means of a letter, including a copy of the Decision and Annex I. The EFTA States shall be requested to signify their agreement to the proposed appropriate measures as set out in Annex I within 20 working days, cf. also point 26A.9 of Annex I.
4. The European Commission shall be informed, in accordance with point (d) of Protocol 27 of the EEA Agreement, by means of a copy of this Decision, including Annex I.
5. The Decision, including Annex I, shall be published in the EEA Section of and the EEA Supplement to the *Official Journal of the European Communities* after the EFTA States have signified their agreement to the appropriate measures.
6. The Decision shall be authentic in the English language.

Done at Brussels, 18 December 2002.

For the EFTA Surveillance Authority

Einar M. BULL
President

Hannes HAFSTEIN
College Member

ANNEX

26A. MULTISECTORAL FRAMEWORK ON REGIONAL AID FOR LARGE INVESTMENT PROJECTS**26A.1. INTRODUCTION: SCOPE OF THE MEASURE**

- (1) On 4 November 1998, the Authority adopted the "Multisectoral framework on regional aid for large investment projects" ⁽¹⁾. The multisectoral framework became applicable from 1 January 1999 for an initial trial period of three years. Its validity was extended in 2001 until 31 December 2002.
- (2) This Framework only applies to regional aid, as defined by the Guidelines on National Regional Aid ⁽²⁾, that aims to promote initial investment, including job creation linked to initial investment, on the basis of Articles 61(3)(a) and (c) of the EEA Agreement. This Framework is without prejudice to the assessment of aid proposals under other provisions of the EEA Agreement such as Article 61(3)(b). For the steel and synthetic fibres sectors, it also applies to large individual aid grants for small and medium-sized undertakings that are not exempted by other provisions. This Framework does not apply to restructuring aid cases, which will continue to be covered by the Authority Guidelines on State aid for rescuing and restructuring firms in difficulty ⁽³⁾. Similarly, this Framework will not affect the operation of the existing horizontal frameworks, such as the Authority framework for State aid for research and development ⁽⁴⁾ and the Authority Guidelines on State aid for environmental protection ⁽⁵⁾.
- (3) The aid intensity of regional investment aid that is not exempted from the notification obligation laid down in Article 1(3) of Protocol 3 to the Surveillance and Court Agreement, will be limited on the basis of the criteria laid down in this Framework.
- (4) Under this Framework no advance notification of aid below certain thresholds for large investment projects is required, provided that aid is granted in accordance with an aid scheme approved by the Authority. However, this Framework does not affect the EFTA States' obligation to notify new individual (*ad hoc*) aid that is not exempted from the notification obligation laid down in Article 1(3) of Protocol 3 to the Surveillance and Court Agreement. The rules laid down in this Framework apply also to the assessment of such individual (*ad hoc*) State aid measures.

26A.2. THE NEED FOR THE MEASURE

- (1) The maximum aid ceilings fixed by the Authority for all areas eligible for regional aid are in general designed to provide an appropriate level of incentive necessary for the development of the assisted regions. However, as they provide a single ceiling, they are usually in excess of the regional handicaps when applied to large-scale projects. The purpose of this Framework is to limit the level of incentive available for large projects to a level that avoids as much as possible unnecessary distortions of competition.
- (2) Large investments can effectively contribute to regional development, amongst other things by attracting other companies to the region and introducing advanced technologies as well as by contributing to the training of workers. However, these investments are less affected by important region-specific problems in disadvantaged areas. First of all, large investments can produce economies of scale that reduce location-specific initial costs. Secondly, they are in many respects not tied to the region in which the physical investment takes place. Large investments can easily obtain capital and credit on global markets and are not constrained by the more limited offer of financial services in a particular disadvantaged region. Moreover, companies making large investments can access a geographically wider pool of labour, and can more easily transfer a skilled workforce to the chosen location.
- (3) At the same time, if large investments receive large amounts of State aid by benefiting from the full regional ceilings, there is an increased risk that trade will be affected and thus of a stronger distortion effect *vis-à-vis* competitors in other EEA States. This is because the beneficiary of the aid is more likely to be a significant player on the market concerned and, consequently, the investment for which the aid is awarded may modify the conditions of competition in that market.

⁽¹⁾ OJ L 111, 29.4.1999, and in the EEA Supplement No 18, on the same date.

⁽²⁾ See Chapter 25 of these Guidelines.

⁽³⁾ See Chapter 16 of these Guidelines.

⁽⁴⁾ See Chapter 14 of these Guidelines.

⁽⁵⁾ See Chapter 15 of these Guidelines.

- (4) Additionally, companies making large investments usually possess a considerable bargaining power *vis-à-vis* the authorities granting aid. Indeed, investors in large projects often consider alternative sites in different EEA States, which may lead to a spiral of increasingly generous promises of aid, possibly to a level much higher than what is necessary to compensate for the regional handicaps.
- (5) The outcome of such subsidy auctions is likely to be that large investments receive aid intensities that exceed the additional costs resulting from the choice of locating the investment in a disadvantaged area.
- (6) The amount of aid exceeding the minimum necessary to compensate for the regional disadvantages is a very likely cause of perverse effects (inefficient location choices), higher distortion of competition and, since aid is a costly transfer from taxpayers in favour of aid recipients, net welfare losses.
- (7) Recent experience has shown that large investment projects benefiting from regional investment aid are more capital-intensive than smaller investment projects. As a consequence, a more favourable treatment of smaller investment projects translates into a more favourable treatment in assisted areas of projects that are more labour intensive, thus contributing to job creation and unemployment reduction.
- (8) Certain types of investment are likely to cause serious distortion of competition, and their beneficial effect on the region concerned is doubtful. This is true in particular for investments in sectors where a single company has a high market share, or where the existing sectoral production capacity increases significantly, without a corresponding increase in demand for the products concerned. More generally, distortion of competition is likely in sectors suffering from structural problems, where the existing production capacity already exceeds the market demand for the product, or where the demand for the products concerned is persistently declining.

26A.3. REDUCTION OF AID LEVELS FOR LARGE INVESTMENT PROJECTS

- (1) Without prejudice to the compatibility criteria laid down in the Guidelines on National Regional Aid, and without prejudice to the notification obligation laid down in point (4) in section 26A.3 or to the transitional rules laid down in section 26A.8, regional investment aid concerning investments involving eligible expenditure ⁽¹⁾ for the thresholds set out below shall be subject to an adjusted lower regional aid ceiling, on the basis of the following scale:

Eligible expenditure	Adjusted aid ceiling
Up to EUR 50 million	100 % of regional ceiling
For the part between EUR 50 million and EUR 100 million	50 % of regional ceiling
For the part exceeding EUR 100 million	34 % of regional ceiling

- (2) Thus, the allowable aid amount for a project above EUR 50 million will be calculated according to the formula: maximum aid amount = $R \times (50 + 0,50 B + 0,34 C)$; where R is the unadjusted regional ceiling; B is the eligible expenditure between EUR 50 million and EUR 100 million; and C is the eligible expenditure above EUR 100 million, if any ⁽²⁾.

⁽¹⁾ Under the Guidelines on National Regional Aid, the eligible expenditure for regional investment aid is defined either by the rules laid down in its paragraphs (8) – (12) in section 25.4 (option 1) or by the rules laid down in its paragraph (24) in section 25.4 (option 2). In line with paragraph (30) in section 25.4 of the Guidelines on National Regional Aid, aid calculated on the basis of option 1 ("investment aid") can be combined with aid calculated on the basis of option 2 ("job creation aid") provided the combined amount of aid does not exceed the regional aid ceiling multiplied by the higher of the two possible eligible expenditures. In line with this rule, and for the purposes of the present framework, the eligible expenditure of a specific investment project is defined on the basis of the option that leads to the higher amount. The eligible expenditure amount will be determined in such a way as not to exceed the higher investment amount resulting from the higher of the job creation method and the initial investment method, subject to the intensity ceiling laid down for the region.

⁽²⁾ The table below further illustrates, for specific sizes of eligible expenditure and for specific regional ceilings, the aid intensities that could be allowed under the reduction scale.

Eligible expenditure	Regional aid ceiling					
	15 %	20 %	25 %	30 %	35 %	40 %
EUR 50 million	15,00 %	20,00 %	25,00 %	30,00 %	35,00 %	40,00 %
EUR 100 million	11,25 %	15,00 %	18,75 %	22,50 %	26,25 %	30,00 %
EUR 200 million	8,18 %	10,90 %	13,63 %	16,35 %	19,08 %	21,80 %
EUR 500 million	6,33 %	8,44 %	10,55 %	12,66 %	14,77 %	16,88 %

- (3) By way of example, for a large company investing EUR 80 million in an assisted area where the unadjusted regional aid ceiling is 25 % net grant equivalent (NGE), the maximum allowable aid amount would be EUR 16,25 million NGE, which corresponds to an aid intensity of 20,3 % NGE. For a large company investing EUR 160 million in the same area, the maximum allowable aid amount would be EUR 23,85 million NGE, which corresponds to an aid intensity of 14,9 % NGE.
- (4) However, EFTA States are required to notify every case of regional investment aid if the aid proposed is more than the maximum allowable aid that an investment of EUR 100 million can obtain under the scale and the rules laid down in point 26A.3(1) ⁽¹⁾. Individually notifiable projects will not be eligible for investment aid in either of the following two situations:
- (a) the aid beneficiary accounts for more than 25 % of the sales of the product concerned before the investment or will, after the investment, account for more than 25 %;
- or
- (b) the capacity created by the project is more than 5 % of the size of the market measured using apparent consumption data of the product concerned, unless the average annual growth rate of its apparent consumption over the last 5 years is above the average annual growth rate of the European Economic Area's GDP.

The burden of proving that the situations to which points (a) and (b) refer do not obtain lies with the EFTA State ⁽²⁾. For the purpose of applying points (a) and (b) apparent consumption will be defined at the appropriate level of the PRODCOM classification ⁽³⁾ in the EEA, or, if such information is not available, on the basis of any other market segmentation generally accepted for the products concerned and for which statistical data are readily available.

26A.4. AN AID PROHIBITION FOR INVESTMENT PROJECTS IN THE STEEL INDUSTRY

- (1) As regards the steel industry as defined in Annex B to this Framework ⁽⁴⁾, the Authority notes that for a fairly long period of time, ECSC steel companies functioned without recourse to investment aid such as had been available to the rest of the industrial sectors. Steel companies have integrated this factor in their strategies and are used to it. Given the specific features of the steel sector (in particular its structure, the existing over-capacity at European and world level, its highly capital intensive nature, the location of the majority of steel plants in regions eligible for regional aid, the substantial amounts of public funds devoted to the restructuring of the steel sector, and the conversion of the steel areas) and the experience gained when less strict rules on State aid applied in the past, it appears justified to continue to prohibit investment aid to this sector, irrespective of the size of the investment. Accordingly, the Authority considers that regional aid to the steel industry is not compatible with the common market. This incompatibility also applies to large individual aid grants made to small and medium-sized enterprises which are not exempted by other provisions.

26A.5. INVESTMENT PROJECTS IN SECTORS WITH STRUCTURAL PROBLEMS OTHER THAN STEEL

- (1) The Authority has consistently considered in the past that investment in sectors that do, or might, suffer from serious overcapacity or persistent decline in demand increases the risk of distortion of competition, without bringing the necessary counterbalancing benefits to the region concerned. The proper way to recognise that these investments are less beneficial from a regional point of view is to reduce investment aid to projects in sectors where structural problems prevail, to a level below that permitted for other sectors.
- (2) Until now, several sensitive industrial sectors have been subject to specific, stricter rules on State aid ⁽⁵⁾. In accordance with point 3 in section 26.1 of the previous multisectoral framework, these specific sectoral rules continues to apply.

⁽¹⁾ Proposals to award *ad hoc* aid must in any event be notified and will be assessed on the basis of the rules laid down in section 26.3 of the Framework, and in line with the general assessment criteria laid down in the Guidelines for National Regional Aid.

⁽²⁾ If the EFTA State demonstrates that the aid beneficiary creates, through genuine innovation, a new product market, the tests laid down in letters a) and b) do not need to be carried out, and the aid will be authorised under the scale in paragraph (1) in section 26A.3.

⁽³⁾ Council Regulation (EEC) No 3924/91 of 19 December 1991 on the establishment of a Community survey of industrial production (OJ L 374, 31.12.1991, p. 1). The Regulation was incorporated into the EEA Agreement (Annex XXI) by Joint Committee Decision No 7/94.

⁽⁴⁾ It includes the steel sectors previously covered by the ECSC Treaty as well as the sub-sectors of seamless tubes and large welded tubes, that were not covered by the ECSC Treaty, but which form part of an integrated production process and which have similar features to the steel sector that was covered by the ECSC Treaty.

⁽⁵⁾ Aid to shipbuilding is covered by Council Regulation (EC) No 1540/98 establishing new rules on aid to shipbuilding, as adapted for purpose of the EEA Agreement by the EEA Joint Committee Decision No 12/99, hereinafter referred to as the Shipbuilding Regulation (see also Chapter 31 of the State aid Guidelines).

- (3) One of the objectives of the previous multisectoral framework was to provide for the possibility of replacing the existing sectoral rules with a single instrument. Subject to the transitional rules laid down in section 26A.8 below, the Authority wishes through the present revision to include these sensitive industrial sectors within this Framework.
- (4) By 31 December 2003, sectors where serious structural problems prevail will be specified in a List of sectors annexed to the Framework. No regional investment aid will be authorised in these sectors, subject to the provisions laid down in this section.
- (5) For the purpose of drawing up the List of sectors, serious structural problems will in principle be measured on the basis of apparent consumption data, at the appropriate level of the CPA classification ⁽¹⁾ in the EEA, or, if such information is not available, on the basis of any other market segmentation generally accepted for the products concerned and for which statistical data are readily available. Serious structural problems will be deemed to exist when the sector concerned is declining ⁽²⁾. The List of sectors shall be updated periodically, with a frequency to be determined at the time at which the List of sectors is decided.
- (6) As from 1 January 2004, and for sectors included in the List of sectors with serious structural problems, all regional investment aid concerning an investment project involving eligible expenditure above an amount to be determined by the Authority at the time of drawing up the List of sectors ⁽³⁾ must be individually notified to the Authority. The Authority will examine such notifications in accordance with the following rules: firstly, the aid project must comply with the general assessment criteria laid down in the guidelines on national regional aid; secondly, the eligible expenditure as defined under point 26A.11(3) exceeding an amount to be determined by the Authority at the time of drawing up the List of Sectors will not be eligible for investment aid, except for the cases referred to in point 26A.5(7).
- (7) By way of derogation from point 6 in section 26A.5, the Authority may authorise investment aid for sectors included in the List of sectors on the basis of the aid intensities laid down in section 26A.3 of this Framework, provided that the EFTA State demonstrates that, although the sector is deemed to be in decline, the market for the product concerned is fast growing ⁽⁴⁾.

26A.6. EX POST MONITORING

- (1) In drawing up this Framework, the Authority has attempted to ensure that, as far as possible, it is clear, unambiguous, predictable and efficient and that the additional administrative burden it entails is kept to a minimum.
- (2) In order to ensure transparency and effective monitoring, it is appropriate to establish a standard format in which EFTA States should provide the Authority with summary information in the form laid down in Annex A, whenever aid for investments above EUR 50 million is granted in pursuance of this Framework. On implementation of aid falling under this Framework, EFTA States must, within 20 working days starting from the granting of the aid by the competent authority, forward to the Authority such summary information.
- (3) EFTA States must maintain detailed records regarding the granting of individual aid falling under this Framework. Such records must contain all information necessary to establish that the maximum aid intensity determined under this Framework is observed. EFTA States must keep a record regarding an individual aid for 10 years from the date on which it was granted. On written request, the EFTA State concerned must provide the Authority, within a period of 20 working days or such longer period as may be fixed in the request, with all the information that the Authority considers necessary to assess whether the provisions of this Framework have been complied with.

⁽¹⁾ Council Regulation (EEC) No 3696/93 of 29 October 1993 on the statistical classification of products by activity (CPA) in the European Economic Community (OJ L 342, 31.12.1993, p. 1), as last amended by Commission Regulation (EC) No 204/2002 (OJ L 36, 6.2.2002, p. 1). Council Regulation (EEC) No 3924/91 of 19 December 1991 on the establishment of a Community survey of industrial production (OJ L 374, 31.12.1991, p. 1). Regulation (EEC) No 3696/93 was incorporated into the EEA Agreement (Annex XXI) by Joint Committee Decision No 7/94.

⁽²⁾ A strong presumption of sectoral decline can arise from a negative average annual growth rate of apparent consumption in the EEA over the last five years.

⁽³⁾ This amount can in principle be set at EUR 25 million but may vary from sector to sector.

⁽⁴⁾ The market for the product concerned will be deemed to be fast growing if apparent consumption over last 5 years at the appropriate level of the PRODCOM classification in the EEA, or, if such information is not available, on the basis of another market segmentation generally accepted for the products concerned and for which statistical data are readily available, is growing in value terms by an average rate equal to or above the average growth of the EEA's GDP.

26A.7. VALIDITY OF THE FRAMEWORK

- (1) This Framework will be applicable for a period ending on 31 December 2009. Before 31 December 2009, the Authority will evaluate the Framework. The Authority may amend this Framework before 31 December 2009 on the basis of important competition policy considerations or in order to take into account other EEA policies or international commitments. Such review will not, however, affect the prohibition of investment aid to the steel industry.
- (2) As regards the steel sector as defined in Annex B, the provisions of the Framework will be applied as from 1 January 2003. The existing specific sectoral rules for certain steel sectors that were not covered by the ECSC Treaty ⁽¹⁾ will cease to be applicable from that date. As regards the motor vehicle sector as defined in Annex C, and the synthetic fibres sector as defined in Annex D, the provisions of the Framework will be applied as from 1 January 2003. However, notifications registered by the Authority before 1 January 2003 for the motor vehicle sector and the synthetic fibres sector will be examined in the light of the criteria in force at the time of notification.
- (3) As regards sectors other than those mentioned in point 26A.7(2), the provisions of this Framework will be applied as from 1 January 2004. The previous multisectoral framework will remain applicable until 31 December 2003. However, notifications registered by the Authority before 1 January 2004 will be examined in the light of the criteria in force at the time of notification.
- (4) The Authority will examine the compatibility with the EEA Agreement of investment aid granted without its authorisation:
 - (a) on the basis of the criteria set out in this Framework if the aid was granted:
 - on or after 1 January 2003, as regards investment aid to the steel sector;
 - on or after 1 January 2003, as regards investment aid to the motor vehicle sector, and the synthetic fibres sector;
 - on or after 1 January 2004, as regards investment aid to all other sectors subject to this Framework;
 - (b) on the basis of the criteria in force at the time the aid was granted, in all other cases.

26A.8. TRANSITIONAL PROVISIONS

- (1) Until the date of applicability of the List of sectors to which point 26A.5(4) refers:
 - (a) the maximum aid intensity for regional investment aid in the motor vehicle sector as defined in Annex C granted under an approved scheme in favour of projects that involve either eligible expenditure above EUR 50 million or an aid amount above EUR 5 million expressed in gross grant equivalent, will be equal to 30 % of the corresponding regional aid ceiling ⁽²⁾;
 - (b) no expenditure incurred in the context of investment projects in the synthetic fibres sector as defined in Annex D will be eligible for investment aid.
- (2) Before the date of applicability of the List of sectors to which point 26A.5(4) refers, the Authority will decide whether and to what extent the motor vehicle sector as defined in Annex C and the synthetic fibres sector as defined in Annex D must be included in the List of Sectors.
- (3) As regards the shipbuilding sector, the existing rules under EEA Joint Committee Decision No 12/99 will be in force until 31 December 2003. Before this date, the Authority will have examined whether aid to the shipbuilding sector is to be covered by this Framework and included in the List of sectors.

⁽¹⁾ See Chapter 24 of these Guidelines.

⁽²⁾ Proposals to award *ad hoc* aid must in any event be notified and will be assessed on the basis of this rule, and in line with the general assessment criteria laid down in the Guidelines (regional aid).

26A.9. APPROPRIATE MEASURES

- (1) In order to ensure the implementation of the rules laid down in this Framework, the Authority will propose appropriate measures within the meaning of Article 1(1) of Protocol 3 to the Surveillance and Court Agreement. These appropriate measures will include the following:
- (a) modifying existing regional aid maps by adapting:
 - as from 1 January 2003 the current regional aid ceilings to the aid intensities resulting from the rules laid down in section 26A.4 of this Framework,
 - as from 1 January 2003 the current regional aid ceilings to the aid intensities resulting from the rules laid down in section 26A.8,
 - as from 1 January 2004 the current regional aid ceilings to the aid intensities resulting from the rules laid down in section 26A.3,
 - (b) adjusting all existing regional aid schemes, as defined by the Guidelines on National Regional Aid, including those exempted from notification pursuant to a block exemption regulation, in order to make sure that for regional investment aid granted:
 - (i) they respect the regional aid ceilings as laid down in the regional aid maps, as modified in accordance with (a) above as from 1 January 2004, as regards sectors other than those mentioned in point 26A.7(2);
 - (ii) they provide for the individual notification of regional investment aid where the aid is more than the maximum allowable aid that an investment of EUR 100 million can obtain under the scale shown in point 26A.3(1) of this Framework as from 1 January 2004;
 - (iii) they exclude from their scope aid to the steel industry as from 1 January 2003;
 - (iv) they exclude from their scope aid to the synthetic fibres industry as from 1 January 2003 and until the List of Sectors becomes applicable;
 - (v) they limit regional investment aid in the motor vehicle sector as defined in Annex C in favour of projects that involve either eligible expenditure above EUR 50 million or an aid amount above EUR 5 million expressed in gross grant equivalent to 30 % of the corresponding regional aid ceiling, as from 1 January 2003 and until the List of Sectors becomes applicable;
 - (c) ensuring that the forms mentioned in point 26A.6(2) are forwarded to the Authority from the date this Framework becomes applicable;
 - (d) ensuring that the records mentioned in point 26A.6(3) in section 26A.10 are maintained as from the date this Framework becomes applicable;
 - (e) complying, until 31 December 2003, with the rules of the previous Multisectoral Framework on regional aid for large investment projects, and in particular with the notification requirements laid down therein.
- (2) The necessary amendments must be made by the EFTA States within a period ending on 31 December 2003, except for the measures regarding the steel sector, for which the amendments must be made with effect from 1 January 2003, and regarding the synthetic fibres sector and the motor vehicle sector for which the amendments must be made with effect from 1 January 2003. The EFTA States are invited to give their explicit agreement to the proposed appropriate measures within 20 working days from the date on which the letter is notified to them. In the absence of any reply, the Authority will assume that the EFTA State in question does not agree with the proposed measures.

26A.10. NOTIFICATION REQUIREMENT

- (1) EFTA States are invited to use the notification form attached to this Framework (Annex E) for the purpose of notifying aid proposals pursuant to this Framework.

26A.11. DEFINITION OF TERMS USED

- (1) The following definitions of the terms used in this Framework will apply:

Investment project

- (2) "Investment project" means an initial investment within the meaning of Section 25.4 of the Guidelines on National Regional Aid. An investment project should not be artificially divided into sub-projects in order to escape the provisions of this Framework. For the purpose of this framework an investment project includes all the fixed investments on a site, made by one or more undertakings, in a period of 3 years. For the purpose of this Framework, a production site is an economically indivisible series of fixed capital items fulfilling a precise technical function, linked by a physical or functional link, and which have clearly identified aims, such as the production of a defined product. Where two or more products are produced from the same raw materials, the production units of such products will be deemed to constitute a single production site.

Eligible expenditure

- (3) "Eligible expenditure", shall be determined in accordance with the rules laid down in the Guidelines on National Regional Aid for this purpose.

Regional aid ceiling

- (4) "Regional aid ceiling" refers to the maximum aid intensity authorised for large companies in the assisted area concerned at the time of the granting of the aid.

Maximum aid intensities are determined in accordance with the Guidelines on National Regional Aid, on the basis of the Regional Aid Map approved by the Authority.

Product concerned

- (5) "Product concerned" means the product envisaged by the investment project and, where appropriate, its substitutes considered to be such, either by the consumer (by reason of the product's characteristics, prices and intended use) or by the producer (through flexibility of the production installations). When the project concerns an intermediate product and a significant part of the output is not sold on the market, the product concerned will be deemed to include the downstream products.

Apparent consumption

- (6) "Apparent consumption" of the product concerned is production plus imports minus exports.
- (7) Where the Authority determines in accordance with this Framework the average annual growth of the apparent consumption of the product concerned, it will take into consideration, where appropriate, any significant change in that trend.
- (8) Where the investment project concerns a service sector, and in order to determine the size and the evolution of the market, the Authority will, instead of using apparent consumption, use the turnover of the services concerned on the basis of the market segmentation generally accepted for the services concerned and for which statistical data are readily available.
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ANNEX A TO THE MULTISECTORAL FRAMEWORK

(FORM FOR EX POST MONITORING)

- Scheme title (or indicate if it is an *ad-hoc* aid)
 - Public entity providing the assistance
 - If the legal basis is an aid scheme approved by the Authority, provide the date of the approval and the State aid case reference number
 - Specify the region and the municipality
 - Specify company name, whether it is an SME or a large company and, where relevant, the name of the parent companies
 - Specify the type of the project and whether it is a new establishment or a capacity expansion or other
 - Specify the total cost and the eligible cost of capital expenditure to be invested over the lifetime of the project
 - Nominal amount of support and its gross and net grant equivalent
 - Provide the conditions attached to the payment of the proposed assistance, if any
 - Products or services concerned and their PRODCOM nomenclature or CPA nomenclature for projects in the service sectors
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ANNEX B TO THE MULTISECTORAL FRAMEWORK

DEFINITION OF THE STEEL INDUSTRY FOR THE PURPOSES OF THE MULTISECTORAL FRAMEWORK

The steel industry, for the purposes of the multisectoral framework consists of the undertakings engaged in the production of the steel products listed below:

Product	Combined Nomenclature Code ⁽¹⁾
Pig iron	7201
Ferro-alloys	7202 11 20; 7202 11 80; 7202 99 11
Ferrous products obtained by direct reduction of iron ore and other spongy ferrous products	7203
Iron and non-alloy steel	7206
Semi-finished products of iron or non-alloy steel	7207 11 11; 7207 11 14; 7207 11 16; 7207 12 10; 7207 19 11; 7207 19 14; 7207 19 16; 7207 19 31; 7207 20 11; 7207 20 15; 7207 20 17; 7207 20 32; 7207 20 51; 7207 20 55; 7207 20 57; 7207 20 71
Flat rolled products of iron and non-alloy steel	7208 10 00; 7208 25 00; 7208 26 00; 7208 27 00; 7208 36 00; 7208 37; 7208 38; 7208 39; 7208 40; 7208 51; 7208 52; 7208 53; 7208 54; 7208 90 10; 7209 15 00; 7209 16; 7209 17; 7209 18; 7209 25 00; 7209 26; 7209 27; 7209 28; 7209 90 10; 7210 11 10; 7210 12 11; 7210 12 19; 7210 20 10; 7210 30 10; 7210 41 10; 7210 49 10; 7210 50 10; 7210 61 10; 7210 69 10; 7210 70 31; 7210 70 39; 7210 90 31; 7210 90 33; 7210 90 38; 7211 13 00; 7211 14; 7211 19; 7211 23 10; 7211 23 51; 7211 29 20; 7211 90 11; 7212 10 10; 7212 10 91; 7212 20 11; 7212 30 11; 7212 40 10; 7212 40 91; 7212 50 31; 7212 50 51; 7212 60 11; 7212 60 91
Bars and rods, hot rolled, in irregularly wound coils, of iron or non alloy steel	7213 10 00; 7213 20 00; 7213 91; 7213 99
Other bars and rods of iron and non-alloy steel	7214 20 00; 7214 30 00; 7214 91; 7214 99; 7215 90 10
Angles, shapes and sections of iron or non-alloy steel	7216 10 00; 7216 21 00; 7216 22 00; 7216 31; 7216 32; 7216 33; 7216 40; 7216 50; 7216 99 10
Stainless Steel	7218 10 00; 7218 91 11; 7218 91 19; 7218 99 11; 7218 99 20
Flat-rolled products of stainless steel	7219 11 00; 7219 12; 7219 13; 7219 14; 7219 21; 7219 22; 7219 23 00; 7219 24 00; 7219 31 00; 7219 32; 7219 33; 7219 34; 7219 35; 7219 90 10; 7220 11 00; 7220 12 00; 7220 20 10; 7220 90 11; 7220 90 31
Bars and rods of stainless steel	7221 00; 7222 11; 7222 19; 7222 30 10; 7222 40 10; 7222 40 30
Flat rolled products of other alloy steel	7225 11 00; 7225 19; 7225 20 20; 7225 30 00; 7225 40; 7225 50 00; 7225 91 10; 7225 92 10; 7225 99 10; 7226 11 10; 7226 19 10; 7226 19 30; 7226 20 20; 7226 91; 7226 92 10; 7226 93 20; 7226 94 20; 7226 99 20
Bars and rods of other alloys steels	7224 10 00; 7224 90 01; 7224 90 05; 7224 90 08; 7224 90 15; 7224 90 31; 7224 90 39; 7227 10 00; 7227 20 00; 7227 90; 7228 10 10; 7228 10 30; 7228 20 11; 7228 20 19; 7228 20 30; 7228 30 20; 7228 30 41; 7228 30 49; 7228 30 61; 7228 30 69; 7228 30 70; 7228 30 89; 7228 60 10; 7228 70 10; 7228 70 31; 7228 80
Sheet piling	7301 10 00
Rails and cross ties	7302 10 31; 7302 10 39; 7302 10 90; 7302 20 00; 7302 40 10; 7302 10 20
Seamless tubes, pipes and hollow profiles	7303; 7304
Welded iron or steel tubes and pipes, the external diameter of which exceeds 406,4 mm	7305

⁽¹⁾ OJ L 279, 23.10.2001, p. 1.

ANNEX C TO THE MULTISECTORAL FRAMEWORK

DEFINITION OF MOTOR VEHICLE INDUSTRY FOR THE PURPOSES OF THE MULTISECTORAL FRAMEWORK

The “motor vehicle industry” means the development, manufacture and assembly of “motor vehicles”, “engines” for motor vehicles and “modules or sub-systems” for such vehicles or engines, either direct by a manufacturer or by a “first-tier component supplier” and, in the latter case, only in the context of an “overall project”.

(a) *Motor vehicles*

The term “motor vehicles” means passenger cars, vans, trucks, road tractors, buses, coaches and other commercial vehicles. It does not include racing cars, vehicles intended for off-road use (for example, vehicles designed for use on snow or for carrying persons on golf courses), motorcycles, trailers, agricultural and forestry tractors, caravans, special purpose vehicles (for example, firefighting vehicles, mobile workshops), dump trucks, works’ trucks (for example, fork lift trucks, straddle carrier trucks and platform trucks) and military vehicles intended for armies.

(b) *Engines for motor vehicles*

The term “motor vehicle engines” means compression and spark ignition engines as well as electric motors and turbine, gas, hybrid or other engines for motor vehicles.

(c) *Modules and sub-systems*

A “module” or a “sub-system” means a set of primary components intended for a vehicle or engine which is produced, assembled or fitted by a first-tier component supplier and supplied through a computerized ordering system or on a just-in-time basis. Logistical supply and storage systems and subcontracted complete operations which form part of the production chain, such as the painting of sub-assemblies, should likewise be classified among these modules and sub-systems.

(d) *First-tier component suppliers*

A “first-tier component supplier” means a supplier, whether independent or not, supplying a manufacturer, sharing responsibility for design and development (12), and manufacturing, assembling or supplying a vehicle manufacturer during the manufacturing or assembly stage with sub-assemblies or modules. As industrial partners, such suppliers are often linked to a manufacturer by a contract of approximately the same duration as the life of the model (for example, until the model is restyled). A first-tier component supplier may also supply services, especially logistical services, such as the management of a supply centre.

(e) *Overall project*

A manufacturer may, on the actual site of the investment or in one or several industrial parks in fairly close geographical proximity (13), integrate one or more projects of first-tier component suppliers for the supply of modules or sub-systems for the vehicles or engines being produced. An “overall project” means one which groups together such projects. An overall project lasts for the life of the vehicle manufacturer’s investment project. An investment of one first-tier component supplier is integrated within the definition of a global project if at least half the output resulting from that investment is delivered to the manufacturer concerned at the plant in question.

ANNEX D TO THE MULTISECTORAL FRAMEWORK

DEFINITION OF SYNTHETIC FIBRES INDUSTRY FOR THE PURPOSES OF THE MULTISECTORAL FRAMEWORK

The synthetic fibres industry is defined, for the purposes of the multisectoral framework, as:

- extrusion/texturisation of all generic types of fibre and yarn based on polyester, polyamide, acrylic or polypropylene, irrespective of their end-uses,

or
 - polymerization (including polycondensation) where it is integrated with extrusion in terms of the machinery used,

or
 - any ancillary process linked to the contemporaneous installation of extrusion/texturisation capacity by the prospective beneficiary or by another company in the group to which it belongs and which, in the specific business activity concerned, is normally integrated with such capacity in terms of the machinery used.
-

ANNEX E TO THE MULTISECTORAL FRAMEWORK

NOTIFICATION FORM ⁽¹⁾

SECTION 1 — EFTA STATE

1.1. Information on notifying public authority:

1.1.2. Name and address of notifying authority;

1.1.3. Name, telephone, fax and e-mail address of, and position held by, the person(s) to be contacted in case of further inquiry.

1.2. Information of contact in permanent representation:

1.2.1. Name, telephone, fax and e-mail address of, and position held by, the person to be contacted in case of further inquiry.

SECTION 2 — AID RECIPIENT

2.1. Structure of the company or companies investing in the project:

2.1.1. Identity of aid recipient;

2.1.2. If the legal identity of the aid recipient is different from the undertaking(s) that finance(s) the project or that receive(s) the aid, describe also these differences;

2.1.3. Identify the parent group of the aid recipient, describe the group structure and ownership structure of each parent company.

2.2. For a company or companies investing in the project, provide the following data for the last three financial years:

2.2.1. World-wide turnover, EEA turnover, turnover in EFTA State concerned;

2.2.2. Profit after tax and cash flow (on a consolidated basis);

2.2.3. Employment world-wide, at EEA level and in EFTA State concerned;

2.2.4. Market breakdown of sales in the Member State concerned, in the rest of the EEA and outside the EEA

2.2.5. Audited financial statements and annual report for the last 3 years.

2.3. If the investment takes place in an existing industrial location, provide the following data for the last three financial years of that entity:

2.3.1. Total turnover;

2.3.2. Profit after tax and cash flow;

2.3.3. Employment;

2.3.4. Market breakdown of sales: in the EFTA State concerned, in the rest of the EEA and outside the EEA.

⁽¹⁾ For aid granted outside authorised schemes, the EFTA State must provide information detailing the beneficial effects of the aid on the assisted area concerned.

SECTION 3 — PROVISION OF PUBLIC ASSISTANCE

For each measure of proposed public assistance, provide the following:

3.1. Details:

3.1.1. Scheme title (or indicate if it is an “ad hoc” aid);

3.1.2. Legal basis (law, decree, etc.);

3.1.3. Public entity providing the assistance;

3.1.4. If the legal basis is an aid scheme approved by the Authority, provide the date of the approval and the State aid case reference number.

3.2. Form of the proposed assistance:

3.2.1. Is the proposed assistance a grant, interest subsidy, reduction in social security contributions, tax credit (relief), equity participation, debt conversion or write off, soft loan, deferred tax provision, amount covered by a guarantee scheme, etc.?

3.2.2. Provide the conditions attached to the payment of the proposed assistance;

3.3. Amount of the proposed assistance:

3.3.1. Nominal amount of support and its gross and net grant equivalent;

3.3.2. Is the assistance measure subject to corporate tax (or other direct taxation)? If only partially, to what extent?;

3.3.3. Provide a complete schedule of the payment of the proposed assistance. For the package of proposed public assistance, provide the following:

3.4. The characteristics of the assistance measures:

3.4.1. Are any of the assistance measures of the overall package not yet defined? If yes, specify;

3.4.2. Indicate which of the abovementioned measures does not constitute State aid and for what reason(s).

3.5. Is some additional support for the same project to be requested from any other European or international financing institutions? If so, for what amounts?

3.6. Cumulation of public assistance measures:

3.6.1. Estimated gross grant equivalent (before taxation) of the combined aid measures;

3.6.2. Estimated net grant equivalent (after taxation) of the combined aid measures.

SECTION 4 — ASSISTED PROJECT

4.1. Location of the project:

4.1.1. Specify the region and the municipality as well as the address.

4.2. Duration of the project:

4.2.1. Specify the start date of the investment project as well as the completion date of the investment;

4.2.2. Specify the planned start date of the new production and the year by which full production may be reached.

4.3. Description of the project:

4.3.1. Specify the type of the project and whether it is a new establishment or a capacity expansion or other;

- 4.3.2. Provide a short general description of the project.
- 4.4. Breakdown of the project costs:
 - 4.4.1. Specify the total cost of capital expenditure to be invested and depreciated over the lifetime of the project;
 - 4.4.2. Provide a detailed breakdown of the capital and non-capital (2) expenditure associated with the investment project.
- 4.5. Financing of total project costs:
 - 4.5.1. Indicate the financing of the total cost of the investment project.

SECTION 5 — PRODUCT AND MARKET CHARACTERISTICS

- 5.1. Characterisation of product(s) envisaged by the project:
 - 5.1.1. Specify the product(s) that will be produced in the aided facility upon the completion of the investment and the relevant (sub-)sector(s) to which the product(s) belong(s) (indicate the PRODCOM code or CPA nomenclature for projects in the service sectors);
 - 5.1.2. What product(s) will it replace? If these replaced products are not produced at the same location, indicate where they are currently produced;
 - 5.1.3. What other product(s) can be produced with the same new facilities at little or no additional cost?
 - 5.2. Capacity considerations:
 - 5.2.1. Quantify the impact of the project on the aid recipient's total viable capacity in the EEA (including at Group level) for each of the product(s) concerned (in units per year in the year preceding the start year and on completion of the project);
 - 5.2.2. Provide an estimate of the total capacity of all EEA producers for each of the products concerned.
 - 5.3. Market data:
 - 5.3.1. Provide for each of the last six financial years data on apparent consumption of the product(s) concerned. If available, include statistics prepared by other sources to illustrate the answer;
 - 5.3.2. Provide for the next three financial years a forecast of the evolution of apparent consumption of the product(s) concerned. If available, include statistics prepared by independent sources to illustrate the answer;
 - 5.3.3. Is the relevant market in decline and for what reasons?;
 - 5.3.4. An estimate of the market shares (in value) of the aid recipient or of the group to which the aid recipient belongs in the year preceding the start year and on completion of the project.'
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EFTA SURVEILLANCE AUTHORITY DECISION**No 264/02/COL****of 18 December 2002****amending for the thirty-seventh time the Procedural and Substantive Rules in the Field of State Aid by introducing a new chapter 22: Rescue and restructuring aid and closure aid for the steel sector**

THE EFTA SURVEILLANCE AUTHORITY,

HAVING REGARD TO the Agreement on the European Economic Area ⁽¹⁾, in particular to Articles 61 to 63 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 and Article 1 of Protocol 3 thereof,

WHEREAS, under Article 24 of the Surveillance and Court Agreement, the EFTA Surveillance Authority shall give effect to the provisions of the EEA Agreement concerning State aid,

WHEREAS, under Article 5(2)(b) of the Surveillance and Court Agreement, the EFTA Surveillance Authority shall issue notices or guidelines on matters dealt with in the EEA Agreement, if that Agreement or the Surveillance and Court Agreement expressly so provides or if the EFTA Surveillance Authority considers it necessary,

RECALLING the Procedural and Substantive Rules in the Field of State Aid ⁽³⁾ adopted on 19 January 1994 by the EFTA Surveillance Authority ⁽⁴⁾,

WHEREAS, on 7 March 2002, the European Commission adopted a new communication ⁽⁵⁾ setting out the principles on which it will assess rescue and restructuring aid and closure aid for the steel sector,

WHEREAS this Communication is also of relevance for the European Economic Area,

WHEREAS a uniform application of the EEA State aid rules is to be ensured throughout the European Economic Area,

WHEREAS, according to point II under the heading 'GENERAL' at the end of Annex XV to the EEA Agreement, the EFTA Surveillance Authority is to adopt, after consultation with the Commission, acts corresponding to those adopted by the EC Commission, in order to maintain equal conditions of competition,

HAVING consulted the European Commission,

RECALLING that the EFTA Surveillance Authority has consulted the EFTA States in a multilateral meeting on 19 October 2001 on the subject,

HAS DECIDED AS FOLLOWS:

1. The State Aid Guidelines shall be amended by introducing a new Chapter 22: Rescue and restructuring aid and closure aid for the steel sector, by the text contained in Annex I to this Decision.

⁽¹⁾ Hereinafter referred to as the EEA Agreement.

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

⁽³⁾ Hereinafter referred to as the State Aid Guidelines.

⁽⁴⁾ Initially published in OJ L 231, 3.9.1994, EEA Supplement No 32.

⁽⁵⁾ OJ C 70, 19.3.2002, p. 8.

2. The EFTA States shall be informed by means of a letter, including a copy of the Decision and Annex I. The EFTA States shall be requested to signify their agreement to the proposed appropriate measures as set out in Annex I within 20 working days, cf. also point 22.4 of Annex I.
3. The European Commission shall be informed, in accordance with point (d) of Protocol 27 of the EEA Agreement, by means of a copy of this Decision, including Annex I.
4. The Decision, including Annex I, shall be published in the EEA Section of and the EEA Supplement to the *Official Journal of the European Communities* after the EFTA States have signified their agreement to the appropriate measures.
5. The Decision shall be authentic in the English language.

Done at Brussels, 18 December 2002.

For the EFTA Surveillance Authority

Einar M. BULL

President

Hannes HAFSTEIN

College Member

ANNEX

22. RESCUE AND RESTRUCTURING AID AND CLOSURE AID FOR THE STEEL SECTOR**22.1. RESCUE AND RESTRUCTURING AID FOR FIRMS IN DIFFICULTY**

Rescue aid and restructuring aid for firms in difficulty in the steel sector as defined in Annex B of the Multisectoral Framework on regional aid for large investment projects, are not compatible with the common market.

22.2. CLOSURE AID

- (1) Aid to facilitate the development of certain economic activities may be considered to be compatible with the common market. The following aid for firms in the steel industry as defined in Annex B of the Multicultural Framework may be regarded as compatible with the common market:
- (2) aid to cover payments payable by steel firms to workers made redundant or accepting early retirement provided that:
 - the payments actually arise from the partial or total closure of steel plants which have not already been taken into account for approval of aid,
 - the payments do not exceed those customarily granted under the rules in force in the EFTA States,
 - and
 - the aid does not exceed 50 % of those payments.
- (3) aid to steel firms which permanently cease production of steel products, provided that:
 - the firms became legal entities before 1 January 2002,
 - they regularly produced steel products up to the date of notification of the aid concerned,
 - they have not reorganised their production or plant structure since 1 January 2002,
 - they close and scrap the installations used to manufacture steel products within six months of the cessation of production or approval of the aid by the Authority, whichever is the later,
 - the closure of their plants has not already been taken into account for approval of aid;
 - and
 - the amount of the aid does not exceed the residual book value of the plants to be closed, ignoring that portion of any revaluation since 1 January 2002 which exceeds the national inflation rate.
- (4) aid to steel firms which satisfy the conditions set out in point 22.2(3) but which are directly or indirectly controlled by, or which themselves directly or indirectly control, a firm that is itself a steel firm may be deemed compatible with the common market provided that:
 - the firm to be closed has been effectively and legally separated from the corporate structure for at least six months before payment of the aid;
 - the accounts of the firm to be closed have been independently certified, by an auditor accepted by the Authority, to be a true and accurate account of the assets and liabilities of that firm;
 - and

- there is a genuine and verifiable reduction in production capacity such as to yield an appreciable benefit over time for the industry as a whole in terms of a reduction in the production capacity for steel products over a period of five years following the date of the aided closure or the date of the last payment of aid approved under this point, if later. EFTA States are invited to use the notification form attached to the Multisectoral Framework (Annex E) for the purpose of notifying aid proposals pursuant to this Framework.

22.3. NOTIFICATION OBLIGATION

All plans to grant aid for rescuing and restructuring firms in difficulty belonging to the steel industry and for closure aid to that sector shall be notified individually.

22.4. APPROPRIATE MEASURES

- (1) The Authority proposes as an appropriate measure pursuant to Article 1(1) of Protocol 3 to the Surveillance and Court Agreement, to exclude from the scope of their existing schemes for rescuing and restructuring firms in difficulties, as defined by the Authority Guidelines on State aid for rescuing and restructuring firms in difficulty (Chapter 16), aid to firms belonging to the steel sector, as defined by Annex B to the Multisectoral Framework, as from 1 January 2003.
- (2) EFTA States are invited to give their explicit agreement to the proposed appropriate measures within 20 working days from the date on which the letter is notified to them. In the absence of any reply, the Authority will assume that the EFTA State in question does not agree with the proposed measures.

22.5. APPLICATION OF THIS FRAMEWORK

This Framework will be applicable from 1 January 2003 for a period ending on 31 December 2009.

22.6. NON-NOTIFIED AID GRANTED TO THE STEEL INDUSTRY

The Authority will examine the compability with the common market of aid granted to the steel industry without its authorisation on the basis of the criteria in force at the time the aid was granted.'

EFTA SURVEILLANCE AUTHORITY DECISION**No 196/03/COL****of 5 November 2003**

amending for the thirty-eighth time the Procedural and Substantive Rules in the Field of State Aid by introducing a new chapter 9B: Complaints – Form for the submission of complaints concerning alleged unlawful state aid

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, Article 5(2)(b) and Article 1 in Part I of Protocol 3 thereof ⁽³⁾,

WHEREAS under Article 24 of the Surveillance and Court Agreement, the EFTA Surveillance Authority shall give effect to the provisions of the EEA Agreement concerning State aid,

WHEREAS under Article 5(2)(b) of the Surveillance and Court Agreement the EFTA Surveillance Authority shall issue notices or guidelines on matters dealt with in the EEA Agreement, if that Agreement or the Surveillance and Court Agreement expressly so provides or if the EFTA Surveillance Authority considers it necessary,

RECALLING the Procedural and Substantive Rules in the Field of State Aid ⁽⁴⁾ adopted on 19 January 1994 by the EFTA Surveillance Authority ⁽⁵⁾,

WHEREAS, on 16 May 2003, the European Commission published a new form for the submission of complaints concerning alleged unlawful State aid ⁽⁶⁾,

WHEREAS this form is also of relevance for the European Economic Area,

WHEREAS a uniform application of the EEA State aid rules is to be ensured throughout the European Economic Area,

WHEREAS, according to point II under the heading 'GENERAL' at the end of Annex XV to the EEA Agreement, the EFTA Surveillance Authority is to adopt, after consultation with the Commission, acts corresponding to those adopted by the European Commission,

HAVING consulted the European Commission,

RECALLING that the EFTA Surveillance Authority has consulted the EFTA States in a multilateral meeting on 20 June 2003 on the subject,

HAS DECIDED AS FOLLOW:

1. The State Aid Guidelines shall be amended by adding a new Chapter 9B 'Complaints – Form for the submission of complaints concerning alleged unlawful State aid'.
2. A new section III 'Form for the submission of complaints concerning alleged unlawful State aid' shall be introduced in Annex I to the State Aid Guidelines.

⁽¹⁾ Hereinafter referred to as the EEA Agreement.

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

⁽³⁾ Protocol 3 to the Surveillance and Court Agreement as amended by the EFTA States on 10 December 2001. The amendments entered into force on 28 August 2003.

⁽⁴⁾ Hereinafter referred to as the State Aid Guidelines.

⁽⁵⁾ Initially published in OJ L 231, 3.9.1994, and in the EEA Supplement thereto No 32 on the same date, last amended by College Decision No 264/02COL of 18.12.2002, not yet published.

⁽⁶⁾ Form for the submission of complaints concerning alleged unlawful State aid (OJ C 116, 16.5.2003, p. 3).

3. The new Chapter 9B and the new section III of Annex I to the State Aid Guidelines can be found in the Annex to this Decision.
4. The EFTA States shall be informed by means of a letter, including a copy of this Decision and including the Annex.
5. The European Commission shall be informed, in accordance with point (d) of Protocol 27 of the EEA Agreement, by means of a copy of this Decision, including the Annex.
6. The Decision, including the Annex, shall be published in the EEA Section of and in the EEA Supplement to the *Official Journal of the European Union*.
7. The Decision shall be authentic in the English language.

Done at Brussels, 5 November 2003.

For the EFTA Surveillance Authority

Einar M. BULL
President

Hannes HAFSTEIN
College Member

ANNEX

‘9B COMPLAINTS — FORM FOR THE SUBMISSION OF COMPLAINTS CONCERNING ALLEGED UNLAWFUL STATE AID

Article 1(3) in Part I as well as Article 2(1) in Part II of Protocol 3 to the Surveillance and Court Agreement provide that 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 EFTA State concerned shall not put its proposed measures into effect until this procedure has resulted in a final decision.

Aid that has been put into effect in contravention of the above mentioned provisions constitutes “unlawful aid”.

In accordance with Article 10(1) in Part II of Protocol 3 to the Surveillance and Court Agreement where the EFTA Surveillance Authority has in its possession information from whatever source regarding alleged unlawful aid, it shall examine that information without delay.

Furthermore, according to Article 20(2) in Part II of the above mentioned Protocol, any interested party may inform the EFTA Surveillance Authority of any alleged unlawful aid and any alleged misuse of aid (hereinafter referred to as a complaint).

Any person or company may submit a complaint to the EFTA Surveillance Authority. The procedure is free of charge. When investigating complaints the EFTA Surveillance Authority is obliged to respect the procedural rules set out in Protocol 3 to the Surveillance and Court Agreement, and in particular the rights of defence of the EFTA State concerned.

Moreover, as an alternative, or as well as submitting a complaint to the EFTA Surveillance Authority, it is usually possible for third parties whose interests have been adversely affected by the grant of an unlawful aid to pursue the matter before the national courts.

However, the EFTA Surveillance Authority cannot offer advice about the national procedures available in individual cases.

The complaint form in Annex I, section III of these Guidelines sets out the information the EFTA Surveillance Authority needs in order to be able to follow-up a complaint about alleged unlawful or misused aid. Reasons should be given in case it is not possible to complete all the sections of the form.

The form is accessible on the Internet server of the EFTA Surveillance Authority at the following addresses:
<http://www.eftasurv.int>

The website of the EFTA Surveillance Authority also contains much useful information about the State aid rules to be applied in the European Economic Area which may help the complainants or their advisers to complete the form.

The form can be sent to the following address:

EFTA Surveillance Authority
Competition and State Aid Directorate
74, Rue de Trèves
B-1040 Brussels

SECTION III

Form for the submission of complaints concerning alleged unlawful State aid

You can send this form to the following address:

EFTA Surveillance Authority
Competition and State Aid Directorate
74, Rue de Trèves
B-1040 Brussels

I.A. *Information regarding the complainant*

- I.1. Surname and forename of complainant, or corporate name
- I.2. Address or Registered Office:
- I.3. Telephone, fax, e-mail address:
- I.4. Name, address, telephone, fax, e-mail address of a contact person:
- I.5. If the complainant is an enterprise, a brief description of the complainant and its field(s) and place(s) of activity:
- I.6. Please summarise briefly how the award of the alleged aid affects the complainant's interests.

I.B. *Information regarding the representative of the complainant*

- I.7. If the complaint is submitted on behalf of someone else (a person or a firm), please also provide the name, address, fax, e-mail address of the representative and attach written proof that the representative is authorized to act.

II. *Information regarding the EFTA State*

- II.1. EFTA State:
- II.2. Level at which the alleged unlawful State aid has been granted:
 - central government
 - region (please specify)
 - other (please specify)

III. *Information regarding the alleged aid measures complained of*

- III.1. Are you complaining about an alleged aid scheme, or an alleged individual aid?
- III.2. When was the alleged aid given or the alleged aid scheme implemented? What is the duration of the alleged aid scheme (if known)?
- III.3. In which economic sector(s) does this alleged aid apply?
- III.4. What is the amount of the alleged aid? In what form is it given (loans, grants, guarantees, tax incentives or exemptions, etc.)?
- III.5. Who is the beneficiary? In the case of a scheme, who is eligible for the alleged aid?

Please give as much information as possible, including a description of the main activities of the firm(s) concerned.

- III.6. For what purpose was the alleged aid given (if known)?

IV. *Grounds of complaint*

Please explain in detail the grounds for your complaint, including the reasons why you have complained, what rules of the EEA law you think have been infringed by the granting of the alleged aid in question and how this has affected conditions of competition in the European Economic Area and trade between Contracting Parties.

If the alleged aid has damaged your own commercial interests, please explain how.

V. Information on other procedures

- V.1. Details of any approaches already made to the EFTA Surveillance Authority (if possible, attach copies of correspondence):
- V.2. Details of any approaches made to the services of the European Commission (if possible attach copies of correspondence):
- V.3. Approaches already made to national authorities (e.g. central, regional or local government bodies, ombudsman, etc.; if possible, attach copies of correspondence):
- V.4. Recourse to national courts or other procedures (e.g. arbitration or conciliation). (Indicate whether there has already been a decision or award and attach a copy if appropriate):

VI. Supporting documents

List any documents or evidence which have been submitted in support of the complaint, and attach copies. Whenever possible, provide a copy of the national law or other measures establishing the legal basis for the payment of the alleged aid.

VII. Confidentiality

You should be aware that in order to protect the rights of defence of the EFTA State concerned, the EFTA Surveillance Authority may have to disclose your identity and any supporting documents, or their contents, to the EFTA State. Please indicate clearly, if you do not wish your identity or certain documents or information to be disclosed and clearly identify the confidential parts of any documents, giving reasons.

Place, date and signature of complainant'

EFTA SURVEILLANCE AUTHORITY DECISION

No 197/03/COL

of 5 November 2003

amending for the thirty-ninth time the Procedural and Substantive Rules in the Field of State Aid by introducing a new chapter 34: Reference rates and discount rates and interest rates to be applied for the recovery of unlawful state aid

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, Article 5 (2) (b) and Article 1 in Part I of Protocol 3 thereof ⁽³⁾,

WHEREAS under Article 24 of the Surveillance and Court Agreement, the EFTA Surveillance Authority shall give effect to the provisions of the EEA Agreement concerning State aid,

WHEREAS under Article 5 (2) (b) of the Surveillance and Court Agreement the EFTA Surveillance Authority shall issue notices or guidelines on matters dealt with in the EEA Agreement, if that Agreement or the Surveillance and Court Agreement expressly so provides or if the EFTA Surveillance Authority considers it necessary,

RECALLING the Procedural and Substantive Rules in the Field of State Aid ⁽⁴⁾ adopted on 19 January 1994 by the EFTA Surveillance Authority ⁽⁵⁾,

WHEREAS, on 8 May 2003, the European Commission published a new Communication on the interest rates to be applied when aid granted unlawfully is being recovered ⁽⁶⁾,

WHEREAS this Communication is also of relevance for the European Economic Area,

WHEREAS a uniform application of the EEA State aid rules is to be ensured throughout the European Economic Area,

WHEREAS, according to point II under the heading 'GENERAL' at the end of Annex XV to the EEA Agreement, the EFTA Surveillance Authority is to adopt, after consultation with the Commission, acts corresponding to those adopted by the European Commission,

WHEREAS, the former Chapter 33.2 of the State Aid Guidelines on Reference Rates of Interest also deals with interest rates and should therefore become part of the same chapter as the provisions for the interest rates to be applied for the recovery of unlawful aid,

HAVING consulted the European Commission,

RECALLING that the EFTA Surveillance Authority has consulted the EFTA States in a multilateral meeting on 20 June 2003 on the subject,

⁽¹⁾ Hereinafter referred to as the EEA Agreement.

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

⁽³⁾ Protocol 3 to the Surveillance and Court Agreement as amended by the EFTA States on 10 December 2001. The amendments entered into force on 28 August 2003.

⁽⁴⁾ Hereinafter referred to as the State Aid Guidelines.

⁽⁵⁾ Initially published in OJ L 231, 3.9.1994, and in the EEA Supplement thereto No 32 on the same date, last amended by College Decision No 196/03/COL of 5 November 2003, not yet published.

⁽⁶⁾ Commission Communication on the interest rates to be applied when aid granted unlawfully is being recovered (OJ C 110, 8.5.2003, p. 21, corrigendum OJ C 150, 27.6.2003, p. 3).

HAS DECIDED AS FOLLOWS:

1. The State Aid Guidelines shall be amended by adding a new Chapter 34 'Reference and discount rates and interest rates to be applied for the recovery of unlawful aid'.
2. Chapter 33.2 of the State Aid Guidelines will become Chapter 34.1. Chapter 33.2 will be deleted.
3. The title of Chapter 33 'Other provisions' will be replaced by the title of Chapter 33.1 and will now read 'Conversions between national currencies and the Euro'. Any reference in this chapter to ECUs should now read 'Euro'. The title of Chapter 33.1 will be deleted.
4. The new Chapter 34 can be found in Annex to this Decision.
5. The EFTA States shall be informed by means of a letter, including a copy of this Decision and including the Annex.
6. The European Commission shall be informed, in accordance with point (d) of Protocol 27 of the EEA Agreement, by means of a copy of this Decision, including the Annex.
7. The Decision, including the Annex, shall be published in the EEA Section of and in the EEA Supplement to the *Official Journal of the European Union*.
8. The Decision shall be authentic in the English language.

Done at Brussels, 5 November 2003.

For the EFTA Surveillance Authority

Einar M. BULL
President

Hannes HAFSTEIN
College Member

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ANNEX

34. REFERENCE AND DISCOUNT RATES AND INTEREST RATES TO BE APPLIED FOR THE RECOVERY OF UNLAWFUL AID**34.1. REFERENCE RATES OF INTEREST ⁽¹⁾**

- (1) For the purposes of monitoring State aid as required by the EEA Agreement, the EFTA Surveillance Authority uses various parameters, including the reference and discount rates.
- (2) Those rates are used to measure the grant equivalent of aid that is disbursed in several installments and to calculate the aid element resulting from interest subsidy schemes for loans. They are also used in implementing the de minimis rule and for the repayment of illegal aid.
- (3) The reference rates are supposed to reflect the average level of interest rates charged, in the various EFTA States parties to the EEA Agreement, on medium and long-term loans (five to ten years) backed by normal security.
- (4) As from 1 April 2000 the reference rates are fixed as follows:
 - the indicative rate is defined as the level of the rate of yield on five-year State bonds, in the relevant currency, plus a premium of 25 basis points,
 - the reference rate is deemed to be equal to the average of the indicative rates recorded in the preceding months of September, October and November,
 - the reference rate will be fixed (from 2001 onwards) with effect from 1 January,
 - the reference rate is adjusted again in the course of the year if it differs by more than 15 % from the average of the indicative rates recorded over the last known three months.

IT SHOULD ALSO BE NOTED THAT:

- the reference rate thus determined is a floor rate which may be increased in situations involving a particular risk (for example, an undertaking in difficulty, or where the security normally required by banks is not provided).
 - the EFTA Surveillance Authority reserves the right, if necessary for examining certain cases, to use a shorter base rate (for example, Libor one-year rate) or a longer base rate (for example, the rate on ten-year bonds) than the rate of yield on five-year State bonds.
- (5) Reference rates will be made known by the EFTA Surveillance Authority on Internet at the following address: www.eftasurv.int.

34.2. INTEREST RATES TO BE APPLIED WHEN AID GRANTED UNLAWFULLY IS BEING RECOVERED ⁽²⁾

- (1) Article 14 in Part II of Protocol 3 to the Surveillance and Court Agreement provides that when negative decisions are taken in cases of unlawful aid, the EFTA Surveillance Authority shall decide that the EFTA State concerned shall take all necessary measures to recover the aid from the beneficiary. The aid to be recovered shall include interest at an appropriate rate fixed by the EFTA Surveillance Authority. Interest shall be payable from the date the unlawful aid was at the disposal of the beneficiary until the date of its recovery.

⁽¹⁾ This sub-chapter partly corresponds to the Commission notice on the method for setting the reference and discount rates (OJ C 273, 9.9.1997, p. 3), formerly chapter 33.2 of the State Aid Guidelines.

⁽²⁾ This chapter corresponds to Commission Communication on the interest rates to be applied when aid granted unlawfully is being recovered (OJ C 110, 8.5.2003, p. 21, corrigendum OJ C 150, 27.6.2003, p. 3).

- (2) In a letter to the EU Member States of 22 February 1995 the European Commission took the view that for the purpose of restoring the status quo, commercial rates provide a better measure of the advantage improperly conferred on the recipient of unlawful aid than legal rates. Accordingly, the European Commission informed the EU Member States that in any decisions it might adopt ordering the recovery of aid unlawfully granted, it would apply the reference rate used in the calculation of the net grant equivalent of regional aid measures as the basis for the commercial rate. Thus, for several years it has been the standard practice of the European Commission to include in its recovery decisions a clause requiring interest to be calculated on the basis of the reference rate used for calculating the net grant equivalent of regional aids. On 9 September 1997, the European Commission adopted a notice which set out further details on the reference rates used for the calculation of repayments of illegal aid and other purposes ⁽¹⁾, which the EFTA Surveillance Authority partially integrated into the State Aid Guidelines, see the present Chapter 34.1 ⁽²⁾. The question has arisen whether this interest rate should be applied on a simple basis or on a compound basis ⁽³⁾.
- (3) In accordance with a great number of decisions of the Community judiciary ⁽⁴⁾, recovery is the logical consequence of the illegality of aid. The objective of recovery is to re-establish the previously existing situation. By repaying the aid, the beneficiary forfeits the unfair advantage which it enjoyed over its competitors on the market and the conditions of competition which existed prior to the payment of the aid are restored. In market practice, simple interest would normally be calculated where the beneficiary of the funds does not have use of the interest amount before the end of the period, for example where interest is only paid at the end of the period. Compound interest would normally be calculated if each year (or period) the amount of interest can be considered as being paid to the beneficiary and so accruing to the initial capital amount. In this case, the beneficiary would earn interest on the interest paid for each period.
- (4) In practice, the type of aid which has been granted and the situation of the individual beneficiary may differ. If the aid consists in overcompensation, the benefit which the company took from it can be assimilated to a deposit which would normally attract compound interest. If the aid was an investment aid for a certain eligible cost, the aid may have replaced an alternative source of financing, which would also normally bear compound interest at commercial rates. If the aid was an operating aid, it would have direct effects on the profit and loss accounts, and hence the balance sheet, leading to the availability of funds for deposit. Thus, despite the variety of situations, it appears that the effects of an unlawful aid are to provide funding to the beneficiary on similar conditions to a medium term non-interest bearing loan. Accordingly, the use of compound interest appears necessary to ensure that the financial advantages resulting from this situation are fully neutralised.
- (5) Accordingly, the EFTA Surveillance Authority wishes to inform the EFTA States and interested parties that in any future decisions it may adopt ordering the recovery of aid unlawfully granted, it will apply the reference rate used for calculating the net grant equivalent of regional aids on a compound basis. In accordance with normal market practice, compounding should take place on an annual basis. Likewise, the EFTA Surveillance Authority will expect the EFTA States to apply compound interest in the execution of pending recovery decisions, unless this would be contrary to a general principle of EEA law.'

⁽¹⁾ Commission notice on the method for setting the reference and discount rates, see footnote 1.

⁽²⁾ The subsequent Commission notice on technical adaptations to the method for setting the reference and discount rates (OJ C 241, of 26.8.1999, p. 9), related to entry into the third stage of economic and monetary union on 1 January 1999 and was not relevant for the European Economic Area.

⁽³⁾ The calculation of simple interest uses the formula $\text{Interest} = (\text{Capital} \times \text{Interest rate} \times \text{Number of years})$.
The calculation of compound interest, compounding on a yearly basis uses the formula $\text{Interest} = (\text{Capital} (1 + \text{Interest rate})^{\text{Number of years}}) - \text{Capital}$.

⁽⁴⁾ See in particular Case C-24/95 Land Rheinland-Pfalz v. Alcan [1997] ECR I-1591 and Case T-459/93 Siemens v Commission [1995] ECR II-1675.

EFTA SURVEILLANCE AUTHORITY DECISION**No 195/04/COL****of 14 July 2004****on the implementing provisions referred to under article 27 in Part II of Protocol 3 to the Agreement between the EFTA States on the establishment of a Surveillance Authority and a Court of Justice**

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 Articles 5(2)(a) and 24 thereof and Article 27 in Part II of Protocol 3 to the Surveillance and Court Agreement ⁽³⁾,

AFTER CONSULTING the Advisory Committee on State Aid on 8 July 2004 in accordance with the procedure laid down in Article 29 in Part II of Protocol 3 to the Surveillance and Court Agreement,

WHEREAS:

- (1) On 21 April 2004, the European Commission adopted Regulation (EC) No 794/2004 ⁽⁴⁾ implementing Council Regulation (EC) No 659/99 laying down detailed rules for the application of ex Article 93 of the EC Treaty [now Article 88] ⁽⁵⁾.
- (2) On 30 April 2004, the European Commission published a Communication concerning the obsolescence of certain State aid policy documents, which it no longer intends to apply ⁽⁶⁾.
- (3) A uniform application of the EEA State aid rules is to be ensured throughout the European Economic Area.
- (4) In order to facilitate the preparation of State aid notifications by the EFTA States, and their assessment by the Authority, it is desirable to establish a compulsory notification form.
- (5) The standard notification form as well as the summary information sheet and the supplementary information sheets cover all existing Guidelines in the State aid field.
- (6) Provision should be made for a simplified system of notification for certain alterations to existing aid. Such simplified arrangements should only be accepted if the Authority has been regularly informed on the implementation of the existing aid concerned.
- (7) In the interests of legal certainty it is appropriate to clarify that small increases of up to 20 % of the original budget of an aid scheme, in particular to take account of the effects of inflation, do not need to be notified to the Authority as they are unlikely to affect the Authority's original assessment of the compatibility provided the other conditions of the aid scheme remain unchanged.

⁽¹⁾ Hereinafter referred to as the EEA Agreement.

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

⁽³⁾ Protocol 3 to the Surveillance and Court Agreement as amended by the EFTA States on 10 December 2001. The amendments entered into force on 28 August 2003.

⁽⁴⁾ OJ L 140, 30.4.2004, p. 1.

⁽⁵⁾ OJ L 83, 27.3.1999, p. 1.

⁽⁶⁾ OJ C 115, 30.4.2004, p. 1.

- (8) Article 21 in Part II of Protocol 3 to the Surveillance and Court Agreement requires EFTA States to submit annual reports to the Authority on all existing aid schemes or individual aid granted outside an approved aid scheme in respect of which no specific reporting obligations have been imposed in a conditional decision.
- (9) For the Authority to be able to discharge its responsibilities to monitor aid, it needs to receive accurate information from the EFTA States about the types and amounts of aid being granted under existing aid schemes.
- (10) The information required in the annual reports is intended to enable the Authority to monitor overall aid levels and to form a general view of the effects of different types of aid on competition. To this end, the Authority may also request EFTA States to provide, on an ad hoc basis, additional data for selected topics. The choice of the subject matter would be discussed in advance with EFTA States.
- (11) The notification and reporting provisions laid down in this Decision only apply to aid in sectors covered by the EEA Agreement and falling within the competence of the Authority.
- (12) Time-limits for the purposes of Protocol 3 to the Surveillance and Court Agreement should be calculated in accordance with the Act referred to in point 6 of Annex XVI to the EEA Agreement (hereinafter referred to as 'the Act on time limits') ⁽¹⁾, supplemented by the specific rules set out in this Decision. In particular, it is necessary to identify the events, which determine the starting point for time-limits applicable in State aid procedures. The rules set out in this Decision should apply to time-limits that have not expired on the date of entry into force of this Decision.
- (13) The purpose of recovery is to re-establish the situation existing before aid was unlawfully granted. To ensure equal treatment the advantage should be measured objectively from the moment when the aid is available to the beneficiary undertaking, independently of the outcome of any commercial decisions subsequently made by that undertaking.
- (14) In accordance with general financial practice it is appropriate to fix the recovery interest rate as an annual percentage rate.
- (15) The volume and frequency of transactions between banks results in an interest rate that is consistently measurable and statistically significant, and should therefore form the basis of the recovery interest rate. The inter-bank swap rate should however be adjusted in order to reflect general levels of increased commercial risk outside the banking sector. On the basis of the information on inter-bank swap rates the Authority should establish a single recovery interest rate for each EFTA State. In the interest of legal certainty and equal treatment, it is appropriate to fix the precise method by which the interest rate should be calculated, and to provide for the publication of the recovery interest rate applicable at any given moment, as well as relevant previously applicable rates.
- (16) A State aid grant may be deemed to reduce a beneficiary undertakings medium term financing requirements. For these purposes, and in line with the general financial practice, the medium term may be defined as 5 years. The recovery interest rate should therefore correspond to an annual percentage rate fixed for 5 years.
- (17) Given the objective of restoring the situation existing before the aid was unlawfully granted, and in accordance with general financial practice, the recovery interest rate to be fixed by the Authority should be annually compounded. For the same reasons, the recovery interest rate applicable in the first year of the recovery period should be applied for the first 5 years of the recovery period, and the recovery interest rate applicable in the sixth year of the recovery period for the following 5 years, and so on.

⁽¹⁾ Regulation (EEC, Euratom) No 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time limits (OJ L 124, 8.6.1971, p. 1).

- (18) This Decision should apply to recovery decisions notified after the date of entry into force of this Decision.

HAS DECIDED AS FOLLOWS:

Article 1

Scope

1. This Decision sets out detailed provisions concerning the form, content and other details of notifications and annual reports referred to in Part II of Protocol 3 to the Surveillance and Court Agreement. It also sets out provisions for the calculation of time limits in all procedures concerning State aid and of the interest rate for the recovery of unlawful aid.
2. This Decision applies to aid in all sectors covered by the EEA Agreement and falling within the competence of the Authority.

Article 2

Notification forms

Unless otherwise specified, notifications pursuant to Article 2(1) in Part II of Protocol 3 to the Surveillance and Court Agreement shall be made on the notification form set out in Annex I to this Decision. Supplementary information needed for the assessment of the measure in accordance with other rules applicable to State aid shall be provided on the supplementary information sheets set out in Part III of Annex I. Whenever relevant guidelines are modified or replaced, the Authority shall adapt the corresponding information sheets in Part III of Annex I.

Article 3

Transmission of notifications

1. The notification shall be transmitted to the Authority by the Mission to the European Union of the EFTA State concerned. It shall be addressed to the Competition and State Aid Directorate of the Authority. The Competition and State Aid Directorate of the Authority may nominate contact points for the receipt of notifications.
2. All subsequent correspondence shall be equally addressed to the Competition and State Aid Directorate responsible or to the nominated contact point.
3. The Authority shall address its correspondence to the Mission to the European Union of the EFTA State concerned, or to any other address designated by that EFTA State.
4. Until 31 December 2005 notifications shall be transmitted to the Authority on paper. Whenever possible an electronic copy of the notification shall also be transmitted by the EFTA State. With effect from 1 January 2006 notifications shall be transmitted electronically, unless otherwise agreed by the Authority and the notifying EFTA State. All correspondence in connection with a notification which has been submitted electronically after 1 January 2006 shall also be transmitted electronically.
5. The date of transmission by fax to the number designated by the receiving party shall be considered to be the date of transmission on paper, if the signed original is received no later than ten days thereafter.
6. By 30 September 2005 at the latest, after consulting EFTA States, the Authority shall publish in the *EEA Section of and the EEA Supplement to Official Journal of the European Union* details of the arrangements for the electronic transmission of notifications, including addresses together with any necessary arrangements for the protection of confidential information.

*Article 4***Simplified notification procedure for certain alterations to existing aid**

1. For the purposes of Article 1(c) in Part II of Protocol 3 to the Surveillance and Court Agreement, an alteration to existing aid is any change, other than modifications of a purely formal or administrative nature which cannot affect the evaluation of the compatibility of the aid measure with the common market. An increase in the original budget of an existing aid scheme by up to 20 % is not considered an alteration to existing aid.
2. By way of derogation from Article 2, the following alterations to existing aid shall be notified on the simplified notification form set out in Annex II to this Decision:
 - (a) increases in the budget of an authorized aid scheme exceeding 20 %;
 - (b) prolongation of an existing authorized aid scheme by up to six years, with or without an increase in the budget;
 - (c) tightening of the criteria for the application of an authorized aid scheme, a reduction of aid intensity or a reduction of eligible expenses;

The Authority shall use its best endeavours to take a decision on any aid notified on the simplified notification form within a period of one month.

3. The simplified notification procedure shall not be used to notify alterations to aid schemes in respect of which EFTA States have not submitted annual reports in accordance with Article 5, 6, and 7, unless the annual reports for the years in which the aid has been granted are submitted at the same time as the notification.

*Article 5***Form and content of annual reports**

1. Without prejudice to any additional specific reporting requirements laid down in a conditional decision adopted pursuant to Article 7(4) in Part II of Protocol 3 to the Surveillance and Court Agreement, or to the respect of any undertakings provided by the EFTA State concerned in connection with a decision to approve aid, EFTA States shall compile the annual reports on existing aid schemes referred to in Article 21(1) in Part II of Protocol 3 to the Surveillance and Court Agreement in respect of each whole or part calendar year during which the scheme applies in accordance with the standardised reporting format set out in Annex III to this Decision.
2. The Authority may request EFTA States to provide additional data for selected topics, to be discussed in advance with the EFTA States.

*Article 6***Transmission and publication of annual reports**

1. Each EFTA State shall transmit its annual reports to the Authority in electronic form no later than 30 June of the year following the year to which the report relates. In justified cases EFTA States may submit estimates, provided that the actual figures are transmitted at the very latest with the following year's data.
2. Each year the Authority shall publish a State aid score board containing a synthesis of the information contained in the annual reports submitted during the previous year.

Article 7

Status of annual reports

The transmission of annual reports shall not constitute compliance with the obligation to notify aid measures before they are put into effect pursuant to Article 1(3) in Part I of Protocol 3 to the Surveillance and Court Agreement, nor shall such transmission in any way prejudice the outcome of an investigation into allegedly unlawful aid in accordance with the procedure laid down in Section III of Part II of Protocol 3 to the Surveillance and Court Agreement.

Article 8

Calculation of time-limits

1. Time-limits provided for in Part II of Protocol 3 to the Surveillance and Court Agreement and in this Decision or fixed by the Authority in the application of Article 1 in Part I of Protocol 3 to the Surveillance and Court Agreement shall be calculated in accordance with the Act on time limits ⁽¹⁾, and the specific rules set out in paragraphs 2 to 5 of this Article. In case of conflict, the provisions of this Decision shall prevail.
2. Time limits shall be specified in months or in working days.
3. With regard to time-limits for action by the Authority, the actual receipt of the notification or subsequent correspondence in accordance with Article 3(1) and Article 3(2) of this Decision shall be the relevant event for the purpose of Article 3(1) of the Act on time limits. In respect of notifications transmitted after 31 December 2005, and correspondence relating to them, the actual receipt of the electronic notification or communication at the relevant address published in the *EEA Section of and the EEA Supplement to the Official Journal of the European Union* shall be the relevant event.
4. With regard to time-limits for action by EFTA States, the actual receipt of the relevant notification or correspondence from the Authority in accordance with Article 3(3) of this Decision shall be the relevant event for the purpose of Article 3(1) of the Act on time limits.
5. With regard to the time-limit for the submission of comments following initiation of the formal investigation procedure referred to in Article 6(1) in Part II of Protocol 3 to the Surveillance and Court Agreement by third parties and those EFTA States who are not directly concerned by the procedure, the publication of the notice of initiation in the *EEA Section of and the EEA Supplement to the Official Journal of the European Union* shall be the relevant event for the purpose of Article 3(1) of the Act on time limits.
6. Any request for the extension of a time-limit shall be motivated, and shall be submitted in writing to the address designated by the party fixing the time-limit at least 2 working days before expiry.

Article 9

Method for fixing the interest rate

1. Unless otherwise provided for in a specific decision the interest rate to be used for recovering State aid granted in breach of Article 1(3) in Part I of Protocol 3 to the Surveillance and Court Agreement shall be an annual percentage rate fixed for each calendar year. It shall be calculated on the basis of the average of the 5 year inter-bank swap rates for September, October and November of the previous year, plus 75 basis points. In duly justified cases, the Authority may increase the rate by more than 75 basis points in respect of one or more EFTA States.
2. If the latest 3 month average of the five year inter-bank swap rates available, plus 75 basis points, differs by more than 15 % from the State aid recovery interest rate in force, the Authority shall recalculate the latter. The new rate shall apply from the first day of the month following the recalculation by the Authority. The Authority shall inform EFTA States by letter of the recalculation and the date from which it applies.

⁽¹⁾ Regulation (EEC, Euratom) No 1182/71 of the Council has been incorporated into the EEA Agreement by reference in point 6 of Annex XVI to the EEA Agreement.

3. The interest rate shall be fixed for each EFTA State individually, or for two or more EFTA States together.
4. In the absence of reliable or equivalent data or in exceptional circumstances the Authority may, in close cooperation with the EFTA State(s) concerned, fix a State aid recovery interest rate, for one or more EFTA States, on the basis of a different method and on the basis of the information available to it.

Article 10

Publication

The Authority shall publish current and relevant historical State aid recovery interest rates in the *EEA Section of and the EEA Supplement to the Official Journal of the European Union* and for information on the Internet.

Article 11

Method for calculating interest

1. The interest rate to be applied shall be the rate applicable on the date on which unlawful aid was first put at the disposal of the beneficiary.
2. The interest rate shall be applied on a compound basis until the date of the recovery of the aid. The interest accruing in the previous year shall be subject to interest in each subsequent year.
3. The interest rate referred to in paragraph 1 shall be applied throughout the whole period until the date of recovery. However, if more than 5 years have elapsed between the date on which the unlawful aid was first put at the disposal of the beneficiary and the date of the recovery of the aid, the interest rate shall be recalculated at 5 yearly intervals, taking as a basis the rate in force at the time the rate is recalculated.

Article 12

Review

The Authority shall, in consultation with the EFTA States, review the application of this Decision within 4 years after its entry into force.

Article 13

Obsolescence of Parts of the Authority's State Aid Guidelines

The provisions of the Authority's State Aid Guidelines (in particular, Chapters 3 to 8, 32 and 34 ⁽¹⁾) which may differ from the provisions of this Decision will no longer be applicable after the entry into force of this Decision.

Article 14

Entry into force and application

1. This Decision is addressed to the Republic of Iceland, the Principality of Liechtenstein and the Kingdom of Norway.
2. This Decision shall enter into force on the day following that of its adoption by the Authority.

⁽¹⁾ However, in so far as the provisions of Articles 9 to 11 of this decision only apply to decisions ordering the recovery of unlawful aid notified to EFTA States after the date of entry into force of this Decision, Chapter 34 of the Authority's State Aid Guidelines on the interest rates to be applied when aid granted unlawfully is being recovered remains in effect as regards the execution by EFTA States of recovery orders notified before that date.

3. Articles 2 to 4 shall apply to notifications transmitted to the Authority as of 5 months after adoption of this Decision.
4. Articles 5 to 7 shall apply to annual reports covering aid granted from 1 January 2003 onwards.
5. Article 8 shall apply to any time limit, which has been fixed but not yet expired on the date of entry into force of this Decision.
6. Articles 9 and 11 shall apply in relation to any recovery decision notified after the date of entry into force of this Decision.
7. This Decision is authentic in the English language.

Done at Brussels, 14 July 2004.

For the EFTA Surveillance Authority

Hannes HAFSTEIN

President

Einar M. BULL

College Member

ANNEX I

**STANDARD FORM FOR NOTIFICATION OF STATE AIDS PURSUANT TO ARTICLE 1(3) IN PART I OF
PROTOCOL 3 TO THE SURVEILLANCE AND COURT AGREEMENT AND FOR THE PROVISION OF
INFORMATION ON UNLAWFUL AID**

This form shall be used by EFTA States for the notification pursuant to Article 1(3) in Part I of Protocol 3 to the Surveillance and Court Agreement of new aid schemes and individual aid. It shall also be used when a non-aid measure is notified to the Authority for reasons of legal certainty.

EFTA States are also requested to use this form when the Authority requests comprehensive information on alleged unlawful aid.

The present form consists of three parts:

- I. **General Information:** to be completed in all cases
- II. **Summary Information for publication in the Official Journal**
- III. **Supplementary Information Sheet depending on the type of aid**

Please note that failure to complete this form correctly may result in the notification being returned as incomplete. The completed form shall be transmitted on paper to the Authority by the Mission or the EEA Coordination Unit of the EFTA State concerned. It shall be addressed to the Competition and State Aid Directorate of the Authority.

If the EFTA State intends to avail itself of a specific procedure laid down in any other rules applicable to State aid, a copy of the notification shall be as well addressed to the Director of the Competition and State Aid Directorate of the Authority.

PART I

GENERAL INFORMATION

STATUS OF THE NOTIFICATION

Does the information transmitted on this form concern:

☐ A notification pursuant to Article 1(3) in Part I of Protocol 3 to the Surveillance and Court Agreement?

☐ A possible unlawful aid ⁽¹⁾?

If yes, please specify the date of putting into effect of the aid. Please complete this form, as well as the relevant supplementary forms.

☐ A non-aid measure which is notified to the Authority for reasons of legal certainty?

Please indicate below the reasons why the notifying EFTA State considers that the measure does not constitute State aid in the meaning of Article 61(1) of the EEA Agreement. Please complete the relevant parts of this form and provide all necessary supporting documentation.

A measure will not constitute State aid if one of the conditions laid down in Article 61(1) of the EEA Agreement is not fulfilled. Please provide a full assessment of the measure in the light of the following criteria focusing in particular on the criterion which you consider not to be met:

- No transfer of public resources (*For example, if you consider the measure is not imputable to the State or where you consider that regulatory measures without transfer of public resources will be put in place*)
- No advantage (*For example, where the private market investor principle is respected*)
- No selectivity/specificity (*For example, where the measure is available to all enterprises, in all sectors of the economy and without any territorial limitation and without discretion*)
- No distortion of competition/no affectation of intra-EEA trade (*For example, where the activity is not of an economic nature or where the economic activity is purely local*)

1. Identification of the aid grantor

1.1. EFTA State concerned

1.2. Region(s) concerned (if applicable)

1.3. Authority responsible

Responsible contact person:

Name:

Address:

Telephone:

Fax:

E-mail:

1.4. Responsible contact person at the Mission or the EEA Coordination Unit:

Name:

Telephone:

Fax:

E-mail:

⁽¹⁾ According to Article 1(f) in Part II of Protocol 3 to the Surveillance and Court Agreement, 'unlawful aid' shall mean new aid put into effect in contravention of Article 1(3) in Part I of Protocol 3 to the Surveillance and Court Agreement.

- 1.5. If you wish that a copy of the official correspondence sent by the Authority to the EFTA State should be forwarded to other national authorities, please indicate here their name and address:

Name:

Address:

.....

.....

- 1.6. Indicate EFTA State reference you wish to be included in the correspondence from the Authority

2. Identification of the aid

- 2.1. Title of the aid (or name of company beneficiary in case of individual aid)

.....

- 2.2. Brief description of the objective of the aid.

Please indicate primary objective and, if applicable, secondary objective(s):

	Primary objective (please tick <i>one</i> only)	Secondary objective ⁽¹⁾
Regional development	☐	☐
Research and development	☐	☐
Environmental protection	☐	☐
Rescuing firms in difficulty	☐	☐
Restructuring firms in difficulty	☐	☐
SMEs	☐	☐
Employment	☐	☐
Training	☐	☐
Risk capital	☐	☐
Promotion of export and internationalisation	☐	☐
Services of general economic interest	☐	☐
Sectoral development ⁽²⁾	☐	☐
Social support to individual consumers	☐	☐
Compensation of damage caused by natural disasters or exceptional occurrences	☐	☐
Execution of an important project of common Euro- pean interest	☐	☐
Remedy for a serious disturbance in the economy	☐	☐
Heritage conservation	☐	☐
Culture	☐	☐

- 2.3. Scheme — Individual aid ⁽³⁾

- 2.3.1. Does the notification relate to an aid scheme? ☐ Yes ☐ No

— If yes, does the scheme amend an existing aid scheme? ☐ Yes ☐ No

⁽¹⁾ A secondary objective is one for which, in addition to the primary objective, the aid will be exclusively earmarked. For example, a scheme for which the primary objective is research and development may have as a secondary objective small and medium-sized enterprises (SMEs) if the aid is earmarked exclusively for SMEs. The secondary objective may also be sectoral, in the case for example of a research and development scheme in the steel sector.

⁽²⁾ Please specify sector in point 4.2.

⁽³⁾ According to Article 1(e) in Part II of Protocol 3 to the Surveillance and Court Agreement, 'individual aid' shall mean aid that is not awarded on the basis of an aid scheme and notifiable awards of aid on the basis of an aid scheme.

- If yes, are the conditions laid down for the simplified notification procedure pursuant to Article 4(2) of the EFTA Surveillance Authority Decision No 195/04/COL fulfilled?

☐ Yes ☐ No

- If yes, please use and complete the information requested by the simplified notification form (see Annex II).

- If no, please continue with this form and specify whether the original scheme which is being amended was notified to the Authority.

☐ Yes ☐ No

If yes, please specify:

Aid number:

Date of Authority approval (reference of the decision of the Authority (Dec. No .../.../...)):

Duration of the original scheme:

Please specify which conditions are being amended in relation to the original scheme and why:

.....

- 2.3.2. Does the notification relate to individual aid? ☐ Yes ☐ No

If yes, please tick the following appropriate box:

- ☐ Aid based on a scheme which should be individually notified

Reference of the authorised scheme:

Title:

Aid number:

Decision of Authority approval:

- ☐ Individual aid not based on a scheme

- 2.3.3. Does the notification relate to an individual aid or scheme notified pursuant to an exemption regulation? If yes, please tick the following appropriate box:

- ☐ Commission Regulation (EC) No 70/2001 of 12 January 2001 on the application of Articles 87 and 88 EC Treaty to State aid to small and medium-sized enterprises ⁽¹⁾, as incorporated into the EEA Agreement by EEA Joint Committee Decision No 88/2002 of 25 June 2002 ⁽²⁾. Please use the supplementary information sheet under part III, 1

- ☐ Commission Regulation (EC) No 68/2001 of 12 January 2001 on the application of Articles 87 and 88 EC Treaty to training aid ⁽³⁾, as incorporated into the EEA Agreement by EEA Joint Committee Decision No 88/2002 of 25 June 2002 ⁽⁴⁾. Please use the supplementary information sheet under part III, 2

⁽¹⁾ OJ L 10, 13.1.2001, p. 33. The amendments contained in Commission Regulation (EC) No 364/2004 of 25 February 2004 amending Regulation (EC) No 70/2001 as regards the extension of its scope to include aid for research and development (OJ L 63, 28.2.2004, p. 22) are only applicable once this Regulation has been incorporated into the EEA Agreement.

⁽²⁾ OJ L 266, 3.10.2002, p. 56 and EEA Supplement No 49, cf. point 1f of Annex XV to the EEA Agreement.

⁽³⁾ OJ L 10, 13.1.2001, p. 20. The amendments contained in Commission Regulation (EC) No 363/2004 of 25 February 2004 amending Regulation (EC) No 68/2001 on the application of Articles 87 and 88 of the EC Treaty to training aid (OJ L 63, 28.2.2004, p. 20) are only applicable once this Regulation has been incorporated into the EEA Agreement.

⁽⁴⁾ OJ L 266, 3.10.2002, p. 56 and EEA Supplement No 49, cf. point 1d of Annex XV to the EEA Agreement.

- ☐ Commission Regulation (EC) No 2204/2002 of 12 December 2002 on the application of Articles 87 and 88 EC Treaty to State aid for employment ⁽¹⁾, as incorporated into the EEA Agreement by EEA Joint Committee Decision No 83/2003 of 20 June 2003 ⁽²⁾. Please use the supplementary information sheet under part III, 3

3. National legal basis

3.1. Please list the national legal basis including the implementing provisions and their respective sources of references:

Title:
.....
.....
.....

Reference (where applicable):
.....
.....
.....

3.2. Please indicate the document(s) enclosed with this notification:

- ☐ A copy of the relevant extracts of the final text(s) of the legal basis (and a web link, if possible)
- ☐ A copy of the relevant extracts of the draft text(s) of the legal basis (and a web link, if existing)

3.3. In case of a final text, does the final text contain a clause whereby the aid granting body can only grant after the Authority has cleared the aid (stand still clause)?

☐ Yes ☐ No

4. Beneficiaries

4.1. Location of the beneficiary(ies):

- ☐ In (an) unassisted region(s)
- ☐ In (a) region(s) eligible for assistance under Article 61(3)(c) of the EEA Agreement (specify at NUTS-level 3 or lower)
- ☐ In (a) region(s) eligible for assistance under Article 61(3)(a) (specify at NUTS-level 2 or lower)
- ☐ Mixed: specify:

4.2. Sector(s) of the beneficiary(ies):

- ☐ Not sector specific
- ☐ B Mining and Quarrying
- ☐ 10.1 Coal
- ☐ C Manufacturing industry
- ☐ 17 Textiles
- ☐ 21 Pulp and paper
- ☐ 24 Chemical and pharmaceutical industry
- ☐ 24.7 Man-made fibres

⁽¹⁾ OJ L 337, 13.12.2002, p. 3 and OJ L 349, 24.12.2002, p. 126.

⁽²⁾ OJ L 257, 9.10.2003, p. 39 and EEA Supplement No 51, cf. point 1g of Annex XV to the EEA Agreement.

- ☐ 27.1 Steel ⁽¹⁾
- ☐ 29 Industrial machinery
- ☐ DL Electrical and optical equipment
- ☐ 34.1 Motor vehicles
- ☐ 35.1 Shipbuilding
- ☐ Other manufacturing sector, please specify:
- ☐ D Electricity, gas and water supply
- ☐ E Construction
- ☐ 52 Retail Services
- ☐ F Hotels and restaurants (Tourism)
- ☐ G Transport
 - ☐ 60 Land transport and transport via pipelines
 - ☐ 60.1 Railways
 - ☐ 60.2 Other land transport
 - ☐ 61.1 Sea and coastal water transport
 - ☐ 61.2 Inland water transport
 - ☐ 62 Air transport
- ☐ 64 Post and telecommunications
- ☐ H Financial intermediation
- ☐ 72 Computer and related activities
- ☐ 92 Recreational, cultural and sporting activities
- ☐ Other, please specify according to NACE rev. 1.1 classification ⁽²⁾:

4.3. In case of an individual aid:

Name of the beneficiary:

Type of beneficiary:

☐ SME

Number of employees:

Annual turnover:

Annual balance-sheet

Independence

(please attach a solemn declaration in line with the EC Commission Recommendation on SME ⁽³⁾ or provide any other evidence to demonstrate the above criteria):

.....

☐ Large enterprise

☐ Firm in difficulties ⁽⁴⁾

⁽¹⁾ Annex B of the EFTA Surveillance Authority's Guidelines Chapter 26A on Multisectoral framework on regional aid for large investment projects (not yet published).

⁽²⁾ NACE Rev.1.1 is the Statistical classification of economic activities in the European Community.

⁽³⁾ Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36) and Commission Regulation (EC) No 364/2004 of 25 February 2004 amending Regulation (EC) No 70/2001 as regards the extension of its scope to include aid for research and development (OJ L 63, 28.2.2004, p. 22), only applicable once incorporated into the EEA Agreement.

⁽⁴⁾ As defined in the EFTA Surveillance Authority Guidelines Chapter 16 (OJ L 274, 26.10.2000 and EEA Supplement No 48).

4.4. In case of an aid scheme:

Type of beneficiaries:

- ☐ All firms (large firms and small and medium-sized enterprises)
- ☐ Only large enterprises
- ☐ Small and medium-sized enterprises
 - ☐ Medium-sized enterprises
 - ☐ Small enterprises
 - ☐ Micro enterprises
- ☐ The following beneficiaries:

Estimated number of beneficiaries:

- ☐ Under 10
- ☐ From 11 to 50
- ☐ From 51 to 100
- ☐ From 101 to 500
- ☐ From 501 to 1 000
- ☐ Over 1 000

5. **Amount of aid/Annual expenditure**

In case of an individual aid, indicate the overall amount of each measure concerned:

In case of a scheme, indicate the annual amount of the budget planned and the overall amount (in national currency):

For tax measures, please indicate the estimated annual and overall revenue losses due to tax concessions for the period covered by the notification:

If the budget is not adopted annually, please specify what period it covers:

If the notification concerns changes to an existing scheme, please give the budgetary effects of the notified changes to the scheme:
.....
.....6. **Form of the aid and means of funding**

Specify the form of the aid made available to the beneficiary (where appropriate, for each measure):

- ☐ Direct grant
- ☐ Soft loan (including details of how the loan is secured)
- ☐ Interest subsidy
- ☐ Tax advantage (e.g. tax allowance, tax base reduction, tax rate reduction, tax deferment). Please specify:
- ☐ Reduction of social security contributions
- ☐ Provision of risk capital
- ☐ Debt write-off
- ☐ Guarantee (including amongst others information on the loan or other financial transaction covered by the guarantee, the security required and the premium to be paid)
- ☐ Other. Please specify:

For each instrument of aid, please give a precise description of its rules and conditions of application, including in particular the rate of award, its tax treatment and whether the aid is accorded automatically once certain objective criteria are fulfilled (if so, please mention the criteria) or whether there is an element of discretion by the awarding authorities.

.....

Specify the financing of the aid: if the aid is not financed through the general budget of the State/region/municipality, please explain its way of financing:

☐ Through parafiscal charges or taxes affected to a beneficiary, which is not the State. Please provide full details of the charges and the products/activities on which they are levied. Specify in particular whether products imported from other EEA States are liable to the charges. Annex a copy of the legal basis for the imposition of the charges.

.....

☐ Accumulated reserves

☐ Public enterprises

☐ Other (please specify):

7. Duration

7.1. In the case of an individual aid:

Indicate the date when the aid will be put into effect (If the aid will be granted in *tranches*, indicate the date of each *tranche*):

.....

Specify the duration of the measure for which the aid is granted, if applicable:

.....

7.2. In the case of a scheme:

Indicate the date from which on the aid may be granted:

Indicate the last date until which aid may be granted:

If the duration exceeds six years, please demonstrate that a longer time period is indispensable to achieve the objective(s) of the scheme:

.....

8. Cumulation of different types of aid

Can the aid be cumulated with aid received from other local, regional, national or Community schemes to cover the same eligible costs?

☐ Yes

☐ No

If so, describe the mechanisms put in place in order to ensure that the cumulation rules are respected:

.....

9. Professional Confidentiality

Does the notification contain confidential information which should not be disclosed to third parties?

☐ Yes

☐ No

If so, please indicate which parts are confidential and explain why:

.....

.....

If no, the Authority will publish its decision without asking the EFTA State.

10. Compatibility of the aid

Please identify which of the existing rules applicable to State aid provide an explicit legal basis for the authorisation of the aid (where appropriate please specify for each measure) and complete the relevant supplementary information sheet(s) in part III

- ☐ SME aid
 - ☐ Notification of an individual aid pursuant to Article 6 of Regulation (EC) No 70/2001, as incorporated into the EEA Agreement by EEA Joint Committee Decision No 88/2002 of 25 June 2002 ⁽¹⁾
 - ☐ Notification for legal certainty
- ☐ Training aid
 - ☐ Notification of an individual aid pursuant to Article 5 of Regulation (EC) No 68/2001, as incorporated into the EEA Agreement by EEA Joint Committee Decision No 88/2002 of 25 June 2002 ⁽²⁾
 - ☐ Notification for legal certainty
- ☐ Employment aid
 - ☐ Notification of an individual aid pursuant to Article 9 of Regulation (EC) No 2204/2002, as incorporated into the EEA Agreement by EEA Joint Committee Decision No 83/2003 of 20 June 2003 ⁽³⁾
 - ☐ Notification of a scheme pursuant to Article 9 of Regulation (EC) No 2204/2002, as incorporated into the EEA Agreement by EEA Joint Committee Decision No 83/2003 of 20 June 2003 ⁽³⁾
 - ☐ Notification for legal certainty
- ☐ Regional aid
- ☐ Aid coming under the multisectoral framework on regional aid for large investment projects
- ☐ Research and development aid
- ☐ Aid for rescuing firms in difficulty
- ☐ Aid for restructuring firms in difficulty
- ☐ Aid for audio-visual production
- ☐ Environmental protection aid
- ☐ Risk capital aid
- ☐ Aid in the transport sector
- ☐ Shipbuilding aid

Where the existing rules applicable to State aid do not provide an explicit basis for the approval of any of the aid covered by this form, please provide a fully reasoned justification as to why the aid could be considered as compatible with the EEA Agreement, referring to the applicable exemption clause of the EEA Agreement (Article 59(2), Article 61(2) (a) or (b), Article 61(3) (a), (b), (c) as well as other specific provisions relating to Transport.

11. Outstanding recovery orders

In the case of individual aid has any potential beneficiary of the measure received state aid which is the subject of an outstanding recovery order by the Authority?

☐ Yes☐ No

⁽¹⁾ OJ L 266, 3.10.2002 and EEA Supplement No 49, cf. point 1f of Annex XV to the EEA Agreement. Commission Regulation (EC) No 70/2001 has been amended by Commission Regulation (EC) No 364/2004 as regards the extension of its scope to include aid for research and development only applicable once incorporated into the EEA Agreement.

⁽²⁾ OJ L 266, 3.10.2002 and EEA Supplement No 49, cf. point 1d of Annex XV to the EEA Agreement. Commission Regulation (EC) No 68/2001 has been amended by Commission Regulation (EC) No 363/2004 on application of Articles 87 and 88 of the EC Treaty to training aid (only applicable once incorporated into the EEA Agreement).

⁽³⁾ OJ L 257, 9.10.2003 and EEA Supplement No 51, cf. point 1g of Annex XV to the EEA Agreement.

If yes, please provide complete details:

.....
.....

12. **Other Information**

Please indicate here any other information you consider relevant to the assessment of the measure(s) concerned under State aid rules.

13. **Attachments**

Please list here all documents which are attached to the notification and provide paper copies or direct internet links to the documents concerned.

14. **Declaration**

I certify that to the best of my knowledge the information provided on this form, its annexes and its attachments is accurate and complete.

Date and place of signature:

Signature

Name and position of person signing

PART II

SUMMARY INFORMATION FOR PUBLICATION IN THE OFFICIAL JOURNAL

Number of aid:	(to be completed by the Authority)		
EFTA State:			
Region:			
Title and objective of aid schemes or name of company beneficiary of an individual aid (aid based on a scheme which should however be notified individually and aid not based on a scheme):			
Legal basis:			
Annual expenditure planned or overall amount of individual aid granted: (In national currency)	Aid scheme	Annual expenditure planned:	Euro ... million
		Overall amount:	Euro ... million
	Individual aid	Overall amount of each measure:	Euro ... million
Duration:			
Maximum aid intensity of the individual aid or the aid scheme:			
Economic sectors:	All sectors:		
	or Limited to specific sectors as mentioned in the 'General information' (Part I, par. 4.2.)		
Name and address of the granting authority	Name:		

PART III

SUPPLEMENTARY INFORMATION SHEETS

To be completed as necessary depending on the type of aid concerned:

1. SME aid
2. Training aid
3. Employment aid
4. Regional aid
5. Aid coming under the multisectoral framework
6. Research and development aid
 - a) in the case of a scheme
 - b) in the case of individual aid
7. Aid for rescuing firms in difficulty
 - a) in the case of a scheme
 - b) in the case of individual aid
8. Aid for restructuring firms in difficulty
 - a) in the case of a scheme
 - b) in the case of individual aid
9. Aid for audio-visual production
10. Environmental protection aid
11. Risk capital aid
12. Aid in the transport sector
 - a) Individual aid for restructuring firms in difficulty in the aviation sector
 - b) Aid for transport infrastructure
 - c) Aid for maritime transport
 - d) Aid for combined transport

PART III.1

SUPPLEMENTARY INFORMATION SHEET ON SME AID

This supplementary information sheet must be used for the notification of any individual aid pursuant to Article 6 of Regulation (EC) No 70/2001 ⁽¹⁾, which has been incorporated into the EEA Agreement by EEA Joint Committee Decision No 88/2002 of 25 June 2002 ⁽²⁾. It must also be used in the case of any individual aid or scheme, which is notified to the Authority for reasons of legal certainty.

⁽¹⁾ Commission Regulation (EC) No 70/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to State aid to small and medium sized enterprises (OJ L 10, 13.1.2001, p. 33). This Regulation has been modified by Commission Regulation (EC) No 364/2004 as regards the extension of its scope to include aid for research and development (OJ L 63, 28.2.2004, p. 22). It is only applicable once incorporated into the EEA Agreement.

⁽²⁾ OJ L 266, 3.10.2002 and EEA Supplement No 49, cf. point 1f of Annex XV to the EEA Agreement.

1. Types of individual aid or schemes

Does the individual aid or scheme relate to:

- 1.1. ☐ Investment aid
- 1.2. ☐ Consultancy and other services and activities including participation in fairs
- 1.3. ☐ R&D expenditure ⁽¹⁾

☐ Yes:

for notifications of R&D aid to SMEs please complete:

- supplementary information sheet for R&D 6a for aid schemes
- supplementary information sheet for R&D 6b for individual aid

2. Initial investment aid

2.1. Does the aid cover investment in fixed capital relating to:

- ☐ The setting up of a new establishment?
- ☐ The extension of an existing establishment?
- ☐ The starting up of a new activity involving a fundamental change in the product or production process of an existing establishment (through rationalisation, diversification or modernisation)?
- ☐ The purchase of an establishment, which has closed, or which would have closed had it not been purchased?

Is replacement investment excluded?

☐ Yes ☐ No

2.2. Is the aid calculated as percentage of:

- ☐ The investment's eligible costs
- ☐ The wage costs of employment created by the investment (aid to job creation)

2.3.a) ☐ Investment in tangible assets:

Is the value of the investment established as a percentage on the basis of:

- ☐ Land?
- ☐ Buildings?
- ☐ Plant/machinery (equipment)?

Please provide a short description:

.....

.....

If the undertaking has its main economic activity in the transport sector, are transport means and transport equipment excluded from the eligible costs (except for railway rolling stock)?

☐ Yes

☐ No

If no, please specify the transport means or equipment that are eligible:

.....

.....

2.3.b) ☐ Purchasing price for the take over of an establishment which has closed or which would have closed had it not been purchased

⁽¹⁾ This point will only be applicable, once Commission Regulation (EC) No 364/2004, as regards the extension of its scope to include aid for research and development, has been incorporated into the EEA Agreement.

2.3.c) ☐ Intangible investment

The eligible costs of intangible investment shall be the costs of acquisition of the technology:

- ☐ Patents' rights
- ☐ Operating or patented know-how licences
- ☐ Unpatented know-how (technical knowledge)

Please provide a short description ⁽¹⁾

.....

2.3.d) ☐ Wage costs:

Is the amount of the aid expressed as a percentage of the wage costs over a period of two years relating to the employment created?

☐ Yes ☐ No

2.4. Intensity of the aid

2.4.1. Investment projects situated outside of assisted regions under Article 61(3)(c) and under Article 61(3)(a) for:

Small enterprises ☐ Medium sized enterprises ☐

What are the intensities of the aid for investment projects expressed in gross terms?

Please specify:

2.4.2. Investment projects situated inside of assisted regions under Article 61(3)(c) and under Article 61(3)(a):

Small enterprises ☐ Medium sized enterprises ☐

What are the intensities of the aid for investment projects expressed in gross terms?

Please specify:

3. **Cumulation of the aid**

3.1. What is the maximum ceiling for cumulated aid?

Please specify:

4. **Specific conditions for aid for job creation**

4.1. Does the aid provide for guarantees that the aid for job creation is linked to the carrying-out of an initial investment project in tangible or intangible assets?

☐ Yes ☐ No

4.2. Does the aid provide for guarantees that the aid for job creation is created within three years of the investment's completion?

☐ Yes ☐ No

Should one of the two previous questions be answered in the negative, please explain how the authorities intend to comply with these requirements:

.....

⁽¹⁾ This description should reflect how the authorities intend to ensure consistency with point 25.4.(10)-(12) of the EFTA Surveillance Authority's Guidelines Chapter 25 on National Regional Aid (OJ L 111, 29.4.1999 and EEA Supplement No 18), as amended by OJ L 274, 26.10.2000 and EEA Supplement No 26.

- 4.3. Does the employment created represent a net increase in the number of employees in the establishment concerned, compared with the average over the past 12 months?

☐ Yes

☐ No

- 4.4. Does the aid provide for guarantees that the employment within the qualified region will be maintained for a minimum period of five years?

☐ Yes

☐ No

If yes, what are the guarantees for that?

- 4.5. Does the aid provide for guarantees that the jobs lost during the period of reference are being deducted from the apparent number of jobs created during the same period?

☐ Yes

☐ No

5. Specific Conditions for Investment Project in assisted areas with higher regional aid

- 5.1. Does the aid include a clause stipulating that the recipient has made a minimum contribution of at least 25 % of the total investment and that this contribution will be exempted of any aid?

☐ Yes

☐ No

- 5.2. What are the guarantees that the aid for initial investment (both material and intangible investment) is made conditional on the maintenance of the investment for a minimum period of five years?

.....

.....

6. Aid to consultancy and other service activities

- 6.1. Are eligible costs limited to:

- ☐ Costs for services provided by outside consultants and other services providers?

Please specify if such services are not a continuous or periodic activity nor relate to the enterprise's usual operating expenditure, such as routine tax consultancy services, regular legal service or advertising

.....

.....

- ☐ Costs of firms participating in fairs and exhibitions? Please specify if the aid is related to the additional costs incurred for renting, setting up and running the stand:

Is the participation limited to the first participation in a fair or exhibition?

☐ Yes

☐ No

- ☐ Other costs (in particular cases where aid is awarded directly to the service(s) provider or consultant(s)). Please specify under which conditions:

- 6.2. Please indicate the maximum aid intensity expressed in gross terms:

If the aid intensity exceeds 50 % gross please indicate in detail why this aid intensity should be necessary:

.....

.....

- 6.3. Please indicate the maximum ceiling for cumulated aid:

7. Necessity of the aid

7.1. Does the aid foresee that any application for aid must be submitted before work on the project is started?

☐ Yes

☐ No

7.2. If not has the EFTA State adopted legal provisions establishing a legal right to aid according to objective criteria, and without further exercise of discretion by the EFTA State?

☐ Yes

☐ No

8. Other information

Please indicate here any other information you consider relevant to the assessment of the measure(s) concerned under the Regulation (EC) No 70/2001, as incorporated into the EEA Agreement by EEA Joint Committee Decision No 88/2002 of 25 June 2002 ⁽¹⁾.

PART III.2**SUPPLEMENTARY INFORMATION SHEET ON TRAINING AID**

This supplementary information sheet must be used for the notification of individual aid pursuant to Article 5 of the Regulation (EC) No 68/2001 ⁽²⁾, which has been incorporated into the EEA Agreement by EEA Joint Committee Decision No 88/2002 of 25 June 2002 ⁽³⁾. It must also be used in the case of any individual aid or scheme, which is notified to the Authority for reasons of legal certainty.

1. Scope of the individual aid or scheme

1.1. Is the aid foreseen for the maritime transport sector?

☐ Yes

☐ No

If yes, please answer the following questions:

Is the trainee not an active member of the crew but a supernumerary on board?

☐ Yes

☐ No

Shall the training be carried out on board ships entered in registers of the EEA States?

☐ Yes

☐ No

1.2. What are the intensities of the aid expressed in gross terms? Please specify:

.....

2. Type of scheme or individual aid

Does the scheme or the individual aid relate to:

2.1. Specific training:

☐ Yes ☐ No

If yes, please give a description of the measure related to specific training:

⁽¹⁾ OJ L 266, 3.10.2002 and EEA Supplement No 49, cf. point 1f of Annex XV to the EEA Agreement.

⁽²⁾ Commission Regulation (EC) No 68/2001 of 12 January 2001 on the application of Articles 87 and 88 to training aid (OJ L 10, 13.1.2001, p. 20). The amendments contained in Commission Regulation (EC) No 363/2004 (OJ L 63, 28.2.2004, p. 20) are only applicable once this Regulation has been incorporated into the EEA Agreement.

⁽³⁾ OJ L 266, 3.10.2002 and EEA Supplement No 49, cf. point 1d of Annex XV to the EEA Agreement.

2.2. General training: ☐ Yes ☐ No

If yes, please give a description of the measure related to general training:

2.3. Training aid given to disadvantaged workers: ☐ Yes ☐ No

If yes, please give a description of the measure related to disadvantaged workers:

2.4. Intensity of the aid

2.4.1. Aid for general training

2.4.1.1. ☐ Granted outside of assisted regions under to Article 61(3)(a) of the EEA Agreement and 61(3)(c) of the EEA Agreement

If yes, please specify what are the intensities expressed in gross terms for:

— large enterprises:

— small or medium-sized enterprises:

If yes, please specify what are the intensities in case that the training is given to disadvantaged workers:

2.4.1.2. ☐ Granted in assisted regions under Article 61(3)(a) of the EEA Agreement and under Article 61(3)(c) of the EEA Agreement

If yes, please specify what are the intensities expressed in gross terms for:

— large enterprises:

— small or medium sized enterprises:

If yes, please specify what are the intensities in case that the training is given to disadvantaged workers:

2.4.2. Aid for specific training

2.4.2.1. ☐ Granted outside of assisted regions under Article 61(3)(a) of the EEA Agreement and under Article 61(3)(c) of the EEA Agreement

If yes, please specify what are the intensities expressed in gross terms for:

— large enterprises:

— small or medium sized enterprises:

If yes, please specify what are the intensities in case that the training is given to disadvantaged workers:

2.4.2.2. ☐ Granted in assisted regions under Article 61(3)(a) of the EEA Agreement and under Article 61(3)(c) of the EEA Agreement

If yes, please specify what are the intensities expressed in gross terms for:

— large enterprises:

— small or medium sized enterprises:

If yes, please specify what are the intensities in case that the training is given to disadvantaged workers:

3. Eligible costs

Which are the eligible costs foreseen under the scheme or for the individual aid?

☐ Trainers personnel costs

☐ Trainers and trainees travel expenses

- ☐ Other current expenses such as materials and supplies
- ☐ Depreciation of tools and equipment, to the extent that they are used exclusively for the training project
- ☐ Cost of guidance and counselling services with regard to the training project
- ☐ Trainees personnel
- ☐ Indirect costs (administrative, rent, overheads, transport and tuition costs for participants)

In the case of ad hoc individual aid under a scheme, please provide for each of the eligible costs documentary evidence, which shall be transparent and itemized

.....

4. **Cumulation**

Can the aid foreseen in the scheme or in the individual aid be cumulated?

☐ Yes ☐ No

If yes, can the aid intensities as stipulated in Article 4 of the Regulation (EC) No 68/2001, as incorporated into the EEA Agreement by EEA Joint Committee Decision No 88/2002 of 25 June 2002 ⁽¹⁾, be exceeded by this cumulation?

☐ Yes ☐ No

5. **Other information**

Please indicate here any other information you consider relevant to the assessment of the measure(s) concerned under the Regulation (EC) No 68/2001, as incorporated into the EEA Agreement by EEA Joint Committee Decision No 88/2002 of 25 June 2002 ⁽¹⁾.

PART III.3

SUPPLEMENTARY INFORMATION SHEET ON EMPLOYMENT AID

This supplementary information sheet must be used for the notification of any individual aid or any scheme pursuant to Article 9 of Regulation (EC) No 2204/2002 ⁽²⁾, as incorporated into the EEA Agreement by EEA Joint Committee Decision No 83/2003 of 20 June 2003 ⁽³⁾. It must also be used in the case of an individual aid or scheme, which is notified to the Authority for reasons of legal certainty. This supplementary information sheet must as well be used for the notification of any employment aid in the transport sector (granted pursuant to Article 4(6) of the SME Regulation ⁽⁴⁾ or pursuant to the Authority's regional guidelines).

1. **Creation of employment**

- 1.1. Are the aid intensities calculated with regard to the wage costs over a period of two years relating to the employment created?

☐ Yes ☐ No

⁽¹⁾ OJ L 266, 3.10.2002 and EEA Supplement No 49, cf. point 1d of Annex XV to the EEA Agreement.

⁽²⁾ Commission Regulation (EC) No 2204/2002 of 12 December 2002 on the application of Articles 87 and 88 of the EC Treaty to State aid for employment (OJ L 337, 13.12.2002, p. 3 and OJ L 349, 24.12.2002, p. 126).

⁽³⁾ OJ L 257, 9.10.2003 and EEA Supplement No 51, cf. point 1g of Annex XV to the EEA Agreement.

⁽⁴⁾ Commission Regulation (EC) No 70/2001 on the application of Articles 87 and 88 EC Treaty to State aid to small and medium-sized enterprises, as incorporated into the EEA Agreement by EEA Joint Committee Decision No 88/2002 of 25 June 2002 (OJ L 266, 3.10.2002 and EEA Supplement No 49), cf. point 1f of Annex XV to the EEA Agreement. The amendments contained in Commission Regulation (EC) No 364/2004 as regards the extension of its scope to include aid for research and development (OJ L 63, 28.2.2004, p. 22) are only applicable once this regulation has been incorporated into the EEA Agreement.

- 1.2. Is the creation of employment for SMEs outside of assisted areas under the Article 61(3)(a) of the EEA Agreement and under Article 61(3)(c) of the EEA Agreement or sectors?

☐ Yes

☐ No

If yes, please specify what are the intensities expressed in gross terms:

.....
.....

Is the creation of employment in assisted areas according to Article 61(3)(a) of the EEA Agreement and 61(3)(c) of the EEA Agreement or sectors?

☐ Yes

☐ No

- 1.2.1. Is the aid defined in terms of intensity compared to standard reference cost?

☐ Yes

☐ No

Is the aid subject to taxes?

☐ Yes

☐ No

What are the intensities expressed in net terms?

.....

Shall the ceiling be increased because the scheme or the aid is applicable also to SMEs?

☐ Yes

☐ No

If yes, please specify what increases are foreseen, expressed in gross terms:

.....

- 1.2.2. Has the recipient to make a minimum contribution, exempted of any aid, of at least 25 % of the eligible costs?

☐ Yes

☐ No

- 1.2.3. Does the aid provide that the employment is maintained for a minimum period of three years in the case of large enterprises?

☐ Yes

☐ No

Does the aid provide that the employment in the regions or sectors which qualify for regional aid is maintained for a minimum period of two years in the case of SMEs?

☐ Yes

☐ No

If yes, what are the guarantees that the aid linked or not linked to the initial investment is made conditional on the maintenance of the employment for a minimum period of two or three years?

- 1.2.4. Does the employment created represent a net increase in the number of employees, both in the establishment and in the enterprise concerned, compared with the average over the past 12 months?

☐ Yes

☐ No

- 1.2.5. Have the new workers employed never had a job or have lost or are in the process of losing their previous job?

☐ Yes

☐ No

- 1.2.6. Does the scheme provide that any application for aid must be submitted before the employment concerned is created?

☐ Yes

☐ No

If not has the EFTA State adopted legal provisions establishing a legal right to aid according to objective criteria, and without further exercise of discretion by the EFTA States?

☐ Yes

☐ No

- 1.2.7. Does the aid provide that in cases where the employment created is linked to the carrying-out of a project of investment in tangible and intangible assets and the employment is created within three years of the investment's completion for a minimum period of three years in the case of SMEs, the application for aid must be submitted before work is started on the investment projects?

☐ Yes

☐ No

2. Recruitment of disadvantaged and disabled workers

- 2.1. Are the aid intensities calculated with regard to the wage costs over a period of one year relating to the employment created?

☐ Yes

☐ No

Do the gross aid intensities of all aid relating to the employment of the disadvantaged or disabled workers exceed respectively 50 % or 60 %?

☐ Yes

☐ No

- 2.2. Does the recruitment represent a net increase in the number of employees in the establishment concerned?

☐ Yes

☐ No

If not, have the post or posts fallen vacant following voluntary departure, retirement on grounds of age, voluntary reduction of working time or lawful dismissal for misconduct and not as a result of redundancy?

☐ Yes

☐ No

- 2.3. Is the aid limited to disadvantaged workers in the meaning of Article 2(f)?

☐ Yes

☐ No

- 2.4. Is the aid limited to disabled workers in the meaning of Article 2(g)?

☐ Yes

☐ No

If the aid is not limited to disadvantaged or disabled workers in the meaning of Article 2(f) and (g) please explain in detail why you consider that targeted categories of workers should be considered as disadvantaged:

.....

3. Additional costs of employment of disabled workers

- 3.1. Does the aid refer to the recruitment of individual disabled workers and ancillary costs?

☐ Yes

☐ No

If yes, please demonstrate that the conditions of Article 6.2 are fulfilled:

.....

- 3.2. Does the aid refer to sheltered employment?

☐ Yes

☐ No

If yes, please demonstrate that the aid does not exceed the costs of constructing, installing or expanding the establishment concerned, and any costs of administration and transport which result from employment of disabled workers:

.....

4. Cumulation

- 4.1. Does the aid ceiling fixed in Article 4, 5 and 6 apply regardless of whether the support is financed entirely from state resources or is partly financed through the participation of EFTA States in Community programmes?

☐ Yes

☐ No

- 4.2. Can the notified aid for the creation of new jobs be cumulated with other State aid within the meaning of Article 61(1) of the EEA Agreement or with other funding emanating through the participation of EFTA States in Community programmes in relation to the same wage costs?

☐ Yes

☐ No

If yes, can the cumulation lead to a result where the aid intensity as fixed in Article 4(2) and (3) is exceeded (aid for disadvantaged and disabled workers excluded)?

☐ Yes

☐ No

- 4.3. Can the notified aid for the creation of employment under Article 4 of this regulation be cumulated with any other State aid within the meaning of Article 61(1) of the EEA Agreement in relation to the costs of any investment to which the created employment is linked and which has not yet been completed at the time the employment is created or which was completed in the three years before the employment was created?

☐ Yes

☐ No

If yes, can the cumulated aid result in an aid intensity exceeding the relevant ceiling of regional investment aid determined in the guidelines in regional investment aid and in the map approved by the Authority for each EFTA State or the ceiling in the Block Exemption Regulation (EC) No 70/2001, as incorporated into the EEA Agreement by EEA Joint Committee Decision No 88/2002 of 25 June 2002 ⁽¹⁾?

☐ Yes

☐ No

- 4.4. Can the aid for the recruitment of disadvantaged or disabled workers under Article 5 and 6 be cumulated with aid and/or funding emanating through the participation of EFTA States in Community programmes for the creation of employment under Article 4 in relation with the same wage costs?

☐ Yes

☐ No

If yes, is it ensured that such cumulation does not result in a gross aid intensity exceeding 100 % of the wage costs over any period for which the worker or workers are employed?

- 4.5. Can the aid for the recruitment of disadvantaged or disabled workers under Article 5 and 6 of the Regulation be cumulated with other State aid and/or with other funding emanating through the participation of EFTA States in Community programmes for other purposes than the creation of employment under Article 4 of the Regulation in relation to the same wage costs?

☐ Yes

☐ No

If yes, please explain the 'other purposes':

If yes is it ensured that such cumulation does not result in a gross aid intensity exceeding 100 % of the wage costs over any period for which the worker or workers are employed?

☐ Yes

☐ No

⁽¹⁾ OJ L 266, 3.10.2002 and EEA Supplement No 49, cf. point 1f of Annex XV to the EEA Agreement.

5. Other information

Please indicate here any other information you consider relevant to the assessment of the measure(s) concerned under the Regulation (EC) No 2204/2002, as incorporated into the EEA Agreement by EEA Joint Committee Decision No 83/2003 of 20 June 2003 ⁽¹⁾.

PART III.4

SUPPLEMENTARY INFORMATION SHEET ON REGIONAL AID

This supplementary information sheet must be used for the notification of any aid scheme or individual aid covered by the Authority's State Aid guidelines on national regional aid ⁽²⁾.

However, the present annex cannot be used for the particular purpose of notification of new regional aid maps. Of course, individual aid or schemes falling under the scope of the exemption regulations, both the SME ⁽³⁾ and the employment regulation ⁽⁴⁾, are exempted from notification. In this regard, EFTA States are invited to clarify the scope of their notification; in the particular case that their notification covers both aid to large firms and SMEs, then, they may request approval only concerning the first category.

As stated in the guidelines, regional aid is a specific form of aid since it is reserved for particular regions. It is designed to develop the less favoured regions by supporting investment and job creation in a sustainable context.

Derogation from the incompatibility principle established in the EEA Agreement can only be granted in respect of regional aid if the equilibrium between the resulting distortions of competition and the advantages of aid in terms of development can be guaranteed.

1. Type of scheme or individual aid

The scheme or the individual aid relates to:

- 1.1. ☐ Initial investment
- ☐ The aid is calculated as a percentage of the investment's value
- ☐ The aid is calculated as a percentage of the wage costs of the persons hired
- 1.2. ☐ Operating aid
- 1.3. ☐ Both
- 1.4. The aid is granted:
- ☐ Automatically, should the conditions of the scheme be fulfilled
- ☐ Discretionary, following a decision of the authorities

Should the aid be granted on a case by case basis, please provide a short description of the criteria followed and attach a copy of the administrative provisions applicable for the awarding of aid:

.....

.....

.....

⁽¹⁾ OJ L 257, 9.10.2003 and EEA Supplement No 51, cf. point 1g of Annex XV to the EEA Agreement.

⁽²⁾ The EFTA Surveillance Authority's Guidelines Chapter 25 on National Regional Aid (OJ L 111, 29.4.1999 and EEA Supplement No 18, as amended by OJ L 274, 26.10.2000 and EEA Supplement No 26).

⁽³⁾ Commission Regulation (EC) No 70/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to small and medium-sized enterprises (OJ L 10, 13.1.2001 p. 33), as incorporated into the EEA Agreement by EEA Joint Committee Decision No 88/2002 of 25 June 2002 (OJ L 266, 3.10.2002 and EEA Supplement No 49, cf. point 1f of Annex XV to the EEA Agreement). The amendments made by Commission Regulation (EC) No 364/2004 as regards the extension of its scope to include aid for research and development (OJ L 63, 28.2.2004, p. 22) are only applicable once the regulation has been incorporated into the EEA Agreement.

⁽⁴⁾ Commission Regulation (EC) No 2204/2002 of 12 December 2002 on the application of Article 87 and 88 of the EC Treaty to State aid for employment (OJ L 337, 13.12.2002, p. 3, and OJ L 349, 24.12.2002, p. 126), as incorporated into the EEA Agreement by EEA Joint Committee Decision No 83/2003 of 20 June 2003 (OJ L 257, 9.10.2003 and EEA Supplement No 51, cf. point 1g of Annex XV to the EEA Agreement).

- 1.5. Does the aid respect the regional ceilings of the regional aid map applicable at the time of awarding the aid -including those resulting from the appropriate measures to be adopted in the framework of the Multisectoral Framework ⁽¹⁾?

☐ Yes

☐ No

Does the scheme include a reference to the regional aid maps applicable?

☐ Yes

☐ No

If yes, please specify:

2. **Initial investment aid** ⁽²⁾

- 2.1. Does the scheme cover investment in fixed capital or job creation relating to:

☐ The setting-up of a new establishment?

☐ The extension of an existing establishment?

☐ The starting-up of a new activity involving a fundamental change in the product or production process of an existing establishment (through rationalisation, diversification or modernisation)?

☐ The purchase of an establishment which has closed or which would have closed had it not been purchased?

- 2.2. Does the aid include a clause stipulating that the recipient has made a minimum contribution of at least 25 % of the total investment and that this contribution will be exempted of any aid?

☐ Yes

☐ No

- 2.3. Does the aid provide that any application for aid must be submitted before work is started on the projects?

☐ Yes

☐ No

If any of the points above are not fulfilled, please explain why and how the authorities intend to comply with these necessary conditions:

.....

- 2.4. Does the scheme define the aid in terms of intensity compared to standard reference cost?

☐ Yes

☐ No

Is the aid subject to taxes?

☐ Yes

☐ No

What are the intensities expressed in gross terms?

.....

What are the parameters enabling calculation of aid intensities?

.....

- 2.4.1. ☐ Grants:

Depreciation arrangements in force?

Tax rate reduction on benefits of the firm:

⁽¹⁾ EFTA Surveillance Authority's College Decision No 263/02/COL of 18 December 2002 introducing Chapter 26A on 'Multisectoral Framework on regional aid for large investment projects'.

⁽²⁾ This should be understood in the sense of point 4(1) of the EFTA Surveillance Authority's Guidelines Chapter 25 on National Regional Aid (OJ L 111, 29.4.1999 and EEA Supplement No 18), according to which, 'the object of regional aid is to secure either productive investment (initial investment) or job creation, which is linked to the investment. Thus this method favours neither the capital factor nor the labour factor.'

2.4.2. ☐ Low-interest loans and interest rebate:

Maximum amount of the rebate:

Maximum period of the loan:

Maximum proportion ⁽¹⁾:

Maximum length of the grace period:

In the case of low-interest loans, please specify the minimum interest rate:

In case of a state-loan:

— Is it covered by ordinary securities?

— What is the expected default rate?

— Is the reference rate being increased in situations involving a particular risk?

2.4.3. ☐ Guarantee schemes:

Please indicate the types of loans for which guarantees may be granted and specification of the fees (cf. previous point):

.....
.....
.....

What is the expected default rate?

Please submit information allowing the aid intensity of guarantees to be calculated, including duration, proportion and amount:

.....
.....
.....2.5. Is replacement investment excluded from the scheme ⁽²⁾?☐ Yes☐ No

In case it is not, the authorities are requested to fill in the part on operating aid.

2.6. Is assistance for firms in difficulty ⁽³⁾ and/or for the financial restructuring of firms in difficulty excluded from the scheme?☐ Yes☐ No

Should this question be answered in the negative, will aid to investment granted to a large enterprise during the restructuring period, be notified individually?

☐ Yes☐ No

2.7. Does the eligible expenditure under the scheme relate to:

2.7.1. ☐ Material investment:The value of the investment is established as a percentage on the basis of ⁽⁴⁾:☐ Land☐ Buildings☐ Plant/machinery (equipment)?⁽¹⁾ Amount of the loan as a percentage or proportion of the eligible investment.⁽²⁾ Replacing investment falls within the category of operating aid and thus it is excluded from initial investment.⁽³⁾ As defined in the EFTA Surveillance Authority Guidelines Chapter 16 on aid for Rescuing and Restructuring firms in difficulty (OJ L 274, 26.10.2000 and EEA Supplement No 48).⁽⁴⁾ In the transport sector, expenditure on the purchase of transport equipment cannot be included in the uniform set of items of expenditure. Such expenditure is not eligible for initial investment.

Please provide a short description ⁽¹⁾:

.....
.....
.....

In the context of purchasing an establishment of the type, for which the investment aid is intended, are there any guarantees that the establishment concerned does not belong to a firm in difficulty?

☐ Yes ☐ No

Are there enough guarantees that any aid awarded in the past for the acquisition of assets has been taken into account/deducted as provided for in point 4.5 of the RAG prior to the purchase?

☐ Yes ☐ No

Are there enough guarantees that the transactions would take place under market conditions?

☐ Yes ☐ No

Should one of the three previous questions be answered in the negative, please explain how the authorities intend to comply with the necessary conditions:

.....
.....
.....

2.7.2. ☐ Intangible investment:

The value of the investment is established on the basis of expenditure entailed by the transfer of technology through the acquisition of:

- ☐ Patents
☐ Operating or patented know-how licences
☐ Unpatented know-how

Please provide a short description ⁽²⁾:

.....
.....
.....

Does the scheme include a clause stipulating that the expenditure on eligible intangible investment must not exceed 25 % of the standard base in the case of large firms?

☐ Yes ☐ No

If not, explain why and how the authorities intend to respect this requirement:

.....
.....

In the case of large firms, does the scheme provide for guarantees that eligible assets:

2.7.2.1. ☐ Will be used exclusively in the establishment receiving the aid?

2.7.2.2. ☐ Must be regarded as amortisable assets?

⁽¹⁾ This description should reflect how the authorities intend to ensure consistency with point 25.4(6) – (9) of the EFTA Surveillance Authority's Guidelines Chapter 25 on National Regional Aid (OJ L 111, 29.4.1999).

⁽²⁾ This description should reflect how the authorities intend to ensure consistency with point 25.4(10) – (12) of the EFTA Surveillance Authority's Guidelines Chapter 25 on National Regional Aid (OJ L 111, 29.4.1999).

- 2.7.2.3. ☐ Are purchased from third parties under market conditions?

Should one of these conditions not be explicitly reflected in the scheme, please explain the reasons, as well as how the authorities intend to ensure that the eligible intangible assets will remain associated within the recipient region and will not be subject to a transfer benefiting other regions:

.....

What are the guarantees that aid for initial investment (both material and intangible investment) is made conditional on the maintenance of the investment for a minimum period of five years?

.....

- 2.8. In case that aid to initial investment is linked to aid to employment, can the authorities provide guarantees that the cumulation rules would be respected?

.....

- 2.9. Aid to job creation linked to initial investment

- 2.9.1. Does the measure provide for guarantees that the aid for job creation is linked to the carrying-out of an initial investment project?

☐ Yes

☐ No

Does the measure provide for guarantees that the jobs will be created within three years of the investment completion?

☐ Yes

☐ No

Should one of the previous questions be answered in the negative, please explain how the authorities intend to comply with these requirements:

.....

In case that the investment does not relate to the setting up of a new establishment, please explain the reference period for calculating the number of jobs created:

.....

- 2.9.2. Does the measure provide for guarantees that job creation means a net increase in the number of jobs in a particular establishment compared with the average over a period of time?

☐ Yes

☐ No

Does the measure provide for guarantees that the jobs lost during the period of reference are being deducted from the apparent number of jobs created during the same period ⁽¹⁾?

☐ Yes

☐ No

Should one of the above points be answered in the negative, please explain how the authorities intend to comply with these requirements:

.....

- 2.9.3. Is the aid calculated on the basis of:

☐ A percentage of the wage cost per job created?

⁽¹⁾ The number of jobs corresponds to the number of annual labour units (ALU), i.e. the number of persons employed full-time in one year, part-time and seasonal work being ALU fractions.

- ☐ A flat-rate amount per job created?
- ☐ Other (e.g. a progressive rate per job created). Please specify:

Please explain the parameters used in order to calculate the aid intensity:

.....

.....

.....

- 2.9.4. Does the measure provide for guarantees that the employment created will be maintained for a minimum period of five years?

.....

.....

3. **Operating aid**

- 3.1. What is the direct link between the awarding of operating aid and the contribution to regional development?

.....

.....

.....

- 3.2. What are the structural handicaps that the operating aid is seeking to redress?

.....

.....

.....

- 3.3. Which are the guarantees that the nature and the level of the aid are proportional to the handicaps it seeks to alleviate?

.....

.....

.....

- 3.4. What arrangements have been made to ensure that the aid is progressively reduced and limited in time?

.....

.....

.....

4. **Specific questions relating to the ultrapheric regions or to regions with low population density**

- 4.1. Should aid not be progressively reduced and not be limited in time, please specify whether the following conditions are met:

- 4.1.1. Does the aid benefit an outermost region or a region with low population density?

☐ Yes ☐ No

- 4.1.2. Is this aid intended to offset in part additional transport costs?

☐ Yes ☐ No

Please provide proof of the existence of these additional costs and the method of calculation used to determine their amount ⁽¹⁾:

.....

.....

.....

⁽¹⁾ The description should reflect how the authorities intend to ensure that the aid is given only in respect of the extra cost of transport of goods inside national borders, is calculated on the basis of the most economical form of transport and the shortest route between the place of production or processing and commercial outlets, and cannot be given towards the transport of the products of businesses without an alternative location.

Indicate what will be the maximum amount of aid (on the basis of an aid-per-kilometre ratio or on the basis of an aid-per-kilometre and aid-per-unit-weight ratio) and the percentage of the additional costs covered by the aid:

.....

.....

.....

5. Scope of the scheme

5.1. Does the scheme apply to the transport sector?

☐ Yes ☐ No

Should this question be answered in the positive, is there a provision in the scheme stating that transport equipment (movable assets) are excluded from the eligible investment expenditure ⁽¹⁾?

☐ Yes ☐ No

6. Respect of the relevant provisions of sectoral and multisectoral frameworks

6.1. Does the scheme respect the specific provisions, such as the prohibition to grant aid to the steel sector ⁽²⁾ and/or synthetic fibres ⁽³⁾?

☐ Yes ☐ No

6.2. Concerning aid awarded after 1 January 2003: Does the scheme provide for respect of individual notification obligations foreseen in point 26A.3(1) of the 2002 Multisectoral Framework ⁽⁴⁾.

☐ Yes ☐ No

6.3. Concerning aid awarded before 1 January 2004: Does the scheme include a provision stating that any aid for large investment projects will be notified individually?

☐ Yes ☐ No

Should one of these questions be answered in the negative, please explain how the authorities intend to comply with the necessary conditions:

.....

.....

7. Other information

Please indicate here any other information you consider relevant to the assessment of the measure(s) concerned under the Authority's State Aid guidelines on national regional aid.

⁽¹⁾ Excepting the railway rolling stock in the sense provided by Article 4(5) of the Commission Regulation (EC) No 70/2001 (OJ L 10, 13.1.2001, p. 33), as incorporated into the EEA Agreement by EEA Joint Committee Decision No 88/2002 of 25 June 2002. The amendments made by Commission Regulation (EC) No 364/2004 as regards the extension of its scope to include aid for research and development (OJ L 63, 28.2.2004, p. 22) are only applicable once the Regulation has been incorporated into the EEA Agreement.

⁽²⁾ In the sense of the Annex B of the EFTA Surveillance Authority's Guidelines Chapter 26A on Multisectoral Framework on Regional Aid for Large Investment Projects (not yet published).

⁽³⁾ In the sense of Annex D of the EFTA Surveillance Authority's Guidelines Chapter 26A on Multisectoral Framework on Regional Aid for Large Investment Projects (not yet published).

⁽⁴⁾ According to the EFTA Surveillance Authority's Guidelines Chapter 26A on Multisectoral Framework on Regional Aid for Large Investment Projects, 'EFTA States are required to notify every case of regional investment aid if the aid proposed is more than the maximum allowable aid that an investment can obtain under the scale and the rules laid down in point 26A.3.(1)'.

PART III.5

SUPPLEMENTARY INFORMATION SHEET ON AID COMING UNDER THE MULTISECTORAL FRAMEWORK ⁽¹⁾

This supplementary information sheet must be used for the notification of any aid covered by the Multisectoral framework on regional aid for large investment projects ⁽²⁾.

1. Additional information on beneficiaries**1.1. Structure of the company or companies investing in the project****1.1.1. Identity of aid recipient****1.1.2. If the legal identity of the aid recipient is different from the undertaking(s) that finance(s) the project or from the actual beneficiary(s) of the aid, describe also these differences.**

.....

1.1.3. Identify the parent group of the aid recipient, describe the group structure and ownership structure of each parent company:

.....

1.2. For a company or companies investing in the project, provide the following data for the last three financial years**1.2.1. Worldwide turnover, EEA turnover, turnover in EFTA State concerned:**

.....

1.2.2. Profit after tax and cash flow (on a consolidated basis):

.....

1.2.3. Employment worldwide, at EEA level and in EFTA State concerned:

.....

1.2.4. Market breakdown of sales in the EFTA State concerned, in the rest of the EEA and outside the EEA:

.....

1.2.5. Audited financial statements and annual report for the last three years:

.....

1.3. If the investment takes place in an existing industrial location, provide the following data for the last three financial years of that entity:**1.3.1. Total turnover:****1.3.2. Profit after tax and cash flow:****1.3.3. Employment:****1.3.4. Market breakdown of sales: in the EFTA State concerned, in the rest of the EEA and outside the EEA:**

⁽¹⁾ For aid granted outside authorised schemes, the EFTA State must provide information detailing the beneficial effects of the aid on the assisted area concerned.

⁽²⁾ EFTA Surveillance Authority's Guidelines Chapter 26A on Multisectoral Framework on Regional Aid for Large Investment Projects (not yet published in the OJ but available on the Authority's website).

2. Aid

For each aid, provide the following information:

2.1. Amount

2.1.1. Nominal amount of support and its gross and net grant equivalent:

2.1.2. Is the assistance measure subject to corporate tax (or other direct taxation)? If only partially, to what extent?

2.1.3. Provide a complete schedule of the payment of the proposed assistance. For the package of proposed public assistance, provide the following:

.....
.....

2.2. Characteristics:

2.2.1. Are any of the assistance measures of the overall package not yet defined?

☐ Yes

☐ No

If yes, please specify:

2.2.2. Indicate which of the abovementioned measures does not constitute State aid and for what reason(s):

.....
.....
.....

2.3. Financing from Community instruments (EIB, ECSC instruments, Social Fund, Regional Fund, other):

2.3.1. Are some of the abovementioned measures to be co-financed by Community programmes? Please explain.

.....
.....
.....

2.3.2. Is some additional support for the same project to be requested from any other European or international financing institutions?

☐ Yes

☐ No

If so, for what amounts?

3. Assisted project

3.1. Duration of the project: (specify the planned start date of the new production and the year by which full production may be reached):

.....

3.2. Description of the project

3.2.1. Specify the type of the project and whether it is a new establishment or a capacity expansion or other

.....
.....
.....

3.2.2. Provide a short general description of the project

.....
.....
.....
.....

3.3. Breakdown of the project costs

3.3.1. Specify the total cost of capital expenditure to be invested and depreciated over the lifetime of the project

.....

.....

.....

3.3.2. Provide a detailed breakdown of the capital and non-capital (2) expenditure associated with the investment project

.....

.....

.....

3.4. Financing of total project costs

.....

.....

.....

4. **Product and market characteristics**

4.1. Characterisation of product(s) envisaged by the project

4.1.1. Specify the product(s) that will be produced in the aided facility upon the completion of the investment and the relevant (sub-)sector(s) to which the product(s) belong(s) (indicate the Prodcom code or CPA nomenclature for projects in the service sectors):

.....

.....

.....

4.1.2. What product(s) will it replace? If these replaced products are not produced at the same location, indicate where they are currently produced.

.....

.....

.....

4.1.3. What other product(s) can be produced with the same new facilities at little or no additional cost?

.....

.....

.....

4.2. Capacity considerations

4.2.1. Quantify the impact of the project on the aid recipient's total viable capacity in the EEA (including at group level) for each of the product(s) concerned (in units per year in the year preceding the start year and on completion of the project).

.....

.....

.....

4.2.2. Provide an estimate of the total capacity of all EEA producers for each of the products concerned.

.....

.....

.....

4.3. Market data

4.3.1. Provide for each of the last six financial years data on apparent consumption of the product(s) concerned. If available, include statistics prepared by other sources to illustrate the answer.

.....

.....

.....

- 4.3.2. Provide for the next three financial years a forecast of the evolution of apparent consumption of the product(s) concerned. If available, include statistics prepared by independent sources to illustrate the answer.

.....

.....

.....

- 4.3.3. Is the relevant market in decline and for what reasons?

.....

.....

.....

- 4.3.4. An estimate of the market shares (in value) of the aid recipient or of the group to which the aid recipient belongs in the year preceding the start year and on completion of the project.

.....

.....

5. Other information

Please indicate here any other information you consider relevant to the assessment of the measure(s) concerned under the multisectoral framework.

PART III.6.a

SUPPLEMENTARY INFORMATION SHEET FOR RESEARCH AND DEVELOPMENT AID: AID SCHEMES

This supplementary information sheet must be used for the notification of any aid scheme covered by the Authority's State aid Guidelines on aid for research and development ⁽¹⁾. It must also be used for aid schemes for research and development aid to SMEs which do not fall under the Block Exemption Regulation for SMEs ⁽²⁾.

1. Research stage

Research and development stages qualifying for aid

- 1.1. Feasibility studies: ☐ Yes ☐ No

If yes, to which stage of research does the study refer?

- ☐ Fundamental research
- ☐ Industrial research
- ☐ Precompetitive development

If yes, give examples of major projects:

.....

- 1.2. Fundamental research: ☐ Yes ☐ No

If yes, give examples of major projects:

.....

- 1.3. Industrial research: ☐ Yes ☐ No

If yes, give examples of major projects:

.....

⁽¹⁾ EFTA Surveillance Authority's State Aid Guidelines Chapter 14 on State aid for research and development (OJ L 245, 26.9.1996, EEA Supplement No 43) and subsequent amendments (OJ C 293, 28.11.2002, EEA Supplement No 59).

⁽²⁾ Regulation (EC) No 70/2001 on the application of Article 87 and 88 EC Treaty to State aid to small and medium size enterprises (OJ L 10, 13.1.2001, p. 33). This block exemption has been incorporated into the EEA Agreement by EEA Joint Committee Decision No 88/2002 of 25 June 2002 (OJ L 266, 3.10.2002, p. 56). The amendments made by Commission Regulation (EC) No 364/2004 of 25.2.2004 are only applicable once this Regulation has been incorporated into the EEA Agreement.

- 1.4. Precompetitive development: ☐ Yes ☐ No

If yes, give examples of major projects:
.....

- 1.5. Patent applications and renewals by SMEs: ☐ Yes ☐ No

If yes, to which stage of research is concerned?

- ☐ Fundamental research
☐ Industrial research
☐ Precompetitive development

2. **Additional information on the recipient of the aid**

- 2.1. Higher-education or research establishments

☐ Yes ☐ No

If yes, give an estimate of the number of establishments involved:

If yes, state whether other firms receive aid: ☐ Yes ☐ No

Are these higher-education or research establishments in the public sector?

☐ Yes ☐ No

- 2.2. Other (please specify):

3. **Cooperative research**

To enable the Authority to check whether contributions from public research establishments to an R&D project constitute aid, please answer the following questions:

- 3.1. Do the projects provide that public, non-profit-making research or higher-education establishments carry out research on behalf of or in collaboration with industry?

☐ Yes ☐ No

If yes, please clarify:

- Do the public, non-profit-making research or higher-education establishments receive payment at the market rate for the services they provide?

☐ Yes ☐ No

or

- Do the industrial participants bear the full cost of the project?

☐ Yes ☐ No

or

- Where results which do not give rise to intellectual property rights may be widely disseminated, is any intellectual property rights fully allocated to the public, non-profit-making establishments?

☐ Yes ☐ No

or

- Do the public, non-profit-making establishments receive from the industrial participants (holders of intellectual property rights resulting from the research project) compensation equivalent to the market price for those rights and for the results that do not give rise to intellectual property rights but may be widely disseminated to interested third parties?

☐ Yes☐ No

- 3.2. Are the projects carried out in collaboration with several firms?

☐ Yes☐ No

If yes, what are the conditions governing such collaboration?

.....

4. **Research acquired by the state**

- 4.1. Do projects stipulate that the public authorities may commission R&D from firms?

☐ Yes☐ No

If yes, is there an open tender procedure?

☐ Yes ☐ No

- 4.2. Do projects stipulate that the public authorities may buy the results of R&D from firms?

☐ Yes☐ No

If yes, is there an open tender procedure?

☐ Yes ☐ No

5. **Type of aid**

- ☐ Aid linked to an R&D contract signed with industrial firms (please specify):
- ☐ Advance repayable if the project is successful (please specify the amount and procedures for repayment; in particular, give the criteria for measuring 'success')
-
- ☐ Other (please specify):

6. **Eligible expenditure**

- ☐ Costs of personnel employed solely on the research activity:
- ☐ Costs of durable assets used solely and on a continual basis for the research activity (equipment and instruments):
- ☐ Costs of land and premises used solely and on a continual basis (except where transferred commercially) for the research activity:
- ☐ Costs of consultancy and equivalent services used exclusively for the research activity, including the research, technical knowledge and patents, etc. bought from outside sources:
- ☐ Additional overheads incurred directly as a result of the research activity:
-

If appropriate, give a breakdown of research costs by aided and non-aided R&D:

.....

Give a breakdown of the budget between firms, research centres and universities:

.....

- ☐ Other operating expenses (costs of materials, supplies and similar products incurred directly as a result of the research activity)

7. **Aid intensity**

7.1. Gross aid intensity

Definition stage or feasibility studies:

Fundamental research:

Industrial research:

Precompetitive development:

7.2. For aid in support of patent applications and renewals by SMEs, specify the research activities which first led to the patents concerned:

Planned intensity:

7.3. Does the same R&D activity cover several stages of research?

☐ Yes☐ No

If yes, which?

Specify the aid intensity applied:

7.4. Bonuses applicable, if any

For aid granted to SMEs, give the bonus applicable, if any:

Are the research activities in accordance with a specific project or programme undertaken as part of the Community's current framework programme for research and technological development?

☐ Yes☐ No

If yes, what is the bonus applicable?

Please give also the exact title of the specific project or programme undertaken as part of the Community's current framework programme for R&TD (if possible using the 'call identifier' or the CORDIS website: www.cordis.lu).

Does the project in accordance with a specific project or programme undertaken as part of the Community's current framework programme for R&TD involve cross-border cooperation between firms and public research bodies or between at least two independent partners in two States, where its results are widely disseminated and published?

☐ Yes☐ No

If yes, what is the bonus applicable?

Are the aided R&D activities located in a region eligible under Article 61(3) (a) or (c) of the EEA Agreement at the time the aid is granted?

☐ Yes☐ No

Give the bonus applicable:

If the research activities are not in accordance with a specific project or programme undertaken as part of the Community's current framework programme for R&TD, clarify whether at least one of the following conditions is met:

— The project involves effective cross-border cooperation between at least two independent partners in two States, particularly in the context of coordinating national R&TD policies

☐ Yes☐ No

- The project involves effective cooperation between firms and public research bodies, particularly in the context of coordination of national R&TD policies

☐ Yes ☐ No

- The project's results are widely disseminated and published, patent licences are granted or other appropriate steps are taken under conditions similar to those for the dissemination of Community R&TD results

☐ Yes ☐ No

Where at least one of the above conditions is met, give any bonus applicable:

- 7.5. Where there is a combination of bonuses and aid intensities, give the maximum aid intensity applicable for each stage of research:

8. Incentive effect of the aid

- 8.1. Provide information that will enable us to assess the incentive effect of the aid for large firms

.....
.....

- 8.2. Does the scheme stipulate that the annual report on implementation should, in the case of large firms, contain a description of the incentive effect for each individual application of the scheme?

☐ Yes ☐ No

9. Multinational aspects

- 9.1. Do the projects (scheme/programme) have any multinational aspects?

☐ Yes ☐ No

If yes, specify:

- 9.2. Do the R&D projects involve cooperation with partners in other countries?

☐ Yes ☐ No

If yes, state:

a) Which other EEA State(s):

b) Which other third country or countries:

c) Which firm(s) in other countries:

- 9.3. Give a breakdown of the total cost by partner:

10. Access to results

Who will own the R&D results in question?

.....

- 10.1. Are any conditions attached to the granting of licences in respect of the results?

.....

- 10.2. Are there any rules governing the general publication/dissemination of the R&D results?

☐ Yes ☐ No

- 10.3. Indicate the measures planned for the subsequent use/development of the results:

.....

- 10.4. Is there provision for the results of publicly financed R&D projects to be made available to industry within the EEA on a non-discriminatory basis?

☐ Yes

☐ No

11. Information and control measures

- 11.1. Give the information/control measures used to ensure that the aided projects are in line with the objectives laid down by the relevant legislation:

.....

- 11.2. Specify the arrangements for informing the Authority about implementation of the scheme:

.....

- 11.3. Other useful information, including an estimate of the number of jobs created or safeguarded:

.....

12. Other information

Please give any other information you consider necessary to assess the measure(s) in question under the Authority's State aid Guidelines on aid for research and development.

PART III.6.b

SUPPLEMENTARY INFORMATION SHEET FOR RESEARCH AND DEVELOPMENT AID: INDIVIDUAL AID

This supplementary information sheet must be used for the notification of any aid scheme covered by the Authority's State aid Guidelines on aid for research and development ⁽¹⁾ It must also be used for individual aid for research and development to SMEs, which does not fall under the Block Exemption Regulation for SMEs ⁽²⁾.

1. Research stage

Research and development stages qualifying for aid

- 1.1. Feasibility studies: ☐ Yes ☐ No

If yes, to which stage of research does the study refer?

- ☐ Fundamental research
☐ Industrial research
☐ Precompetitive development

If yes, give examples of major projects:

- 1.2. Fundamental research: ☐ Yes ☐ No

If yes, give examples of major projects:

⁽¹⁾ EFTA Surveillance Authority's State Aid Guidelines Chapter 14 on State aid for research and development (OJ L 245, 26.9.1996, EEA Supplement No 43) and subsequent amendments (OJ C 293, 28.11.2002, EEA Supplement No 59).

⁽²⁾ Regulation (EC) No 70/2001 on the application of Article 87 and 88 EC Treaty to State aid to small and medium size enterprises (OJ L 10, 13.1.2001, p. 33). This block exemption has been incorporated into the EEA Agreement by EEA Joint Committee Decision No 88/2002 of 25 June 2002 (OJ L 266, 3.10.2002, p. 56). The amendments made by Commission Regulation (EC) No 364/2004 of 25.2.2004 are only applicable once this Regulation has been incorporated into the EEA Agreement.

- 1.3. Industrial research: ☐ Yes ☐ No

If yes, give examples of major projects:

- 1.4. Precompetitive development: ☐ Yes ☐ No

If yes, give examples of major projects:

- 1.5. Patent applications and renewals by SMEs: ☐ Yes ☐ No

If yes, to which stage of research is concerned?

- ☐ Fundamental research
☐ Industrial research
☐ Precompetitive development

2. Additional information on the recipient of the aid

- 2.1. Higher-education or research establishments

☐ Yes ☐ No

If yes, give an estimate of the number of establishments involved:

If yes, state whether other firms receive aid: ☐ Yes ☐ No

Are these higher-education or research establishments in the public sector?

☐ Yes ☐ No

- 2.2. Other (please specify):

3. Cooperative research

To enable the Authority to check whether contributions from public research establishments to an R&D project constitute aid, please answer the following questions:

- 3.1. Do the projects provide that public, non-profit-making research or higher-education establishments carry out research on behalf of or in collaboration with industry?

☐ Yes ☐ No

If yes, please clarify:

- Do the public, non-profit-making research or higher-education establishments receive payment at the market rate for the services they provide?

☐ Yes ☐ No

or

- Do the industrial participants bear the full cost of the project?

☐ Yes ☐ No

or

- Where results which do not give rise to intellectual property rights may be widely disseminated, is any intellectual property rights fully allocated to the public, non-profit-making establishments?

☐ Yes ☐ No

or

- Do the public, non-profit-making establishments receive from the industrial participants (holders of intellectual property rights resulting from the research project) compensation equivalent to the market price for those rights and for the results that do not give rise to intellectual property rights but may be widely disseminated to interested third parties?

☐ Yes☐ No

3.2. Are the projects carried out in collaboration with several firms?

☐ Yes☐ No

If yes, what are the conditions governing such collaboration?

4. **Research acquired by the state**

4.1. Do projects stipulate that the public authorities may commission R&D from firms?

☐ Yes☐ No

If yes, is there an open tender procedure?

☐ Yes ☐ No

4.2. Do projects stipulate that the public authorities may buy the results of R&D from firms?

☐ Yes☐ No

If yes, is there an open tender procedure?

☐ Yes☐ No

5. **Type of aid**

- ☐ Aid linked to an R&D contract signed with industrial firms (please specify):
- ☐ Advance repayable if the project is successful (please specify the amount and procedures for repayment; in particular, give the criteria for measuring 'success'):
- ☐ Other (please specify):

6. **Eligible expenditure**

- ☐ Costs of personnel employed solely on the research activity:
- ☐ Costs of durable assets used solely and on a continual basis for the research activity (equipment and instruments):
- ☐ Costs of land and premises used solely and on a continual basis (except where transferred commercially) for the research activity:
- ☐ Costs of consultancy and equivalent services used exclusively for the research activity, including the research, technical knowledge and patents, etc. bought from outside sources:
- ☐ Additional overheads incurred directly as a result of the research activity:

If appropriate, give a breakdown of research costs by aided and non-aided R&D:

Give a breakdown of the budget between firms, research centres and universities:

.....

7. **Aid intensity**

7.1. Gross aid intensity

Definition stage or feasibility studies:

Fundamental research:

Industrial research:

Precompetitive development:

7.2. For aid in support of patent applications and renewals by SMEs, specify the research activities which first led to the patents concerned:

Planned intensity:

7.3. Does the same R&D activity cover several stages of research?

☐ Yes

☐ No

If yes, which?

Specify the aid intensity applied:

7.4. Bonuses applicable, if any

For aid granted to SMEs, give the bonus applicable, if any:

Are the research activities in accordance with a specific project or programme undertaken as part of the Community's current framework programme for research and technological development (R&TD)?

☐ Yes

☐ No

If yes, what is the bonus applicable?

Please give also the exact title of the specific project or programme undertaken as part of the Community's current framework programme for R&TD (if possible using the 'call identifier' or the CORDIS website: www.cordis.lu).

Does the project in accordance with a specific project or programme undertaken as part of the Community's current framework programme for R&TD involve cross-border cooperation between firms and public research bodies or between at least two independent partners in two States, where its results are widely disseminated and published?

☐ Yes

☐ No

If yes, what is the bonus applicable?

Are the aided R&D activities located in a region eligible under Article 61(3)(a) or (c) of the EEA Agreement at the time the aid is granted?

☐ 61(3)(a)

☐ 61(3)(c)

Give the bonus applicable:

If the research activities are not in accordance with a specific project or programme undertaken as part of the Community's current framework programme for R&TD, clarify whether at least one of the following conditions is met:

- The project involves effective cross-border cooperation between at least two independent partners in two States, particularly in the context of coordinating national R&TD policies

☐ Yes ☐ No

- The project involves effective cooperation between firms and public research bodies, particularly in the context of coordination of national R&TD policies

☐ Yes ☐ No

- The project's results are widely disseminated and published, patent licences are granted or other appropriate steps are taken under conditions similar to those for the dissemination of Community R&TD results

☐ Yes ☐ No

Where at least one of the above conditions is met, give any bonus applicable:

Where there is a combination of bonuses and aid intensities, give the maximum aid intensity applicable for each stage of research:

8. Incentive effect of the aid

- 8.1. How has expenditure on research and development increased or decreased?

.....

- 8.2. Is the aid used for R&D activities over and above the recipient's traditional activities?

☐ Yes ☐ No

- 8.3. Is R&D-linked scientific and/or technological activity being created?

☐ Yes ☐ No

- 8.4. How has the number of people engaged in R&D activities evolved?

.....

- 8.5. Has there been job creation linked to R&D activities?

☐ Yes ☐ No

If yes, give the estimated number of jobs created:

- 8.6. Have jobs been safeguarded as a result of R&D activities?

☐ Yes ☐ No

- 8.7. What is the firm's turnover?

- 8.8. Are there additional costs linked to cross-border cooperation?

☐ Yes ☐ No

- 8.9. Indicate the measures planned for exploiting in part or in full the results of the research

.....
.....

8.10. Are measures planned to enable SMEs to participate?

☐ Yes

☐ No

If yes, indicate what they are:

8.11. Other incentive factors, such as commercial and technological risk:

8.12. In the case of individual, close-to-the-market research projects to be undertaken by large firms, what factors have been taken into account to ensure that the aid has an incentive effect on R&D?

8.13. Demonstrate that the application for aid was made before the R&D activities started:

9. Multinational aspects

9.1. Do the projects (scheme/programme) have any multinational aspects?

☐ Yes

☐ No

If yes, specify:

9.2. Do the R&D projects involve cooperation with partners in other countries?

☐ Yes

☐ No

If yes, state:

a) Which other EEA State(s):

b) Which other third country or countries:

c) Which firm(s) in other countries:

9.3. Give a breakdown of the total cost by partner:

10. Access to results

10.1. Who will own the R & D results in question?

10.2. Are any conditions attached to the granting of licences in respect of the results?

10.3. Are there any rules governing the general publication/dissemination of the R&D results?

☐ Yes

☐ No

10.4. Indicate the measures planned for the subsequent use/development of the results:

10.5. Is there provision for the results of publicly financed R&D projects to be made available to industry within EEA on a non-discriminatory basis?

☐ Yes

☐ No

11. Information and control measures

11.1. Give the information/control measures used to ensure that the aided projects are in line with the objectives laid down by the relevant legislation:

- 11.2. Specify the arrangements for informing the Authority about implementation of the scheme:

.....

Other useful information, including an estimate of the number of jobs created or safeguarded:

.....

12. Other information

Please give any other information you consider necessary to assess the measure(s) in question under the Authority's State aid Guidelines on aid for research and development.

PART III.7.a

SUPPLEMENTARY INFORMATION SHEET ON AID FOR RESCUING FIRMS IN DIFFICULTY: AID SCHEMES

This supplementary information sheet must be used for the notification of rescue aid schemes covered by the Authority's State aid Guidelines on aid for rescuing and restructuring firms in difficulty ⁽¹⁾.

1. Eligibility

- 1.1. Is the scheme limited to firms that fulfil at least one of the eligibility criteria below?

- 1.1.1. Is the scheme limited to firms, where more than half their registered capital has disappeared and more than one quarter of that capital has been lost over the preceding 12 months?

☐ Yes ☐ No

- 1.1.2. Are the firms unlimited companies, where more than half of their capital as shown in the company accounts has disappeared and more than one quarter of that capital has been lost over the preceding 12 months?

☐ Yes ☐ No

- 1.1.3. Do the firms fulfil the criteria under domestic law for being the subject of collective insolvency proceedings?

☐ Yes ☐ No

- 1.2. Is the scheme limited to rescuing small or medium-sized enterprises in difficulty which corresponds to the EEA definition of SMEs?

☐ Yes ☐ No

2. Form of aid

- 2.1. Is the aid granted under the scheme in the form of a loan guarantee or loans?

☐ Yes ☐ No

- 2.2. If yes, will the loan be granted at an interest rate at least comparable to those observed for loans to healthy firms, and in particular the reference rate adopted by the Authority?

☐ Yes ☐ No

Please provide detailed information.

⁽¹⁾ EFTA Surveillance Authority's State Aid Guidelines, Chapter 16 on State aid for rescuing and restructuring firms in difficulty (OJ L 274, 26.10.2000, EEA Supplement No 48).

- 2.3. Will the aid under the scheme be linked to loans that are to be reimbursed over a period of not more than 12 months after disbursement of the last instalment to the firm?

☐ Yes

☐ No

3. Other elements

- 3.1. Will aid under the scheme be warranted on the grounds of serious social difficulties? Please justify.

.....

- 3.2. Will aid under the scheme have no unduly adverse spill over effects on other States? Please justify.

.....

- 3.3. Please explain why you think that the aid scheme is limited to the minimum necessary (i.e. is restricted to the amount needed to keep the firm in business for the period during which the aid is authorised. This should not go beyond a period of 6 months).

.....

- 3.4. Do you undertake, within six months after granting the aid, to either approve a restructuring plan or a liquidation plan, or demand reimbursement of the loan and the aid corresponding to the risk premium from the beneficiary?

☐ Yes

☐ No

Please specify the maximum amount of the aid that can be awarded to any one firm as part of the rescue operation:

.....

- 3.5. Provide all relevant information on aid of any kind which may be granted to the firms eligible for receiving rescue aid during the same period of time.

.....

4. Annual report

- 4.1. Do you undertake to provide reports, at least on an annual basis, on the scheme's operation, containing the information specified in the Authority's instructions on standardised reports?

☐ Yes

☐ No

- 4.2. Do you undertake in such a report to include a list of beneficiary firms with at least the following information:

- (a) The company name;
- (b) Its sectoral code, using the NACE ⁽¹⁾ two-digit sectoral classification codes;
- (c) The number of employees;
- (d) Annual turnover and balance sheet value;
- (e) The amount of aid granted;
- (f) Where appropriate, any restructuring aid, or other support treated as such, which it has received in the past;

⁽¹⁾ Statistical classification of economic activities in the European Community, published by the Statistical Office of the European Communities.

- (g) Whether or not the beneficiary company has been wound up or subject to collective insolvency proceedings before the end of the restructuring period.

☐ Yes

☐ No

5. Other information

Please indicate here any other information you consider relevant to the assessment of the measure(s) concerned under the Authority's State aid Guidelines on aid for rescuing and restructuring firms in difficulty.

PART III.7.b

SUPPLEMENTARY INFORMATION SHEET ON AID FOR RESCUING FIRMS IN DIFFICULTY: INDIVIDUAL AID

This supplementary information sheet must be used for the notification of individual rescue aid covered by the Authority's State aid Guidelines on aid for rescuing and restructuring firms in difficulty ⁽¹⁾.

1. Eligibility

- 1.1. Is the firm a limited company, where more than half of its registered capital has disappeared and more than one quarter of that capital has been lost over the preceding 12 months?

☐ Yes

☐ No

- 1.2. Is the firm an unlimited company, where more than half of its capital as shown in the company accounts has disappeared and more than one quarter of that capital has been lost over the preceding 12 months?

☐ Yes

☐ No

- 1.3. Does the firm fulfil the criteria under domestic law for being the subject of collective insolvency proceedings?

☐ Yes

☐ No

If you have answered yes to any of the above questions, please attach the relevant documents (latest profit and loss account with balance sheet, or court decision opening an investigation into the company under national company law).

If you have answered no to all of the above questions, please submit evidence supporting that the firm is in difficulties, for it to be eligible for rescue aid.

- 1.4. When has the firm been created?

- 1.5. Since when is the firm operating?

- 1.6. Does the company belong to a larger business group?

☐ Yes

☐ No

If you have answered yes, please submit full details about the group (organisation chart, showing the links between the group's members with details on capital and voting rights) and attach proof that the company's difficulties are its own and are not the result of an arbitrary allocation of costs within the group and that the difficulties are too serious to be dealt with by the group itself.

⁽¹⁾ EFTA Surveillance Authority's State Aid Guidelines, Chapter 16 on State aid for rescuing and restructuring firms in difficulty (OJ L 274, 26.10.2000, EEA Supplement No 48).

- 1.7. Has the firm (or the group to which it belongs) in the past received any rescue aid?

☐ Yes

☐ No

If yes, please provide full details (date, amount, reference to previous Authority decision if applicable, etc.):

.....
.....

2. Form of aid

- 2.1. Is the aid in the form of a loan guarantee or loans? Copies of the relevant documents should be provided.

☐ Yes

☐ No

- 2.2. If yes, is the loan granted at an interest rate at least comparable to those observed for loans to healthy firms, and in particular the reference rate adopted by the Authority?

☐ Yes

☐ No

Please provide detailed information.

- 2.3. Is the aid linked to loans that are to be reimbursed over a period of not more than 12 months after disbursement of the last instalment to the firm?

☐ Yes

☐ No

3. Other elements

- 3.1. Is the aid warranted on the grounds of serious social difficulties? Please justify.

.....

- 3.2. Does the aid have no unduly adverse spill over effects on other States? Please justify.

.....

- 3.3. Please explain why you think that the aid is limited to the minimum necessary (i.e. is restricted to the amount needed to keep the firm in business for the period during which the aid is authorised). This should be done on the basis of a liquidity plan for the 6 months ahead and on the basis of a comparison with operating costs and financial charges over the previous 12 months.

.....
.....

- 3.4. Do you undertake, not later than six months after the rescue aid measure has been authorised, to communicate to the Authority a restructuring plan or a liquidation plan or proof that the loan has been reimbursed in full and/or that the guarantee has been terminated?

☐ Yes

☐ No

4. Other information

Please indicate here any other information you consider relevant to the assessment of the measure(s) concerned under the Authority's State aid Guidelines on aid for rescuing and restructuring firms in difficulty.

PART III.8.a

**SUPPLEMENTARY INFORMATION SHEET ON AID FOR RESTRUCTURING FIRMS IN DIFFICULTY:
AID SCHEMES**

This supplementary information sheet must be used for the notification of restructuring aid schemes covered by the Authority's State aid Guidelines on aid for rescuing and restructuring firms in difficulty ⁽¹⁾

1. Eligibility

1.1. Is the scheme limited to firms that fulfil at least one of the eligibility criteria below:

1.1.1. Is the scheme limited to firms, where more than half their registered capital has disappeared and more than one quarter of that capital has been lost over the preceding 12 months?

☐ Yes

☐ No

1.1.2. Are the firms unlimited companies, where more than half of their capital as shown in the company accounts has disappeared and more than one quarter of that capital has been lost over the preceding 12 months?

☐ Yes

☐ No

1.1.3. Do the firms fulfil the criteria under domestic law for being the subject of collective insolvency proceedings?

☐ Yes

☐ No

1.2. Is the scheme limited to restructuring small or medium-sized enterprises in difficulty which corresponds to the EEA definition of SMEs?

☐ Yes

☐ No

2. Return to viability

A restructuring plan must be implemented which must assure restoration of viability. At least the following information should be included:

2.1. Presentation of the different market assumptions arising from the market survey.

2.2. Analysis of the reason(s) why the firm has run into difficulty.

2.3. Presentation of the proposed future strategy for the firm and how this will lead to viability.

2.4. Complete description and overview of the different restructuring measures planned and their cost.

2.5. Timetable for implementing the different measures and the final deadline for implementing the restructuring plan in its entirety.

2.6. Information on the production capacity of the company, and in particular on utilisation of this capacity, capacity reductions.

2.7. Full description of the financial arrangements for the restructuring, including:

— Use of capital still available;

— Sale of assets or subsidiaries to help finance the restructuring;

— Financial commitment by the different shareholders and third parties (like creditors, banks);

— Amount of public assistance and demonstration of the need for that amount;

⁽¹⁾ EFTA Surveillance Authority's State Aid Guidelines, Chapter 16 on State aid for rescuing and restructuring firms in difficulty (OJ L 274, 26.10.2000, EEA Supplement No 48).

- 2.8. Projected profit and loss accounts for the next five years with estimated return on capital and sensitivity study based on several scenarios.

- 2.9. Name(s) of the author(s) of the restructuring plan and date on which it was drawn up.

3. **Avoidance of undue distortion of competition**

Does the scheme provide that recipient firms must not increase their capacity during the restructuring plan?

☐ Yes

☐ No

4. **Aid limited to the minimum necessary**

Describe how it will be assured that the aid granted under the scheme is limited to the minimum necessary.

5. **One time, last time**

Is it excluded that recipient firms receive restructuring aid more than once over a period of ten years?

☐ Yes

☐ No

All cases where this principle is not respected must be notified individually.

6. **Amount of aid**

- 6.1. Please specify the maximum amount of the aid that can be awarded to any one firm as part of the restructuring operation:

- 6.2. Provide all relevant information on aid of any kind which may be granted to the firms eligible for receiving restructuring aid.
.....

7. **Annual report**

- 7.1. Do you undertake to provide reports, at least on an annual basis, on the scheme's operation, containing the information specified in the Authority's instructions on standardised reports?

☐ Yes

☐ No

- 7.2. Do you undertake in such report to include a list of beneficiary firms with at least the following information:

- (a) The company name;
- (b) Its sectoral code, using the NACE ⁽¹⁾ two-digit sectoral classification codes;
- (c) The number of employees;
- (d) Annual turnover and balance sheet value;
- (e) The amount of aid granted;
- (f) Where appropriate, any restructuring aid, or other support treated as such, which it has received in the past;
- (g) Whether or not the beneficiary company has been wound up or subject to collective insolvency proceedings before the end of the restructuring period.

☐ Yes

☐ No

⁽¹⁾ Statistical classification of economic activities in the European Community, published by the Statistical Office of the European Communities.

8. **Other information**

Please indicate here any other information you consider relevant to the assessment of the measure(s) concerned under the Authority's State aid Guidelines on aid for rescuing and restructuring firms in difficulty.

PART III.8.b

**SUPPLEMENTARY INFORMATION SHEET ON AID FOR RESTRUCTURING FIRMS IN DIFFICULTY:
INDIVIDUAL AID**

This supplementary information sheet must be used for the notification of individual restructuring aid covered by the Authority's State aid Guidelines on aid for rescuing and restructuring firms in difficulty ⁽¹⁾

1. **Eligibility**

- 1.1. Is the firm a limited company, where more than half of its registered capital has disappeared and more than one quarter of that capital has been lost over the preceding 12 months?

☐ Yes

☐ No

- 1.2. Is the firm an unlimited company, where more than half of its capital as shown in the company accounts has disappeared and more than one quarter of that capital has been lost over the preceding 12 months?

☐ Yes

☐ No

- 1.3. Does the firm fulfil the criteria under domestic law for being the subject of collective insolvency proceedings?

☐ Yes

☐ No

If you have answered yes on any of the above questions, please attach the relevant documents (latest profit and loss account with balance sheet, or court decision opening an investigation into the company under national company law)

If you have answered no to all of the above questions, please submit evidence supporting that the firm is in difficulties, for it to be eligible for restructuring aid.

- 1.4. When has the firm been created?

- 1.5. Since when is the firm operating?

- 1.6. Does the company belong to a larger business group?

☐ Yes

☐ No

If you have answered yes, please submit full details about the group (organisation chart, showing the links between the group's members with details on capital and voting rights) and attach proof that the company's difficulties are its own and are not the result of an arbitrary allocation of costs within the group and that the difficulties are too serious to be dealt with by the group itself.

- 1.7. Has the firm (or the group to which it belongs) in the past received any restructuring aid?

☐ Yes

☐ No

If yes, please provide full details (date, amount, reference to previous Authority decision Dec. No xx/xx/COL if applicable, etc.):

⁽¹⁾ EFTA Surveillance Authority's State Aid Guidelines, Chapter 16 on State aid for rescuing and restructuring firms in difficulty (OJ L 274, 26.10.2000, EEA Supplement No 48).

2. Restructuring plan

2.1. Please supply a copy of the survey of the market(s) served by the firm in difficulty, with the name of the organisation which carried it out. The market survey must give in particular:

2.1.1. A precise definition of the product and geographical market(s).

2.1.2. The names of the company's main competitors with their shares of the world, EEA or domestic market, as appropriate.

2.1.3. The evolution of the company's market share in recent years.

2.1.4. An assessment of total production capacity and demand at EEA level, concluding whether or not there is excess capacity on the market.

2.1.5. EEA forecasts for trends in demand, aggregate capacity and prices on the market over the five years ahead.

2.2. Please attach the restructuring plan. At least the following information should be included:

2.2.1. Presentation of the different market assumptions arising from the market survey.

2.2.2. Analysis of the reason(s) why the firm has run into difficulty.

2.2.3. Presentation of the proposed future strategy for the firm and how this will lead to viability.

2.2.4. Complete description and overview of the different restructuring measures planned and their cost.

2.2.5. Timetable for implementing the different measures and the final deadline for implementing the restructuring plan in its entirety.

2.2.6. Information on the production capacity of the company, and in particular on utilisation of this capacity, capacity reductions.

2.2.7. Full description of the financial arrangements for the restructuring, including:

- Use of capital still available;
- Sale of assets or subsidiaries to help finance the restructuring;
- Financial commitment by the different shareholders and third parties (like creditors, banks);
- Amount of public assistance and demonstration of the need for that amount;

2.2.8. Projected profit and loss accounts for the next five years with estimated return on capital and sensitivity study based on several scenarios.

2.2.9. Name(s) of the author(s) of the restructuring plan and date on which it was drawn up.

2.3. Describe the compensatory measures proposed with a view to mitigating the distortive effects on competition at EEA level.

2.4. Provide all relevant information on aid of any kind granted to the firm receiving restructuring aid, whether under a scheme or not, until the restructuring period comes to an end.

3. Other information

Please indicate here any other information you consider relevant to the assessment of the measure(s) concerned under the Authority's State aid Guidelines on aid for rescuing and restructuring firms in difficulty.

PART III.9

SUPPLEMENTARY INFORMATION SHEET ON AID FOR AUDIOVISUAL PRODUCTION

This supplementary information sheet must be used for notifications related to cinematographic and other audiovisual works ⁽¹⁾.

1. The aid scheme

1.1. Please describe as accurately as possible the purpose of the aid and its scope, where appropriate, for each measure.

1.2. Does the aid directly benefit the creation of a cultural work (for cinema or television)?

☐ Yes

☐ No

1.3. Please indicate what provisions exist to guarantee the cultural objective of the aid:

.....
.....

1.4. Does the aid have the effect of supporting industrial investment?

☐ Yes

☐ No

2. Conditions for eligibility

2.1. Please indicate the conditions for eligibility for the planned aid:

2.2. Beneficiaries

2.2.1. Does the scheme distinguish between specific categories of beneficiary (e.g. natural/legal person, dependent/independent producer/broadcaster, etc.)?

.....

2.2.2. Does the scheme differentiate on grounds of nationality or place of residence?

.....

2.2.3. In the case of establishment in the territory of an EEA State, are beneficiaries obliged to fulfil any conditions other than that of being represented by a permanent agency? Note that the conditions of establishment must be defined with respect to the territory of the EEA State and not to a subdivision of that State.

.....

2.2.4. If the aid has a tax component, must the beneficiary fulfil any obligations or conditions other than that of having taxable revenue in the territory of the EEA State?

.....

3. Territorial coverage

3.1. Please indicate if there is provision for any form of obligation to spend in the territory of the EEA State or in one of its subdivisions.

.....

3.2. Is it necessary to comply with a minimum degree of territorial coverage in order to be eligible for the aid?

☐ Yes

☐ No

3.3. Is the required territorial coverage calculated with regard to the overall budget of the film or to the amount of aid?

☐ Yes

☐ No

⁽¹⁾ See in this context, Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and Committee of the Regions on certain legal aspects relating to cinematographic and other audiovisual works (OJ C 43, 16.2.2002, p. 6).

3.4. Does the condition of territorial coverage apply to certain specific items of the production budget?

☐ Yes

☐ No

3.5. Is the absolute amount of aid adjustable in proportion to the expenditure carried out in the territory of the EEA State?

☐ Yes

☐ No

3.6. Is the aid intensity directly proportional to the effective degree of territorial coverage?

☐ Yes

☐ No

3.7. Is the aid adjustable in proportion to the degree of territorial coverage required?

☐ Yes

☐ No

4. **Eligible costs**

4.1. Please specify the costs which may be taken into account to determine the amount of aid:

4.2. Do the eligible costs all relate directly to the creation of a cinematographic or audiovisual work?

☐ Yes

☐ No

5. **Aid intensity**

5.1. Please indicate whether the scheme provides for use of the concept of difficult, low-budget film in order to obtain an aid intensity of over 50 % of the production budget.

.....

5.2. If so, please indicate the categories of film covered by this concept.

.....

5.3. Please indicate whether the aid can be combined with other aid schemes ('cumulation of aid') or other provisions for aid and, if so, what arrangements are made to limit such cumulation or to ensure that, in the case of cumulation, the maximum aid intensity for the work is not exceeded.

.....

6. **Compatibility**

6.1. Please provide a reasoned justification in support of compatibility of the aid in the light of the principles set out in the Commission Communication on certain legal aspects relating to cinematographic and other audiovisual works.

.....

.....

7. **Other information**

Please indicate here any other information you consider relevant to the assessment of the measure(s) concerned under the Communication on certain legal aspects relating to cinematographic and other audiovisual works.

PART III.10

SUPPLEMENTARY INFORMATION SHEET ON ENVIRONMENTAL PROTECTION AID

This supplementary information sheet must be used for the notification of any aid covered by the Authority's State aid Guidelines on aid for environmental protection ⁽¹⁾.

1. Objective of the aid

- 1.1. Which are the objectives aimed at in terms of environmental protection? Please submit a detailed description for each part of the scheme

.....
.....

If the measure in question has already been applied in the past, what have been the results in terms of environmental protection?

.....
.....

- 1.2. If the measure is a new one, what environmental results are anticipated and over what period?

.....
.....

2. Investment aid aimed at the adaptation to new Standards or aimed at going beyond existing standards

- 2.1. Aid for adaptation to new Community standards

- 2.1.1. Will aid be granted for reaching Community standards already adopted at the time of notification?

☐ Yes

☐ No

In the affirmative which are the Community standards in question?

.....
.....

Please specify date at which they have been formally adopted by the competent EEA institutions:

Please confirm that no aid will be granted to large enterprises for reaching Community standards already adopted but not yet in force:

☐ Yes

☐ No

If Community standards are set in a directive, which deadlines are set for the transposition?

.....

- 2.1.2. Which are the eligible costs?

.....
.....

Please explain how it will be ensured that the eligible costs are only the extra costs necessary to meet the environmental objective, and how any cost savings engendered over the first 5 years of the life of the investment will be taken into account.

.....
.....

To what extent are advantages deriving from a possible capacity increase and from accessory additional productions taken into account?

.....
.....

⁽¹⁾ EFTA Surveillance Authority's State Aid Guidelines Chapter 15 on aid for environmental protection (OJ L 21, 24.1.2002, EEA Supplement No 6).

2.1.3. What is the maximum aid intensity expressed as a gross amount of the planned aid?

2.2. State aids aimed at going beyond Community standards or planned in case no Community standard exists.

2.2.1. If Community standards exist, please describe:

If there are no Community standards, are there national standards?

☐ Yes

☐ No

If yes, please attach copies of the relevant texts.

Please confirm that an enterprise will only be granted aid for reaching national standards which are more stringent than Community standards or where no Community standards exist, if it complies with the relevant standard on the final date laid down in the national measure:

Please give examples of eligible investments:

In the case of national standards, are they stricter than Community standards?

☐ Yes

☐ No

If yes, please specify:

2.2.2. What are the eligible costs?

Please explain in what way it will be ensured that the eligible costs are only the extra costs necessary to meet the environmental objective, and how any cost savings engendered over the first 5 years of the life of the investment will be taken into account.

To what extent have possible advantages deriving from a capacity increase and additional accessory productions been taken into account?

2.2.3. Please state the maximum gross aid intensity of the planned measure:

What is the standard maximum gross aid intensity of the planned measure?

Does the aid scheme provide for a bonus for undertakings situated in regions eligible for national regional aid?

☐ Yes

☐ No

If yes, which bonuses are foreseen?

Does the aid scheme provide for a bonus for SMEs?

☐ Yes

☐ No

If yes, please give details:

Can the bonus be cumulated with the bonus for undertakings situated in assisted regions?

☐ Yes

☐ No

If yes, please describe the modalities:

3. Investment aid in the energy sector**3.1. Aids for investments aimed at energy saving****3.1.1. What is the energy saving expected as a result of the ad hoc aid or aid scheme?**

.....

Is the amount of the expected savings assessed by an independent expert? Please give examples of eligible investments.

.....

.....

3.1.2. What are the CO₂ saving expected as a result of the ad hoc aid or aid scheme?

.....

3.1.3. What are the eligible costs?

Please explain in what way it will be ensured that the eligible costs are only the extra costs necessary to meet the environmental objective, and how any cost savings engendered over the first 5 years of the life of the investment will be taken into account.

.....

.....

To what extent have possible advantages deriving from a capacity increase and additional accessory productions been taken into account?

.....

.....

What is the maximum gross aid intensity of the planned aid?

Does the project provide for a bonus for undertakings in areas eligible for national regional aid schemes?

☐ Yes

☐ No

If yes, which bonuses are foreseen?

Does the planned scheme provide for a bonus for SMEs?

☐ Yes

☐ No

If yes, which bonus?

Can this bonus be cumulated with the bonus applicable to undertakings in assisted areas?

☐ Yes

☐ No

If yes, what are the conditions?

3.2. Aids in favour of the combined production of electricity and heat**3.2.1. Which primary source of energy will be used in the production process?**

.....

3.2.2. What will be the environmental benefit of the measure in question?

.....

If the conversion efficiency is particularly high, give the comparative average.

.....

What will be the minimum conversion efficiency of the eligible CHP plants?

.....

If the measures allow energy consumption to decrease, in what proportion?

.....

Have the provisions been elaborated by an independent expert?

.....

In what respect and to what extent is the production process less damaging for the environment, if at all?

.....

3.2.3. What are the eligible costs?

What would be the investment costs for the installation of a production entity for electricity (or heat) for the same capacity in terms of effective energy production?

.....

To what extent is the sale of heat (if the installation is primarily destined for the production of energy) or the sale of electricity (in the opposite case) taken into account in order to decrease the higher investment costs?

.....

In the case of the replacement of an existing installation, is there an advantage deriving from the increase of capacity or from cost saving?

.....

How are those advantages calculated?

.....

3.2.4. What is the maximum gross aid intensity of the planned aid?

What is the standard maximum gross intensity of the aid?

Does the planned scheme provide for a bonus for undertakings in assisted areas?

☐ Yes

☐ No

If yes, which bonuses are foreseen?

Is a bonus foreseen for SMEs?

☐ Yes

☐ No

If yes, please give details:

Can this bonus be cumulated with the bonus for undertakings in assisted areas?

☐ Yes

☐ No

If yes, under what conditions?

3.3. Aids for investment in renewable energies

3.3.1. Which are the types of energy in question?

.....

In case the investments are meant to provide energy for a whole Community, describe the limits of this community and the types of energy used before for that purpose.

.....

3.3.2. What are the eligible costs?

What would be the investment costs for the installation of a production entity for electricity for the same capacity in terms of effective energy production?

.....

3.3.3. What is the maximum gross aid intensity of the planned aid?

If the aid may cover the total eligible costs, why is such an aid rate indispensable?
.....

In similar circumstances, how would the produced energy be traded, through which distributors and at what tariffs?
.....

Does the planned aid scheme provide for a bonus for undertakings situated in regions eligible for national regional aid?

☐ Yes

☐ No

If so, what is the size of the bonus?

Is a bonus foreseen for SMEs?

☐ Yes

☐ No

If yes, please give details:

Can this bonus be cumulated with the bonus provided for undertakings in assisted regions?

☐ Yes

☐ No

If yes, under which conditions?

Can the notified investment aid be combined with other State aid within the meaning of Article 61(1) of the EEA Agreement, or with other forms of financing through the participation of EFTA States in Community programs?

☐ Yes

☐ No

If yes, please undertake to respect the maximum aid intensities stipulated in the environmental aid Guidelines, or, where aid serving different purposes and involving the same eligible costs is granted, the most favourable aid ceiling:
.....

4. Aid in favour of the rehabilitation of polluted industrial areas

4.1. What is the site in question (description of the site) and what is the nature of the pollution?

Has the nature, extent and risk to human health and the environment of the pollution been subject to an independent expert assessment?

☐ Yes

☐ No

Which ones? Attach copies of the reports.

4.2. In the case of ad-hoc aid, please answer the following questions:

Is the current ownership of the site public or private?
.....

If the current ownership of the site is public, has this site been purchased by the public administration in order to carry out the remediation/rehabilitation actions?

☐ Yes

☐ No

Has the person responsible for the pollution of the site been identified?

☐ Yes

☐ No

If not, please describe briefly the exemption circumstances that render the polluter not liable.
.....

Has the value of the polluted site (before rehabilitation) been evaluated through an independent expert analysis?

☐ Yes

☐ No

What is the market value of the site before the rehabilitation action?

.....

What are the costs calculated for the rehabilitation work?

What are the primary costs in the sense of the Authority's State aid Guidelines on aid elements in sales of land and buildings by public authorities?

.....

Has the value of the site after rehabilitation been estimated by an independent expert assessment?

☐ Yes

☐ No

What is the estimated market value of the rehabilitated site?

.....

Has the public administration the intention of selling the land within three years after the date of acquisition?

.....

What land use will be given to the polluted site after its rehabilitation?

.....

What is the scope of the envisaged aid?

.....

What is the maximum gross aid intensity of the planned aid?

.....

4.3. In case of an aid scheme, please explain

What is the scope of the envisaged aid?

.....

What is the maximum gross aid intensity of the planned aid?

Have similar aid schemes been given to fund the rehabilitation of other polluted sites in your State? Please explain how many sites have been remediated under similar schemes and what were the amounts allocated to such schemes?

.....

.....

5. **Aid in favour of relocation of an undertaking**

5.1. Where is the undertaking which should benefit from the relocation aid situated?

.....

If the location is in a Zone Natura 2000, which legislative text provides for that qualification?

.....

5.2. Why does the relocation take place?

.....

Please provide a thorough description of the environmental, social or public health circumstances that render the relocation necessary. Is the owner of the undertaking liable (under national or EEA legislation) for the pollution/environmental problem?

.....

.....

- 5.3. Is there an administrative or judicial decision ordering the relocation of the undertaking?

☐ Yes

☐ No

If yes, attach a copy of the relevant decision.

Please confirm that the beneficiary will comply with the strictest environmental standards applicable in the new region where it is located.

- 5.4. What profits can the undertaking expect from the sale, the expropriation, or rent of the abandoned territories or installations?

.....

- 5.5. What costs will have to be assumed in relation with the new installation with equal production capacity as the one abandoned?

.....

Will the relocation cause penalties for the anticipated termination of the contract regarding the rent of the territory or of the buildings?

.....

Will there be any benefits from the new technology used following the relocation?

.....

Are there accounting gains from the better use of the installations following the relocation?

.....

What is the maximum gross aid intensity of the planned aid?

6. Aid to SMEs for advisory/consultancy services in the environmental field

- 6.1. Who are the potential beneficiaries of the aid?

.....

Do they fulfil all the conditions of Annex 1 of Regulation (EC) No 70/2001 of the Commission of 12 January 2001, concerning the application of Articles 87 and 88 of the EC Treaty to state aids for SMEs ⁽¹⁾

☐ Yes

☐ No

- 6.2. Will the consultancy services be provided by external companies?

☐ Yes

☐ No

Do the external companies have financial links with the undertakings beneficiaries of the aid?

☐ Yes

☐ No

Please state the exact nature of the consultancy services:

.....

7. Operating aid to promote waste management and energy saving

- 7.1. What are the extra production costs and what share is covered by the aid?

.....

If the aid is degressive please state the modalities?

.....

⁽¹⁾ Regulation (EC) No 70/2001 on the application of Article 87 and 88 EC Treaty to State aid to small and medium size enterprises (OJ L 10, 13.1.2001, p. 33). This block exemption has been incorporated into the EEA Agreement by EEA Joint Committee decision No 88/2002 of 25 June 2002 (OJ L 266, 3.10.2002, p. 56). The amendments made by Commission Regulation (EC) No 364/2002 of 25.2.2004 are only applicable once this Regulation has been incorporated into the EEA Agreement.

- 7.2. What is the foreseen duration for the application of the notified aid scheme?

.....

- 7.3. Specific questions in case of aid to promote waste management

How is it ensured that a beneficiary finances the service provided in proportion to the amount of waste produced and/or the cost of treatment?

.....

In case of an aid for industrial waste management are there EEA rules applicable?

☐ Yes

☐ No

If yes, please describe:

In the absence of EEA rules, are there national rules?

☐ Yes

☐ No

If yes, please describe:

If, yes, are these national rules stricter than EEA rules?

☐ Yes

☐ No

If yes, please describe:

8. **Operating aids in form of tax reductions or exemptions**

- 8.1. Introduction of a new tax

- 8.1.1. The EFTA State grants exemptions which lead to a rate lower than the minimum rate as stipulated in Community legislation

From which tax will a reduction or exemption be granted?

.....

How does the levying of the tax contribute to environmental protection?

.....

What results have been obtained as a direct consequence of the tax, or are expected to be obtained?

.....

.....

Why is it necessary to apply lower rates than the minimum rates stipulated in Community legislation?

.....

Are the sectors benefiting from the tax reductions subject to strong intra-EEA and/or international competition?

.....

How many undertakings may benefit from this measure?

.....

Are those undertakings subject to other charges concerning environmental protection?

.....

- 8.1.2. The EFTA State grants tax reductions at a rate lower than the minimum rate stipulated in Community legislation

From which tax will a reduction or exemption be granted?

.....

How does the levying of the tax contribute to environmental protection?

.....

What results have been obtained as a direct consequence of the tax, or are expected to be obtained?

.....

.....

Are the derogations conditional on the conclusion of agreements between the recipient firms and the EFTA State in order to improve environmental protection?

☐ Yes

☐ No

What is the nature of these agreements?

.....

Are the agreements open to all sectors of the economy which can benefit from the tax measure?

.....

If the signing up to an agreement is voluntary and not a condition for receiving the tax benefit, what is the (expected) rate of accession to agreements among the beneficiaries of the tax benefit?

Who ensures the monitoring of the agreements entered into by the firms?

.....

Which sanctions are foreseen in case of non-compliance of the obligations undertaken in the agreements?

.....

Attach a copy of such agreements or describe them in detail.

If national rules have the same effects as the above-mentioned agreements, please attach a copy of the rules.

In the absence of agreements between firms and the EFTA State, what will be the rate effectively paid by the firms after application of the reduction and what will be the difference between this amount and the minimum rate stipulated in Community legislation?

.....

8.1.3. Derogation applicable for the introduction of a new tax imposed in the absence of a Community tax

Are the derogations conditional on the voluntary or obligatory conclusion of agreements between the firms and the EFTA State aiming at an improvement of the environment?

☐ Yes

☐ No

What is the nature of such agreements?

.....

Are they open to all sectors of the economy which can benefit from the tax measure?

☐ Yes

☐ No

If the signing up to an agreement is voluntary and not a condition for receiving the tax benefit, what is the rate of accession to agreements among the beneficiaries of the tax benefit?

.....

Who ensures the respect of the commitments entered into by the firms?

.....

What are the sanctions in case of non-compliance with the commitments foreseen in the agreements?

.....

Attach a copy of the draft agreements if available or describe their content.

If there are national rules having the same effect as the aforementioned agreements, attach a copy of these national rules.

In the absence of agreements between firms and the EFTA State which rate will be effectively paid by the firms after application of the reduction and which will be the difference to the 'normal' national rate?

.....

Please submit figures which enable the Authority to assess the share of the tax actually paid.

.....

Which duration is foreseen for the application of the notified planned aid scheme?

.....

8.1.4. Derogations applicable to existing taxes

What is the environmental effect of the tax concerned by the measure?

.....

When was the tax introduced?

.....

For which beneficiaries?

.....

Was the decision to grant a tax reduction for the beneficiaries concerned by this notification made in connection with a significant increase of the tax?

☐ Yes

☐ No

If yes, please show the development of the relevant tax rate over time in absolute terms.

.....

.....

Have the derogations become necessary following a significant change in the economic conditions?

Describe the change:

.....

.....

Is this change specific to one EFTA State or does it exist in all EFTA States?

.....

Which increase of charges is due to the change of economic conditions?

.....

What is the duration of the application of the notified planned aid scheme?

.....

8.1.5. Tax exemption necessary for the modernisation of production of energy in order to obtain higher energy efficiency

What traditional energy sources will be used for the production of energy?

.....

What will be the difference in energy efficiency as compared to traditional methods of production?

.....

What additional costs will be caused by the envisaged production?

.....

9. **Operating aids in favour of renewable energies**

9.1. Which are the categories of energy in question?

.....

9.2. Aids for compensating the difference between the production costs for renewable energies and the market prices for such energy

Are these new plants?

☐ Yes ☐ No

What are the average production costs and the difference to the average market price for every source of renewable energy?

.....

Please describe the precise support mechanism and in particular the method for calculating the amount of aid

.....

What is the foreseen duration for amortizing the plants?

.....

Please show that the net present value of the aid will not exceed the net present value of the total investment costs for the power plant or the type of power plant benefiting from the aid

.....

If the aid is foreseen for several years, what are the modalities for the revision of production costs and market prices?

.....

Are the plants for the production of renewable energy sources as well eligible for investment aids?

☐ Yes

☐ No

If yes, how much?

.....

How will the investment aid be taken into account when determining the need for operating aid?

.....

Does the aid include an element of return on capital?

☐ Yes

☐ No

If yes, how much? Please explain why this is considered to be necessary. For the biomass sector, can the aid go beyond the coverage of the investments?

.....

.....

9.3. Aids in the form of market mechanisms

Are these new plants?

☐ Yes ☐ No

What are the average costs for the production of the renewable energy in question and the difference to the average market price for energy?

.....

How will the mechanism function?

.....

How is it ensured that the mechanism does not dissuade renewable energy producers from becoming more competitive?

.....

How does the mechanism take imports and exports of electricity into account?

.....

In the case of green certificates will the EFTA State intervene directly or indirectly in the price - setting?

.....

Can the EFTA State, if it so wishes put new certificates on the market or can it buy them?

☐ Yes

☐ No

Will the system include a charge to be paid in case of non-fulfilment of an obligation?

☐ Yes

☐ No

If yes, how will this money be collected, administered and used?

.....

.....

How will the control be ensured in order to avoid an overall overcompensation of the participating firms?

.....

.....

9.4. Operating aid on the basis of the external costs avoided

Are these new plants?

☐ Yes ☐ No

How and by whom have the external costs avoided been calculated? Please submit a reasoned and quantified comparative cost analysis together with an assessment of external costs caused by competing energy producers

.....

.....

What is the maximum amount of aid per kWh?

How is control ensured that the amounts of aid going beyond the amount resulting from option 1 is in fact re-invested in the sector or renewable energies?

.....

10. Operating aid for the combined production of heat and electricity

10.1. Which primary energy source will be utilised in the production process?

.....

What is the benefit of the planned measure for the environment?

.....

If the conversion efficiency is particularly high, what is the comparative average?

.....

What will be the minimum conversion efficiency of the eligible CHP plants?

.....

In which proportion, if at all, does the measure allow for the reduction of energy consumption?

.....

Have the measures been assessed by an independent expert?

.....

In which aspects and to what extent, if at all, does the production process damage less the environment?

.....

What are the modalities of the planned aid?

.....

What are the average production costs and the average market prices of the produced energies?

.....

What is the average market price of a traditional energy unit?

.....

In case of industrial use of the combined production of heat and electricity, which are the possible benefits from the production of heat?

.....

If the aid is foreseen for several years, which are the conditions for the adjustment of production costs and market prices?

.....

11. Other information

Please indicate here any other information you consider relevant to the assessment of the measure(s) concerned under the Authority's State aid Guidelines on aid for environmental protection.

PART III.11

SUPPLEMENTARY INFORMATION SHEET ON RISK CAPITAL AID

This supplementary information sheet must be used for the notification of any aid scheme covered by the Authority's State aid Guidelines on aid and risk capital ⁽¹⁾. Please note that if the scheme is covered by other guidelines, the corresponding standard notification form for these guidelines should be used instead.

1. Beneficiary of aid

Who is/are the beneficiary/ies of the scheme (please tick one or more boxes as appropriate):

- 1.1. ☐ Investors setting up a fund or providing equity in a company or a set of companies.

Please specify selection criteria:

.....
.....
.....

- 1.2. ☐ Investment fund or other intermediary vehicle.

Please specify selection criteria:

.....
.....
.....

- 1.3. ☐ Enterprises invested in.

Please specify selection criteria:

.....
.....
.....

2. Form of aid

- 2.1. The scheme envisages the following measure(s) and/or instrument(s) (please tick one or more boxes as appropriate):

- ☐ Constitution of an investment fund (i.e. venture capital fund) in which public authorities are a partner, investor, or participant.

Please specify:

.....
.....
.....

- ☐ Grants to an investment fund (i.e. venture capital fund) to cover part of its administrative and management costs.

⁽¹⁾ EFTA Surveillance Authority State Aid Guidelines Chapter 10A on State aid and risk capital (OJ L 140, 30.5.2002, EEA Supplement No 27).

Please specify:

.....

.....

.....

- ☐ Guarantees to risk capital investors or to risk capital funds against a proportion of investment losses, or guarantees in respect of loans to investors or funds for investment in risk capital.

Please specify:

.....

.....

.....

- ☐ Other financial instruments in favour of risk capital investors or of venture capital funds to provide extra capital for investment.

Please specify:

.....

.....

.....

- ☐ Fiscal incentives to investors to undertake risk capital investments.

Please specify:

.....

.....

.....

- 2.2. The combination of the above measure(s) and/or instrument(s) does not lead to the provision of capital to (an) enterprise(s) invested in solely in the form of loans (including subordinated loans and 'equity' loans) or other instruments which provide the investor/lender with a fixed minimum return.

Please specify:

.....

.....

.....

3. Existence of market failure

- 3.1. ☐ The maximum tranche of finance for target enterprises financed under the aid scheme does not exceed:

- ☐ EUR 500 000
- ☐ EUR 750 000 for enterprises located in regions qualifying for assistance under Article 61(3)(c) of the EEA Agreement
- ☐ EUR 1 million for enterprises located in regions qualifying for assistance under Article 61(3)(a) of the EEA Agreement

- 3.2. ☐ If the maximum tranches of finance for target enterprises financed under the aid scheme exceeds the above thresholds, the scheme must be justified by the presence of a 'market failure' in the relevant area(s) of investment.

Please specify by adducing supporting evidence:

.....

.....

.....

4. Main features of aid

- 4.1. The State funds are restricted exclusively or prevalently to effect equity investments into:

- ☐ Enterprises located in assisted regions qualifying under Article 61(3)(a) of the EEA Agreement and/or under Article 61(3)(c) of the EEA Agreement.
- ☐ Micro or small enterprises.
- ☐ Medium-sized enterprises in their start-up or other early stages, or located in assisted areas.
- ☐ For medium-sized enterprises beyond their start-up or other early stages, or not located in assisted areas, there is a limit per enterprise on total funding through the measure.

Please specify:

.....
.....
.....

- 4.2. The scheme is focused on risk capital market failure and provides for delivery of finance to enterprises principally in the form of equity or quasi-equity.

Please specify if necessary:

.....
.....
.....

- 4.3. Decisions to invest are profit-driven and there is a link between investment performance and those responsible for investment decisions, demonstrated by the following:

☐ All the capital invested in the target enterprises is provided by market economy investors

or

☐ There is a significant involvement of market economy investors' in the target enterprises.

Please specify:

.....
.....
.....

- 4.3.1. In the case of *investment funds*, the profit-driven character of investments is demonstrated by (please tick one or more as appropriate):

☐ At least 50 % of the fund's capital is provided by private investors

☐ At least 30 % of the fund's capital is provided by private investors in the case of measures operating in regions qualifying under Article 61(3)(a) of the EEA Agreement or under Article 61(3)(c) of the EEA Agreement

☐ Other factors justifying a different level of private capital.

Please describe:

.....
.....
.....

☐ There is an agreement between a professional fund manager and participants in the fund providing that the manager's remuneration is linked to the performance of the fund and that clearly sets out the objectives of the fund and the timing of investments

☐ Private investors are represented in decision-making

☐ There is application of best practice and regulatory supervision in the management of the fund.

- 4.4. ☐ Distortion of competition between investors and investment funds is minimised, as demonstrated by:

☐ A call for tender setting out any preferential terms accorded to private investors

☐ In case of an investment fund, a public invitation to investors at its launch

☐ In case of a scheme (e.g. a guarantee scheme), it will remain open to all new entrants.

- 4.5. ☐ Each investment will be based on the existence of a detailed business plan to establish the viability of each project.

- 4.6. ☐ A clear 'exit mechanism' is provided under the scheme.

Please specify:

.....
.....
.....

- 4.7. ☐ Is the possibility to recycle funds within a scheme foreseen?
- 4.8. ☐ Sectoral focus. Target enterprises are active in (a) certain sector(s) of the economy only. Please specify the sector(s) and the underlying commercial as well as public policy logic:
-
-

5. Cumulation of the aid

- 5.1. ☐ If the scheme provides for aid to enterprises invested in, are they already recipients of aid under another scheme, including under other authorised schemes?

Please specify:

.....

.....

.....

- 5.2. ☐ If equity provided under the risk capital scheme to enterprises is used to finance initial investment, research and development costs or other costs eligible under other frameworks, is the relevant aid ceiling complied with also taking into account the aid element of the risk capital scheme?

Please specify:

.....

.....

.....

6. Other information

Please indicate here any other information you consider relevant to the assessment of the measure(s) concerned under the Authority's State aid Guidelines on aid and risk capital.

PART III.12.a. SIS ⁽¹⁾

ON AID FOR RESTRUCTURING FIRMS IN DIFFICULTY IN THE AVIATION SECTOR

This annex must be used for the notification of individual restructuring aid for airlines covered by the Authority's State aid guidelines for rescuing and restructuring firms in difficulty ⁽²⁾ and those on State aid in the aviation sector ⁽³⁾.

1. Eligibility

- 1.1. Is the firm a limited company, where more than half of its registered capital has disappeared and more than one quarter of that capital has been lost over the preceding 12 months?

☐ Yes

☐ No

- 1.2. Is the firm an unlimited company, where more than half of its capital as shown in the company accounts has disappeared and more than one quarter of that capital has been lost over the preceding 12 months?

☐ Yes

☐ No

- 1.3. Does the firm fulfil the criteria under domestic law for being the subject of collective insolvency proceedings?

☐ Yes

☐ No

⁽¹⁾ Supplementary Information Sheet.

⁽²⁾ EFTA Surveillance Authority's State Aid Guidelines Chapter 16 on Aid for Rescuing and Restructuring Firms in Difficulty (OJ L 274, 26.10.2000, EEA Supplement No 26).

⁽³⁾ EFTA Surveillance Authority's State Aid Guidelines Chapter 30 on Aid to the Aviation Sector (OJ L 124, 23.5.1996, EEA Supplement No 48).

If you have answered yes on any of the above questions, please attach the relevant documents (latest profit and loss account with balance sheet, or court decision opening an investigation into the company under national company law).

If you have answered no to all of the above questions, please submit evidence supporting that the firm is in difficulties and thus eligible for rescue aid.

1.4. When has the firm been created?

1.5. Since when is the firm operating?

1.6. Does the company belong to a larger business group?

☐ Yes

☐ No

If you have answered yes, please submit full details about the group (organisation chart, showing the links between the group's members with details on capital and voting rights) and attach proof that the company's difficulties are its own and are not the result of an arbitrary allocation of costs within the group and that the difficulties are too serious to be dealt with by the group itself.

1.7. Has the firm (or the group to which it belongs) in the past received any restructuring aid?

☐ Yes

☐ No

If yes, please provide full details (date, amount, reference to previous Authority decision Dec. No xx/xx/COL if applicable, etc.):

2. **Restructuring plan**

2.1. Please supply a copy of the survey of the market(s) served by the firm in difficulty, with the name of the organisation which carried it out. The market survey must give in particular:

2.1.1. A precise definition of the product and geographical market(s).

2.1.2. The names of the company's main competitors with their shares of the world, EEA or domestic market, as appropriate.

2.1.3. The evolution of the company's market share in recent years.

2.1.4. An assessment of total production capacity and demand at EEA level, concluding whether or not there is excess capacity on the market.

2.1.5. EEA forecasts for trends in demand, aggregate capacity and prices on the market over the five years ahead.

2.2. Please attach the restructuring plan. As aid must form part of a comprehensive restructuring programme, at least the following information should be included:

2.2.1. Presentation of the different market assumptions arising from the market survey.

2.2.2. Analysis of the reason(s) why the firm has run into difficulty.

2.2.3. Presentation of the proposed future strategy for the firm and how this will lead to viability.

2.2.4. Complete description and overview of the different restructuring measures planned and their cost.

2.2.5. Timetable for implementing the different measures and the final deadline for implementing the restructuring plan in its entirety.

2.2.6. Information on the production capacity of the company, and in particular on utilisation of this capacity and capacity reductions, especially when needed by the restoration of the financial viability of the firm and/or the situation of the market.

- 2.2.7. Full description of the financial arrangements for the restructuring, including:
- Use of capital still available;
 - Sale of assets or subsidiaries to help finance the restructuring;
 - Financial commitment by the different shareholders and third parties (like creditors, banks);
 - Amount of public assistance and demonstration of the need for that amount.
- 2.2.8. Projected profit and loss accounts for the next five years with estimated return on capital and sensitivity study based on several scenarios.
- 2.2.9. Commitment of the EFTA State authorities not to grant any further aid to the firm.
- 2.2.10. Commitment of the EFTA State authorities not to interfere in the management of the company other than due to ownership rights and allowing the company to be run according to commercial principles.
- 2.2.11. Commitments taken by the EFTA State authorities in order to limit the aid to the purposes of the restructuring programme and to prevent the firm to acquire shareholdings in other air carriers during the restructuring period.
- 2.2.12. Name(s) of the author(s) of the restructuring plan and date on which it was drawn up.
- 2.3. Describe the compensatory measures proposed with a view to mitigating the distortive effects on competition at EEA level and especially the impact of the capacity and offer reduction contained in the restructuring plan of the firm on its competitors.
- 2.4. Provide all relevant information on aid of any kind granted to the firm receiving restructuring aid, whether under a scheme or not, until the restructuring period comes to an end.
- 2.5. Provide all relevant information to describe the modalities of transparency and control scheduled for the notified measure.

PART III.12.b. SIS ⁽¹⁾

ON TRANSPORT INFRASTRUCTURE AID

This SIS must be used for the notification of any individual aid or any scheme in favour of transport infrastructure. It should also be used in the case of individual aid or scheme, which is notified to the Authority for reasons of legal certainty.

1. Type of infrastructure

- 1.1. Please specify the kind of infrastructure eligible under the measure.

.....

- 1.2. Is the infrastructure in question open and accessible to all potential users on non-discriminatory terms or is it dedicated to one or more particular undertakings?

.....

- 1.3. Is the infrastructure part of the public domain and operated as such or is it operated/managed by an entity separated from the public administration?

.....

- 1.4. Please specify the conditions under which the infrastructure will be operated.

.....

⁽¹⁾ Supplementary Information Sheet.

- 1.5. Does the scheme or individual measure relate to new infrastructure or the extension/upgrading of existing infrastructure?
.....

2. Eligible costs and aid intensity

- 2.1. Does the scheme or the individual measure relate to:

- ☐ Investment costs
☐ Operating costs
☐ Other (please specify)

- 2.2. What are the total costs for the project in question and to what extent will the beneficiary contribute to these costs?

- 2.3. By what means have the amount of aid been established, e.g. a tendering procedure, market studies etc.?

- 2.4. Please justify the necessity of the public contributions and explain how it has been ensured that the public participation has been kept at the minimum necessary.

3. Beneficiary

- 3.1. By what means have the beneficiary been chosen?

- 3.2. Will the beneficiary also operate the infrastructure?

☐ Yes ☐ No

If, no, please explain how the operator has been selected:

PART III.12.c. SIS ⁽¹⁾

ON AID FOR MARITIME TRANSPORT

This SIS must be used for the notification of any aid scheme covered by the Authority's guidelines on aid to maritime transport ⁽²⁾.

1. Types of scheme

Does the scheme constitute or include:

- (a) ☐ A Tonnage Tax
 (b) ☐ A reduction in social contributions
 (c) ☐ A reduction in the income tax applicable to seafarers
 (d) ☐ A reduction in local taxes

⁽¹⁾ Supplementary Information Sheet.

⁽²⁾ EFTA Surveillance Authority's State Aid Guidelines Chapter 24A on Aid to Maritime Transport as amended by College Decision 62/04/COL (not yet published).

- (e) ☐ A reduction in registration fees
- (f) ☐ Aids for training
- (g) ☐ Aids for transferring lorries from roads to sea ways
- (h) ☐ A public service contract or award procedure thereof
- (i) ☐ Aids of social character?
- (j) ☐ Other, (please describe):

.....

2. Eligibility

For (a) (b) (c) (d) (e) (f) (g)

2.1. What are the eligibility criteria for companies?

.....

2.2. What are the eligibility criteria for boats, in particular is there an obligation on the flag?

.....

2.3. Where appropriate, what are the eligibility criteria for seafarers?

.....

2.4. Describe the list of eligible activities.

.....

.....

2.5. In particular, does the regime concern

☐ Tug activities?

☐ Dredging activities?

2.6. What are the ring-fence measures to avoid spill-over into after activities of the same company?

.....

2.7. For (h): What are the public services obligations, the method for calculating the compensations, the different offers submitted in the tender and the reasons for the choice of the designated company?

.....

2.8. For (i): What are the routes concerned, the populations of users concerned and the conditions attached to the award of individual grants?

.....

.....

3. Aid intensity

For (a):

3.1. What are the rates used to calculate the taxable income per 100 NT?

Up to 1 000 NT:

Between 1 001 and 10 000 NT:

Between 10 001 and 20 000 NT:

More than 20 001 NT:

3.2. Are companies obliged to set up separate accountings when operating both eligible and non eligible activities?

.....

3.3. How should be treated groups of companies and intra-group transactions?

.....

For (b) (c) (d) (e):

3.4. What is the aid intensity in terms of percentage of the social/fiscal contributions or of the tax or fees that the seafarer or the ship-owner should have normally been subject to? %

3.5. Or to what level in absolute terms these contributions, fees or taxes have been limited?

.....

3.6. For (f): What is the aid intensity in terms of the cost of the training or the salary of the trainee?

.....

3.7. For (g): What is the amount of aid per tonne kilometre transferred?

3.8. For (i): What is the amount of individual grants?

PART III.12.d. SIS ⁽¹⁾

ON AID FOR COMBINED TRANSPORT

This SIS must be used for the notification of any individual aid or any scheme for combined transport purposes. It should also be used in the case of individual aid or scheme, which is notified to the Authority for reasons of legal certainty.

1. Type of scheme or measure

Does the scheme or the individual measure relate to:

1.1. Acquisition of combined transport equipment

☐ Yes

☐ No

If yes, please give a description of the eligible assets:

.....
.....
.....

1.2. Construction of infrastructure related to combined transport

☐ Yes

☐ No

If yes, please give a description of the measure:

.....
.....
.....

1.3. Granting of non-reimbursable subsidies to reduce the costs of access to combined transport services

☐ Yes

☐ No

⁽¹⁾ Supplementary Information Sheet.

If yes, please provide a study justifying such a measure:

.....
.....
.....

1.4. Other:

.....
.....
.....

2. Eligible costs

2.1. Are maritime containers (ISO 1) eligible under the scheme?

☐ Yes ☐ No

2.2. Are wagons and locomotives eligible under the scheme?

☐ Yes ☐ No

If yes, please specify the beneficiaries:

.....
.....
.....

2.3. Will the eligible items be exclusively used for combined transport operations?

☐ Yes ☐ No

2.4. Other eligible costs under the individual aid or scheme:

.....
.....

3. Aid intensity

3.1. Is the aid intensity for combined transport equipment higher than 30 % of the eligible costs?

☐ Yes ☐ No

3.2. Is the aid intensity for combined transport infrastructure higher than 50 % of the eligible costs?

☐ Yes ☐ No

If yes, please provide documentary evidence justifying it:

.....
.....
.....

For subsidies to reduce the costs of access to combined transport services, please provide a study justifying the planned aid intensity.

ANNEX II

SIMPLIFIED NOTIFICATION FORM

This form may be used for the simplified notification procedure pursuant to Article 4(2) of the EFTA Surveillance Authority Decision No 195/04/COL of 14 July 2004 implementing Part II of Protocol 3 to the Surveillance and Court Agreement.

1. Prior approved aid scheme ⁽¹⁾

1.1. Aid number allocated by the Authority:

1.2. Title:

1.3. Date of approval [by reference to the letter of the Authority]:

1.4. Publication in the *Official Journal of the European Union*:

1.5. Primary objective (please specify one):
.....

1.6. Legal basis:

1.7. Overall budget:

1.8. Duration:

2. Instrument subject to notification

☐ New budget (please specify the overall as well as the annual budget in the respective national currency):
.....

☐ New duration (please specify the starting date from which the aid may be granted and the last date until which the aid may be granted):
.....

☐ Tightening of criteria (please indicate if the amendment concerns a reduction of aid intensity or eligible expenses and specify details):
.....
.....

Please attach a copy (or a web link) of the relevant extracts of the final text(s) of the legal basis.

⁽¹⁾ If the aid scheme has been notified to the Authority on more than one occasion, please provide details for the latest complete notification that has been approved by the Authority.

ANNEX III A

STANDARDISED REPORTING FORMAT FOR EXISTING STATE AID

With a view to simplifying, streamlining and improving the overall reporting system for State aid, the existing Standardised Reporting Procedure shall be replaced by an annual updating exercise. The Authority shall send a pre-formatted spreadsheet, containing detailed information on all existing aid schemes and individual aid, to the EFTA States by 1 March each year. EFTA States shall return the spreadsheet in an electronic format to the Authority by 30 June of the year in question. This will enable the Authority to publish State aid data in year t for the reporting period $t-1$ ⁽¹⁾.

The bulk of the information in the pre-formatted spreadsheet shall be pre-completed by the Authority on the basis of data provided at the time of approval of the aid. EFTA States shall be required to check and, where necessary, modify the details for each scheme or individual aid, and to add the annual expenditure for the latest year ($t-1$). In addition, EFTA States shall indicate which schemes have expired or for which all payments have stopped and whether or not a scheme is co-financed by funds emanating through participation of the EFTA States in Community programmes.

Information such as the objective of the aid, the sector to which the aid is directed, etc shall refer to the time at which the aid is approved and not to the final beneficiaries of the aid. For example, the primary objective of a scheme which, at the time the aid is approved, is exclusively earmarked for small and medium-sized enterprises shall be aid for small and medium-sized enterprises. However, another scheme for which all aid is ultimately awarded to small and medium-sized enterprises shall not be regarded as such if, at the time the aid is approved, the scheme is open to all enterprises.

The following parameters shall be included in the spreadsheet. Parameters 1 to 3 and 6 to 12 shall be pre-completed by the Authority and checked by the EFTA States. Parameters 4, 5 and 13 shall be completed by the EFTA States.

- (1) Title
- (2) Aid number
- (3) All previous aid numbers (e.g., following the renewal of a scheme)
- (4) Expiry

EFTA States should indicate those schemes which have expired or for which all payments have stopped

- (5) Co-financing

Although funding emanating through the participation of EFTA States in Community programmes itself is excluded, total State aid for each EFTA States shall include aid measures that are co-financed by funding emanating through the participation of EFTA States in Community programmes. In order to identify which schemes are co-financed and estimate how much such aid represents in relation to overall State aid, EFTA States are required to indicate whether or not the scheme is co-financed and if so the percentage of aid that is co-financed. If this is not possible, an estimate of the total amount of aid that is co-financed shall be provided.

- (6) Sector

The sectoral classification shall be based largely on NACE ⁽²⁾ at the [three-digit level].

- (7) Primary objective
- (8) Secondary objective

A secondary objective is one for which, in addition to the primary objective, the aid (or a distinct part of it) was exclusively earmarked at the time the aid was approved. For example, a scheme for which the primary objective is research and development may have as a secondary objective small and medium-sized enterprise (SMEs) if the aid is earmarked exclusively for SMEs. Another scheme for which the primary objective is SMEs may have as secondary objectives training and employment if, at the time the aid was approved, the aid is earmarked for $x\%$ training and $y\%$ employment.

⁽¹⁾ t is the year in which the data are requested.

⁽²⁾ NACE Rev.1.1 is the Statistical classification of economic activities in the European Community.

(9) Region(s)

Aid may, at the time of approval, be exclusively earmarked for a specific region or group of regions. Where appropriate, a distinction should be made between the Article 61(3)(a) regions and the Article 61(3)(c) regions. If the aid is earmarked for one particular region, this should be specified at NUTS ⁽¹⁾ level II.

(10) Category of aid instrument(s)

A distinction shall be made between six categories (Grant, tax reduction/exemption, equity participation, soft loan, tax deferral, guarantee)

(11) Description of aid instrument in national language

(12) Type of aid

A distinction shall be made between three categories: Scheme, Individual application of a scheme, Individual aid awarded outside of a scheme (ad hoc aid)

(13) Expenditure

As a general rule, figures should be expressed in terms of actual expenditure (or actual revenue foregone in the case of tax expenditure). Where payments are not available, commitments or budget appropriations shall be provided and flagged accordingly. Separate figures shall be provided for each aid instrument within a scheme or individual aid (e.g. grant, soft loans, etc.) Figures shall be expressed in the national currency in application at the time of the reporting period. Expenditure shall be provided for t-1, t-2, t-3, t-4, t-5.

ANNEX III B**INFORMATION TO BE CONTAINED IN THE ANNUAL REPORT TO BE PROVIDED TO THE AUTHORITY**

The reports shall be provided in computerised form. They shall contain the following information:

1. Title of aid scheme, Authority aid number and reference of the Authority decision
2. Expenditure. The figures have to be expressed in euros or, if applicable, national currency. In the case of tax expenditure, annual tax losses have to be reported. If precise figures are not available, such losses may be estimated. For the year under review indicate separately for each aid instrument within the scheme (e.g. grant, soft loan, guarantee, etc.):
 - 2.1. Amounts committed, (estimated) tax losses or other revenue forgone, data on guarantees, etc. for new assisted projects. In the case of guarantee schemes, the total amount of new guarantees handed out should be provided;
 - 2.2. Actual payments, (estimated) tax losses or other revenue forgone, data on guarantees, etc. for new and current projects. In the case of guarantee schemes, the following should be provided: total amount of outstanding guarantees, premium income, recoveries, indemnities paid out, operating result of the scheme under the year under review;
 - 2.3. Number of assisted projects and/or enterprises;
 - 2.4. Estimated overall amount of:
 - aid granted for the permanent withdrawal of fishing vessels through their transfer to third countries;
 - aid granted for the temporary cessation of fishing activities;
 - aid granted for the renewal of fishing vessels;

⁽¹⁾ NUTS is the nomenclature of territorial units for statistical purposes in the Community.

- aid granted for modernisation of fishing vessels;
- aid granted for the purchase of used vessels;
- aid granted for socio-economic measures;
- aid granted to make good damage caused by natural disasters or exceptional occurrences;
- aid granted to outermost regions;
- aid granted through parafiscal charges;

2.5. Regional breakdown of amounts under point 2.1. by regions defined as Objective 1 regions and other areas;

3. Other information and remarks.
