

Vedlegg 2005/2860 -4	EU-DEL. BRUSSEL	SAKSB. 200500091-112 26 OKT 2005 AKHA
	ARKIVKODE 542.423 Brussels, 24 October 2005 Case No: 47654 Event No: 346708	

Case handler: Annette Kliemann
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EFTA SURVEILLANCE
AUTHORITY

Dear Sir/Madam,

Subject: Recovery pursuant to Authority's Decision 148/04/COL regarding environmental tax measures

Reference is made to the letter from the Norwegian Mission to the European Union dated 29 September 2005, forwarding a letter by the Ministry of Finance dated 23 September 2005. The letter was received and registered by the EFTA Surveillance Authority (hereinafter "the Authority") on 29 September 2005 (Event No 335970).

In this letter the Ministry informed the Authority that the Customs and Excise Directorate was asked to collect the information about the use of electricity by the industry during the period of 6 February until 31 December 2003 and that this exercise was expected to be finalised by the first week of October 2005. The Ministry would then give the Directorate guidance on how to proceed further.

The Authority is further aware of the statement by the Norwegian Finance Minister of 14 October 2005, stating that the Norwegian authorities would recover in the same manner as the Swedish authorities in a parallel case following a recovery decision by the European Commission. The Minister stated that Sweden had an exemption that in reality corresponded to the Norwegian tax exemption ("*Sverige hadde et fritak som reellt sett var likt det som Norge hadde*").

In light of the foregoing, the Authority requests, from the Norwegian authorities, information on the following issues:

1. Please establish and transmit to the Authority a list of all aid recipients and indicate clearly how many and which of these beneficiaries will be subject to the recovery. Please also indicate the recovery amounts for each of the aid recipients.
2. Please indicate how the recovery amounts have been calculated including the application of interest rates.

Please indicate whether and in which manner you have applied the *de minimis* block exemption for the purpose of recovery (Act referred to under point 1e in Annex XV to the EEA Agreement, Commission Regulation 69/2001).

Norwegian Mission to the European Union
 Rue Archimède, 17
 1000 Brussels



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If the *de minimis* regulation has been or will be applied, please provide information regarding the respect of the maximum threshold of 100 000 Euros (recital (7) and Article 2 (2) of Regulation 69/2001) and the time period of three years (recital (5) and Article 2 (2) of Regulation 69/2001). The cumulation with other *de minimis* aid should also be elaborated upon, see Article 3 of Regulation 69/2001.

3. Please explain in detail the Finance Minister's statement that the recovery in Norway would take place in the same manner as in Sweden. In this respect, please also explain the background for the statement that the Swedish tax exemption "in reality" was the same as the Norwegian tax exemption and demonstrate what the impact this understanding would have for the recovery process, i.e. whether some undertakings, and which ones, would not be subject to recovery.

If the purpose of the said statement is to suggest that undertakings which use electricity as an "ingredient" in the production process should not be subject to recovery, the Authority would like an explanation on how such an approach can be reconciled with the fact that the same point of view was argued as a subsidiary plea before the EFTA Court in Joined cases 5-7/04, *Norway v. the Authority*, judgment of 21 July 2005 without it having an impact on the Court's findings.

4. Please communicate to the Authority the time frame during which the recovery of aid from all aid beneficiaries will have been completed.

The above information should reach the Authority not later than a month from receipt of this letter. In case of further queries, please do not hesitate to call Mr. Amund Utne, tel.: +32.2.286 18 50 or Ms. Annette Kliemann, tel.: +32.2. 286 18 80.

Yours faithfully,

A handwritten signature in cursive script, appearing to read "Amund Utne".

Amund Utne

Director

Competition and State Aid Directorate