II

(Acts whose publication is not obligatory)

EUROPEAN ECONOMIC AREA

EFTA SURVEILLANCE AUTHORITY

EFTA SURVEILLANCE AUTHORITY DECISION No 316/98/COL of 4 November 1998 on the fourteenth amendment of the Procedural and Substantive Rules in the Field of State Aid

THE EFTA SURVEILLANCE AUTHORITY,

has amended the Procedural and Substantive Rules in the Field of State Aid ([1]), adopted on 19 January 1994 ([2]), as last amended on 4 March 1998 ([3]), as follows:

1. the attached new chapter 25, National regional aid, shall be introduced;

2. subject to the transitional arrangement provided for in Section 25.6(5) and (6) of the new Chapter 25, the existing Chapters 25 to 28 shall be deleted;

3. the attached new Chapter 33.2, Reference rate of interest, shall be introduced;

4. the attached new annex, Annex X, Net grant equivalent of investment aid, shall be introduced;

5. the attached new Annex XI, Aid to offset additional transport costs in regions qualifying for exemption under article 61(3)(c) on the basis of the population density test, shall be introduced;

6. the attached new Annex XII, Method of determining the ceilings on the population covered by the 61(3)(c) derogation, shall be introduced;

7. the attached changes in Chapter 13.4 and certain footnotes shall be made,

([1]) Hereinafter referred to as the State Aid Guidelines.
([2]) OJ L 231, 3.9.1994, p. 1; EEA Supplement to the OJ No 32, 3.9.1994.
([3]) OJ L 120, 23.4.1998, p. 27; EEA Supplement to the OJ No 16, 23.4.1998.

'PART VI

RULES ON REGIONAL AID

25. NATIONAL REGIONAL AID (1)

25.1. *Introduction*

(1) The aid measures which form the subject-matter of these Guidelines ("regional aid") differ from the other categories of government support (in particular aid for R & D, environmental protection, or firms in difficulty) in that they are reserved for particular regions and have as their specific aim the development of those regions (2).

(2) Regional aid is designed to develop the less-favoured regions by supporting investment and job creation in a sustainable context. It promotes the expansion, modernisation and diversification of the activities of establishments located in those regions and encourages new firms to settle there. In order to foster this development and reduce the potential negative effects of any relocation, it is necessary to make the granting of such aid conditional on the maintenance of the investment and the jobs created during a minimum period in the less-favoured region.

(3) In exceptional cases, such aid may not be enough to trigger a process of regional development, if the structural handicaps of the region concerned are too great. Only in such cases may regional aid be supplemented by operating aid.

(4) The EFTA Surveillance Authority considers that regional aid can play effectively the role that is assigned to it and hence justify the consequent distortions of competition, provided that it adheres to certain principles and obeys certain rules. Foremost among these principles is the exceptional nature of the instrument, in keeping with the letter and spirit of Article 61 of the EEA Agreement.

(5) In fact, such aid is conceivable in the EEA only if it is used sparingly and remains concentrated on the most disadvantaged regions. If aid were to become generalised and, as it were, the norm, it would lose all its incentive quality and its economic impact would be nullified. At the same time, the aid would interfere with the normal inter-play of market forces and reduce the efficacy of the Single Market.

25.2. *Scope*

(1) THE EFTA Surveillance Authority will apply these Guidelines to regional aid granted in every sector of the economy falling within the scope of the EEA Agreement and the competences of the Authority. In addition, some of the sectors they cover are also governed by rules aimed specifically at the sectors in question (3).

(2) A derogation from the general prohibition against State aid established by Article 61(1) of the EEA Agreement may be granted in respect of regional aid only if the equilibrium between the resulting distortions of competition and the advantages of the aid in terms of the development of a less-favoured region (4) can be guaranteed. The weight given to the advantages of the aid is likely to vary according to the derogation applied, having a more adverse effect on competition in the situations described in Article 61(3)(a) than in those described in Article 61(3)(c) (5).

(3) An individual *ad hoc* aid payment [6] made to a single firm, or aid confined to one area of activity, may have a major impact on competition in the relevant market, and its effects on regional development are likely to be too limited. Such aid generally comes within the ambit of specific or sectoral industrial policies and is often not in keeping with the spirit of regional aid policy as such [7]. The latter must remain neutral towards the allocation of productive resources between the various economic sectors and activities. The EFTA Surveillance Authority considers that, unless it can be shown otherwise, such aid does not fulfil the requirements set out in the preceding paragraph [8].

(4) Consequently, the derogations in question will normally be granted only for multisectoral aid schemes open, in a given region, to all firms in the sectors concerned.

25.3. *Demarcation of regions*

(1) In order that the aid schemes directed at them may benefit from one of the derogations, the regions concerned must satisfy the conditions set forth in those derogations. The EFTA Surveillance Authority establishes whether the conditions are met by applying predetermined analytical criteria.

(2) In the light of the exceptional nature of regional aid, the EFTA Surveillance Authority considers *prima facie* that the total extent of assisted regions in the EFTA States must remain smaller than that of unassisted regions. In practice this means that the total population coverage of regional aid in the EFTA States must be less than 50 % of the combined EFTA population. When determining the overall population ceiling for the EFTA States, the Authority will in accordance with its principle of ensuring a uniform implementation, application and interpretation of the EEA rules on State aid, take due account of the overall population ceilings for regional aid within the European Union.

(3) As the two derogations in question relate to regional problems of a different nature and intensity, priority must be given, within the limits of the total aid coverage referred to in paragraph (2), to the regions affected by the most acute problems.

(4) The demarcation of eligible regions must therefore lead to a spatial concentration of aid in accordance with the principles mentioned in paragraphs (2) and (3).

The derogation in Article 61(3)(a)

(5) Article 61(3)(a) provides that aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment may be considered compatible with the functioning of the EEA Agreement. As the Court of Justice of the European Communities has held, "the use of the words "abnormally" and "serious" in the exemption contained in Article 92(3)(a) shows that it concerns only areas where the economic situation is extremely unfavourable in relation to the Community as a whole [9]".

(6) The EFTA Surveillance Authority accordingly considers, following a tried and tested approach, that the conditions laid down are fulfilled if the region, being a NUTS [10] level II geographical unit, has a per capita gross domestic product (GDP), measured in purchasing power standards (PPS), of less than 75 % of the EEA average [11]. The GDP/PPS of each region and the EEA average to be used in the analysis must relate to the average of the last three years for which statistics are available. These amounts are calculated on the basis of data furnished by the Statistical Office for the European Communities or other official statistical sources.

The derogation in Article 61(3)(c)

(7) In contrast to Article 61(3)(a), where the situation in view is identified precisely and formally, Article 61(3)(c) allows greater latitude when it comes to defining the difficulties of a region that can be alleviated with the help of aid measures. The relevant indicators do not therefore necessarily boil down in this case to standards of living and underemployment. The appropriate framework for evaluating these difficulties may also be provided by the relevant EFTA State.

(8) The European Court of Justice, in Case 248/84 (see footnote 9), has expressed its views on these two matters (range of problems covered and reference framework for the analysis), as follows: "The exemption in Article 92(3)(c), on the other hand, is wider in scope inasmuch as it permits the development of certain areas without being restricted by the economic conditions laid down in Article 92(3)(a), provided such aid "does not adversely affect trading conditions to an extent contrary to the common interest". That provision gives the Commission power to authorise aid intended to further the economic development of areas of a Member State which are disadvantaged in relation to the national average."

(9) The regional aid covered by the derogation in point (c) must, however, form part of a coherent regional policy of the EFTA State and adhere to the principles of geographical concentration set out above. Inasmuch as it is intended for regions which are less disadvantaged than those to which point (a) relates, such aid is, to a greater extent than the latter, exceptional and can be allowed only to a very limited degree. This being so, only a small part of the national territory of a EFTA State may *prima facie* qualify for the aid in question. This is why the population coverage of regions falling under Article 61(3)(c) must not exceed 50 % of the national population not covered by the derogation under Article 61(3)(a) ([12]).

(10) On the other hand, the fact that the nature of such aid makes it possible to take account of the national peculiarities of an EFTA State does not exempt the aid from the need for scrutiny from the viewpoint of common interest of the contracting Parties to the EEA Agreement. The designation of the regions eligible for regional aid in each EFTA State must therefore fit into a framework guaranteeing an overall coherence at EEA level ([13]).

(11) So as to afford national authorities sufficient latitude when it comes to choosing eligible regions without jeopardising the effectiveness of the system of checks operated by the EFTA Surveillance Authority in respect of this type of aid and the equal treatment of all EEA States, the determination of the regions eligible under the derogation in question consists of two parts:

- the fixing by the EFTA Surveillance Authority, for each country, of a ceiling on the coverage of such aid,
- the selection of eligible regions.

The latter part will obey transparent rules but will also be sufficiently flexible to allow for the diversity of situations potentially justifying the application of the derogation. The aid coverage ceiling is designed to be conducive to the abovementioned flexibility in the choice of eligible regions whilst ensuring the uniform treatment required by acceptance of such aid from the EEA point of view.

(12) To guarantee effective control of regional aid, the EFTA Surveillance Authority sets ceilings in terms of population for the coverage of regional aid eligible under Article 61(3)(c) in each of the EFTA States. In fixing these ceilings, and with a view of being consistent with the approach chosen in the European Community, the Authority

takes into account effects of the population ceiling for coverage of regional aid fixed by the European Commission according to Article 92(3) of the EC Treaty, and by ensuring that the overall ceiling for coverage of regional aid according to either Article 61(3)(a) or 61(3)(c) in the EFTA countries together in terms of population under no circumstances exceeds the corresponding ceiling applicable for all the Member States of the European Community. The method of determining the ceilings in each EFTA State is described in Annex XII to these Guidelines.

(13) The EFTA States notify to the EFTA Surveillance Authority, under Article 1(3) of Protocol 3 to the Surveillance and Court Agreement, the methodology and the quantitative indicators which they wish to use to determine the eligible regions, and the list of regions they propose for the (c) derogation and the relative intensities ([14]). The percentage for the population of the regions concerned may not exceed the said ceiling on coverage for the purposes of the 61(3)(c) derogation.

(14) The methodology must satisfy the following conditions:

- it must be objective,
- it must make it possible to measure the disparities in the socio-economic circumstances of the regions in question in the EFTA State concerned, highlighting significant differences,
- it must be presented in a clear, detailed fashion, to enable the EFTA Surveillance Authority to assess its merits.

(15) The indicators must satisfy the following conditions:

- their number, including both simple indicators and combinations of indicators, must be limited to five,
- they must be objective and relevant to the examination of the socio-economic circumstances of the regions,
- they must either be based on statistical series relating to the indicators used over a period including at least the three years prior to the moment of notification, or be derived from the last survey carried out, if the relevant statistics are not available on an annual basis,
- they must be drawn up by reliable statistical sources.

(16) The list of regions must satisfy the following conditions:

- the regions must conform to NUTS level III or, in justified circumstances, to a different homogeneous geographical unit. Only one type of geographical unit may be submitted by each EFTA State,
- the individual regions proposed or the groups of contiguous regions must form compact zones, each of which must have a population of at least 100 000. If the population of the regions is less, a fictitious figure of 100 000 inhabitants will be used for the calculation of the percentage of the population covered. Exceptions to this rule are the NUTS level III regions with a population of less than 100 000, islands and other regions characterised by similar geographical isolation ([15]),
- the list of regions must be arranged on the basis of the indicators set out at Chapter 25.3, paragraph (14). The regions proposed must show significant disparities (half of the standard deviation) compared with the average of the potential 61(3)(c) regions of the EFTA State concerned, in respect of one or other indicator used in the method.

(17) Regions with a low population density:

— subject to the ceiling for each Member State mentioned in paragraph (12), regions with a population density of less than 12,5 inhabitants per square kilometre [16] may also qualify for the derogation in question.

25.4. *Object, form and level of aid*

(1) The object of regional aid is to secure either productive investment (initial investment) or job creation which is linked to investment. Thus this method favours neither the capital factor nor the labour factor.

(2) To ensure that the productive investment aided is viable and sound, the recipient's contribution [17] to its financing must be at least 25 %.

(3) The form of the aid is variable: grant, low-interest loan or interest rebate, government guarantee or purchase of a State shareholding on favourable terms, tax exemption, reduction in social security contributions, supply of goods and services at a concessionary price, etc.

(4) In addition, aid schemes must lay down that an application for aid must be submitted before work is started on the projects.

(5) The level of the aid is defined in terms of intensity compared with reference costs (see paragraphs (8), (9), (10), (11) and (24)).

Aid for initial investment

(6) Initial investment means an investment in fixed capital relating to the setting-up of a new establishment, the extension of an existing establishment, or the starting-up of an activity involving a fundamental change in the product or production process of an existing establishment (through rationalisation, diversification or modernisation) [18].

(7) An investment in fixed capital undertaken in the form of the purchase of an establishment which has closed or which would have closed had it not been purchased may also be regarded as initial investment, unless the establishment concerned belongs to a firm in difficulty. In the latter case, aid for the purchase of an establishment may include an advantage for the firm in difficulty, which must be examined in accordance with the Guidelines on State aid for rescuing and restructuring firms in difficulty.

(8) Aid for initial investment is calculated as a percentage of the investment's value. This value is established on the basis of a uniform set of items of expenditure (standard base) corresponding to the following elements of the investment: land, buildings and plant/machinery [19].

(9) In the event of a purchase, only the costs of buying these assets [20] should be taken into consideration (the transaction must take place under market conditions). Assets for whose acquisition aid has already been granted prior to the purchase should be deducted.

(10) Eligible expenditure may also include certain categories of intangible investment up to a limit of 25 % of the standard base in the case of large firms [21].

(11) Such expenditure must be confined to expenditure entailed by the transfer of technology through the acquisition of:

— patents,

— operating or patented know-how licences,

— unpatented know-how.

(12) Eligible intangible assets will be subject to the necessary conditions for ensuring that they remain associated with the recipient region eligible for the regional aid and, consequently, that they are not the subject of a transfer benefiting other regions, especially other regions not eligible for regional aid. To this end, eligible intangible assets will have to satisfy the following conditions in particular:

— they must be used exclusively in the establishment receiving the regional aid,

— they must be regarded as amortisable assets,

— they must be purchased from third parties under market conditions,

— they must be included in the assets of the firm and remain in the establishment receiving the regional aid for at least five years.

(13) Aid notified by the EFTA States must normally be expressed in gross terms, i.e. before tax.

(14) In order to make (i) the various forms of aid comparable with one another and (ii) aid intensities comparable from one EEA State to another, the EFTA Surveillance Authority converts aid notified by EFTA States into aid expressed in net grant equivalent (NGE) ([22]).

(15) The intensity of the aid must be adapted to take account of the nature and intensity of the regional problems that are being addressed. A distinction must therefore be drawn from the outset between the intensities allowed in regions eligible under the derogation in point (a) and those allowed in regions eligible under the derogation in point (c). Regard has to be had in this connection to the fact that regions which are eligible under the derogation in Article 61(3)(c) are not characterised by an abnormally low standard of living or serious underemployment in the sense in which these terms are used in the derogation in point (a) of that paragraph. The distorting effects of aid are accordingly less justified there than in regions qualifying for exemption under point (a). This means that the admissible aid intensities are from the outset less high in regions qualifying for exemption under point (c) than in those qualifying for exemption under point (a).

(16) In the case of regions falling under Article 61(3)(a), the intensity of regional aid must not exceed the rate of 50 % NGE. In the Article 61(3)(c) regions, the ceiling on regional aid must not exceed 20 % NGE in general, except in the low population density regions where it may be as high as 30 % NGE.

(17) In the regions corresponding to NUTS level II regions in the European Union, eligible under Article 61(3)(a), whose per capita GDP/PPS is greater than 60 % of the EEA average, the intensity of regional aid must not exceed 40 % NGE.

(18) In the regions eligible under Article 61(3)(c) which have both a higher per capita GDP/PPS and a lower unemployment rate than the respective EEA average ([23]), the intensity of regional aid must not exceed 10 % NGE except in the low population density regions, where it may be as high as 20 % NGE. Exceptionally in the case of regions subject to the said ceiling of 10 % NGE, higher intensities not exceeding the normal ceiling of 20 % NGE may be approved for regions (corresponding to NUTS level III or smaller) adjoining a region with Article 61(3)(a) status.

(19) All the above mentioned ceilings constitute upper limits. Beneath these ceilings, the EFTA Surveillance Authority will ensure that the regional aid intensity is adjusted to reflect the seriousness and intensity of the regional problems addressed when examined in an EEA context.

(20) The ceilings indicated in paragraphs (15)-(19) may be raised by the supplements for SMEs ([24]), i. e. by 15 percentage points gross ([25]) in the case of regions qualifying for exemption under point (a) and by 10 percentage points gross in the case of regions qualifying for exemption under point (c). The final ceiling applies to the base for SMEs. These supplements for SMEs do not apply to transport firms.

(21) Aid for initial investment must be made conditional, through its method of payment or through the conditions associated with its acquisition, on the maintenance of the investment in question for a minimum period of five years.

Aid for job creation

(22) As was indicated above regional aid may also focus on job creation. However, unlike aid for job creation, which is defined in the Guidelines on aid to employment and relates to jobs not linked to an investment project ([26]), we are concerned here solely with jobs linked to the carrying-out of an initial investment project ([27]).

(23) Job creation means a net increase in the number of jobs ([28]) in a particular establishment compared with the average over a period of time. Any jobs lost during that period must therefore be deducted from the apparent number of jobs created during the same period ([29]).

(24) As with investment aid, the aid for job creation provided for in these Guidelines must be tailored to the nature and intensity of the regional problems it addresses. The EFTA Surveillance Authority considers that the amount of aid must not exceed a certain percentage of the wage cost ([30]) of the person hired, calculated over a period of two years. The percentage is equal to the intensity allowed for investment aid in the area in question.

(25) Aid for job creation must be made conditional, through its method of payment or through the conditions associated with its acquisition, on the maintenance of the employment created during a minimum period of five years.

Operating aid

(26) Regional aid aimed at reducing a firm's current expenses (operating aid) is normally prohibited. Exceptionally, however, such aid may be granted in regions eligible under the derogation in Article 61(3)(a) provided that (i) it is justified in terms of its contribution to regional development and its nature and (ii) its level is proportional to the handicaps it seeks to alleviate ([31]). It is for the EFTA State to demonstrate the existence of any handicaps and gauge their importance.

(27) In the regions of low population density qualifying either for exemption under Article 61(3)(a) or under 61(3)(c) on the basis of the population density test referred to in Chapter 25.3, paragraph (15), aid intended partly to offset additional transport costs ([32]) may be authorised under special conditions ([33]). It is up to the EFTA State to prove that such additional costs exist and to determine their amount.

(28) With the exception of the cases mentioned in paragraph (27), operating aid must be both limited in time and progressively reduced. In addition, operating aid intended to promote exports ([34]) between EEA States is ruled out.

Rules on the cumulation of aid

(29) The aid intensity ceilings laid down in accordance with the criteria set out in paragraphs (15) to (20) apply to the total aid:

— where assistance is granted concurrently under several regional schemes,

— whether the aid comes from local, regional, national or other sources.

(30) The job creation aid described in paragraphs (22) to (25) and the investment aid described in paragraphs (6) to (21) may be combined [35], subject to the intensity ceiling laid down for the region [36].

(31) Where the expenditure eligible for regional aid is eligible in whole or in part for aid for other purposes, the common portion will be subject to the most favourable ceiling under the schemes in question.

(32) Where the EFTA State lays down that State aid under one scheme may be combined with aid under other schemes, it must specify, for each scheme, the method by which it will ensure compliance with the conditions listed above.

25.5. *Regional aid map and declaration of compatibility of aid*

(1) The regions of an EFTA State eligible under the derogations and the ceilings on the intensity of aid for initial investment or the aid for job creation approved for each region together form an EFTA State's regional aid map.

(2) Under Article 1(3) of Protocol 3 to the Surveillance and Court Agreement (SCA), the EFTA States notify the draft map drawn up in accordance with the criteria set out above in Chapter 25.3, paragraphs (4) and (11), and Chapter 25.4, paragraphs (15) to (20). The EFTA Surveillance Authority adopts the map in accordance with the procedure laid down in Protocol 3 of SCA, normally by a single decision for all the relevant regions of a EFTA State and for a fixed period. National regional aid maps will thus be reviewed periodically.

(3) Draft aid schemes are approved by the EFTA Surveillance Authority either when the map is drawn up or subsequently, subject to the regions, ceilings and duration defined for the map.

(4) The implementation of the schemes mentioned in paragraph (3) forms the subject matter, on the part of EFTA States, of annual reports to EFTA Surveillance Authority in accordance with the rules in force.

(5) During the period of validity of the map, EFTA States may request adjustments to it, if it is shown that socio-economic conditions have changed significantly. Such changes may relate to the rates of intensity and the eligible regions, provided that the possible inclusion of new regions is offset by the exclusion of regions having the same population. The validity of the adjusted map expires on the date already set for the original map.

(6) For regions losing their Article 61(3)(a) status as a result of the review of the regional aid map, and acquiring Article 61(3)(c) status, the EFTA Surveillance Authority could accept, during a transitional period, a progressive reduction of the aid intensities for which such regions had been eligible under Article 61(3)(a), at a linear or faster rate, until the intensity ceiling corresponding to the application of Chapter 25.4, paragraphs (15) to (20) is reached [37]. The transitional period should not exceed two years in the case of operating aid and four years in the case of aid for initial investment and job creation.

(7) With a view to drawing up the map, EFTA States are invited to notify to the EFTA Surveillance Authority under Article 1(3) of Protocol 3 to the Surveillance and Court Agreement, in addition to the list of regions they propose as being eligible for the derogations in question and the ceilings on intensity, any other factors that need to be taken into account in determining a framework scheme for aid schemes (purpose and form of the aid, size of firms, etc.) which they propose to adopt, whether at central or regional and local level. During the period of validity of the map and within the limits of its duration, all schemes conforming to this framework scheme may be notified in the context of an accelerated procedure.

25.6. *Entry into force, implementation and review*

(1) Except for the transitional provisions set out in paragraphs (5) and (6) below, the EFTA Surveillance Authority will assess the compatibility of regional aid with the EEA Agreement on the basis of these Guidelines as soon as they are applicable. However, aid proposals which are notified before these Guidelines are communicated to the EFTA States and on which the EFTA Surveillance Authority has not yet adopted a final decision will be assessed on the basis of criteria in force at the time of notification.

(2) In addition, the EFTA Surveillance Authority will propose appropriate measures under Article 1(1) of Protocol 3 to the Surveillance and Court Agreement to the EFTA States to ensure that all the regional aid maps and all the regional aid schemes in force on 1 January 2000 are compatible with these Guidelines.

(3) In this connection, the EFTA Surveillance Authority will propose, as an appropriate measure under Article 1(1) of Protocol 3 to the Surveillance and Court Agreement, that the EFTA States limit the validity of all lists of assisted regions approved by the EFTA Surveillance Authority without an expiry date, or with an expiry date after 31 December 1999, to 31 December 1999.

(4) The EFTA Surveillance Authority will also propose, as an appropriate measure under Article 1(1) of Protocol 3 to the Surveillance and Court Agreement, that the EFTA States amend all existing regional aid schemes which will be in force after 31 December 1999, so as to make them compatible with these Guidelines from 1 January 2000, and that they communicate the proposed changes within six months.

(5) The EFTA Surveillance Authority may derogate from these Guidelines until 31 December 1999, with regard to examination of the eligibility of the lists of assisted regions (new lists or amendments) notified prior to 1 January 1999, provided that the validity of the said lists expires on 31 December 1999. In such cases, the EFTA Surveillance Authority will continue to base itself on the method laid down in Chapter 28 of the Guidelines adopted and issued by the EFTA Surveillance Authority on 19 January 1994 (published in OJ L 231, 3 September 1994).

(6) The EFTA Surveillance Authority may also derogate from these Guidelines until 31 December 1999, with regard to the examination of the compatibility of the aid intensities and ceilings on combination proposed in new schemes, ad hoc cases and modifications of existing schemes notified prior to 1 January 1999, provided that the validity of the said intensities and ceilings on combination expires on 31 December 1999 or that the intensities and ceilings on combination proposed from 1 January 2000 are compatible with these Guidelines.

(7) The EFTA Surveillance Authority will review these Guidelines within five years of their becoming applicable. It may, in addition, decide to amend them at any time, if this should be necessary for reasons associated with competition policy or in order to take account of other developments within EEA.

(1) Chapter 25 corresponds to communication from the Commission “Guidelines on national regional aid” (OJ C 74, 10.3.1998).

(2) Also regarded as regional aid is aid to SMEs that provides for increases to assist regional development.

(3) The sectors covered by special rules over and above those set out here are currently as follows: transport, steel, shipbuilding, synthetic fibres, and motor vehicles. In addition, specific rules apply to investment covered by the multisectoral framework for regional aid to large projects.

(4) See in this respect the judgement of the European Court of Justice in Case 730/79 Philip Morris 1980 ECR 2671, at paragraph 17 and in Case C-169/95 Spain v. Commission 1997 ECR I-135, paragraph 20.

(5) See in this respect the judgement of the European Court of First Instance in T-380/94 AIUFFASS and AKT 1996 ECR II-2169, paragraph 54.

(6) See in this respect the judgement of the European Court of Justice in Joined Cases C-278, C-279 and C-280/92, Spain v. Commission 1994 ECR I-4103.

(7) As a result, under the WTO Agreement on subsidies and countervailing measures, this type of aid has been expressly excluded from the category of non-actionable regional aid (authorised without scrutiny).

(8) *Ad hoc* aid for firms in difficulty is governed by specific rules and is not conceived of as regional aid as such.

(9) Case 248/84 Germany v Commission 1987 ECR 4013, at paragraph 19. Art. 92(3)(a) of the EC Treaty corresponds to Art. 61(3)(a) in the EEA Agreement.

(10) Nomenclature of Statistical Territorial Units.

(11) The underlying assumption being that the GDP indicator is capable of reflecting synthetically both the phenomena mentioned.

(12) Barring a transitional exception arising from the application of point 8 of Annex XII to these Guidelines.

(13) See, in this connection, the judgements of the European Court of Justice in Cases 730/79 (Philip Morris) paragraph 26, and 310/85 (Deufil) ECR 1987, p. 901, paragraph 18.

(14) See Chapter 25.4, paragraphs (15)-(20).

(15) Because of the size of their population, Iceland and Liechtenstein are also exempt from this rule.

(16) See Chapter 28.2.3 in the Guidelines adopted by the EFTA Surveillance Authority on 19 January 1994 (OJ L 231, 3.9.1994). Ch. 28.2.3 was inserted as a new section by EFTA Surveillance Authority decision of 20 July 1994 and corresponds to Commission Notice, addressed to Member States and other interested parties, concerning an amendment to Part II of the Communication on the method for the application of Article 92(3)(a) and (c) to regional aid (OJ C 364, 20.12.1994, p. 8).

(17) This minimum contribution of 25 % must not contain any aid. This is not the case, for instance, where a loan carries an interest-rate subsidy or is backed by government guarantees containing elements of aid.

(18) Replacement investment is thus excluded from the concept. Aid for this type of investment falls within the category of operating aid, to which the rules described at paragraphs (26) to (27) apply. Also excluded from this concept is aid for the financial restructuring of a

firm in difficulty within the meaning of the Guidelines on State aid for rescuing and restructuring firms in difficulty. Restructuring aid within the meaning of the said Guidelines may be granted, in so far as it relates to investment measures (rationalisation, modernisation, diversification), without needing separate notification, under a scheme of regional aid. However, since such regional aid is part of proposed aid for the restructuring of a firm in difficulty, it must be taken into account in the examination carried out under the said Guidelines.

([19]) In the transport sector, expenditure on the purchase of transport equipment (movable assets) cannot be included in the uniform set of items of expenditure (standard base). Such expenditure, therefore, is not eligible for aid for initial investment.

([20]) Where a purchase is accompanied by other initial investment, the expenditure relating to the latter should be added to the cost of the purchase.

([21]) For SMEs, the criteria and conditions applying are defined in the Guidelines on State aid for small and medium-sized enterprises.

([22]) For the method used to calculate NGE, see Annex X of these Guidelines.

([23]) GDP and unemployment must be measured at NUTS level III.

([24]) Regional aid supplements are also provided for in R & D and aid for environmental protection. The basis on which such aid is calculated is, however, different from that for regional aid (including the SME variant). The supplements in question, therefore, are added, not to the regional aid, but to the other type of aid concerned. The texts currently applicable to the two types of aid mentioned are, in the case of R & D, Chapter 14 of these Guidelines and, in the case of environmental protection, Chapter 15 of these Guidelines.

([25]) Aid intensity supplements in gross terms are used, as defined in the guidelines on aid for SMEs.

([26]) For the version currently in force, see Part III, Chapter 18, of these Guidelines.

([27]) A job is deemed to be linked to the carrying-out of an investment project if it concerns the activity to which the investment relates and if it is created within three years of the investment's completion. During this period, the jobs created following an increase in the utilisation rate of the capacity created by the investment are also linked to the investment.

([28]) 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.

([29]) It goes without saying that such a definition holds true as much for an existing establishment as for a new establishment.

([30]) The wage cost comprises the gross wage, i. e. before tax, and the compulsory social security contributions.

([31]) Operating aid takes the form in particular of tax exemptions or reductions in social security contributions.

([32]) Additional transport costs mean the extra costs occasioned by movements of goods within the borders of the country concerned. In no circumstances may such aid constitute export aid, nor must it constitute measures having an equivalent effect to quantitative restrictions on imports, within the meaning of Article 11 of the EEA Agreement.

([33]) With regard to the special conditions for regions qualifying for the Article 61(3)(c) derogation under the population density criterion, see Annex XI. As for the other regions eligible for aid to offset in part additional transport costs, the conditions applicable are similar to those in Annex XI.

([34]) "Export aid" means any aid directly linked to the quantities exported, to the establishment and operation of a distribution network or to current expenditure linked to the export activity. It does not include aid towards the cost of participating in trade fairs, or of studies or consultancy services needed for the launch of a new or existing product on a new market. (See Chapter 12, footnote 2, of these Guidelines).

([35]) The job creation aid and the investment aid provided for in these Guidelines may not be combined with the job creation aid defined in the Guidelines on aid to employment indicated in footnote 27, since it applies in different circumstances and at different times. However, increases in aid for particularly less-favoured categories of beneficiaries will be acceptable under arrangements to be laid down in the Guidelines on aid to employment.

([36]) This condition is deemed to be met if the sum of the aid for the initial investor, expressed as a percentage of the investment, and of the job creation aid, expressed as a percentage of wage costs, does not exceed the most favourable amount resulting from application of either the ceiling set for the region in accordance with the criteria indicated at paragraphs (15) to (20) or the ceiling set for the region in accordance with the criteria indicated at paragraph (24).

([37]) The transitional provisions do not apply to the parts of regions, corresponding to NUTS level II regions in the European Community, losing their Article 61(3)(a) status which, where the additional population-density percentage obtained by applying the second adjustment at paragraph 8 of Annex XII to these Guidelines is not available, would have had to be excluded from the new aid map.'

'33.2. ***Reference rate of interest***

(1) A reference rate of interest is used to adjust aid to current values and to calculate aid elements of loans. The reference rate shall reflect the average rate of interest in the market concerned. The reference rate of interest is fixed by the EFTA Surveillance on proposal from the EFTA State at the beginning of each year on the basis of the average of the relevant indicative rate of the preceding quarter (for technical reasons September, October and November). However, the reference rate will be adjusted again in the course of the year if the difference between the current reference rate and the average of the indicative rate recorded over the last three months should exceed 15 % of the prevailing reference rate.

(2) The reference/discount rates for each EFTA State are for the present fixed as follows:

— Iceland: Average interest rates (prime) on bank loans plus 1.5 percentage points on

(a) General loans (not indexed); *Almenn skuldabréf, kjörvextir*

(b) Indexed loans; *Vísitölubundin lán, kjörvextir.*

— Norway: Average interest rate of secured loans (categories 1 and 2) by the Norwegian Industrial and Regional Development Fund.'

'ANNEX X

NET GRANT EQUIVALENT OF INVESTMENT AID ([1])

The method of calculating the net grant equivalent (NGE) is used by the EFTA Surveillance Authority in its assessment of aid schemes notified by the EFTA States. In principle, therefore, the EFTA States do not have to apply it, and it is published here simply for reasons of transparency.

1. *General Principles*

The calculation of net grant equivalent (NGE) consists in reducing all the forms of aid connected with an investment ([2]) to a common measure irrespective of the country concerned, i. e. the net intensity, for the purposes of comparing them with each other or with a predetermined ceiling. What is involved is an *ex ante* comparative method that does not always reflect accounting practice.

The net intensity represents the final benefit which a firm is deemed to derive from the value without tax of the aid in relation to the assisted investment. This calculation may take account only of fixed capital expenditure corresponding to land, building and plant, which represent the standard base.

In the case of schemes whose base includes supplementary expenditure, the latter must be limited to a certain proportion of the standard base. Thus, all schemes will be examined, in the light of their intensities reduced to the expenditure appearing in the standard base, as shown in the following examples (3).

Example 1

— Base of scheme: plant,

— Maximum intensity of scheme: 30 %.

As all the expenditure eligible for the scheme appears in the standard base, the EFTA Surveillance Authority will take the maximum intensity of the scheme, i. e. 30 %, into account without further ado. If the intensity ceiling authorised by the EFTA Surveillance Authority in the region in question is 30 %, the scheme will be considered compatible in this respect.

Example 2

— Base of scheme: plant, buildings + patents up to 20 % of the preceding expenditure

— Maximum intensity of scheme: 30 %

All the expenditure eligible for the scheme appears either in the standard base (plant, buildings) or in the list of eligible intangible expenditure (patents). The latter expenditure may not exceed 25 % of the standard base. In these circumstances, the EFTA Surveillance Authority will take the maximum intensity of the scheme, i.e. 30 %, into account without further ado. If the intensity ceiling authorised by the EFTA Surveillance Authority in the region in question is 30 %, the scheme will be considered compatible in this respect.

Example 3

— Base of scheme: buildings, plant, land + stocks up to 50 % of the preceding expenditure

— Maximum intensity of scheme: 30 %

The EFTA Surveillance Authority will take into account the maximum intensity of the scheme reduced to the standard base, i.e. 30 % × 1,5 = 45 %. If the intensity ceiling authorised by the EFTA Surveillance Authority in the region in question is 30 %, the scheme will not be considered compatible, unless its intensity is reduced to 30 %/1,5 = 20 %.

Example 4

— Base of scheme: buildings

— Maximum intensity of scheme: 60 %

If the regional ceiling authorised by the EFTA Surveillance Authority is 30 %, there is nothing to ensure that the aid will comply with the ceiling. The intensity provided for by the scheme is higher than the regional ceiling, but it is applied to a reduced base. The scheme will therefore not be considered compatible in this respect, unless an express condition is added concerning compliance with the regional ceiling applied to the complete base.

The determination of the NGE is based solely on calculation of tax and present value, except in the case of certain forms of aid which require specific treatment. Such calculations are based on elements supplied by the aid scheme or the tax law of the country concerned and on certain parameters established by convention.

1.1. Taxation

The intensity of aid must be calculated after taxation, i. e. after having deducted the taxes payable on it, and in particular taxes on company profits. This is the basis for the term net grant equivalent (NGE), which represents the aid accruing to the recipient after payment of the relevant tax, assuming that the enterprise makes a profit right from the first year, so that maximum tax is charged on the aid.

1.2. Discounting

Present value is calculated at various stages in the determination of an NGE. First, when aid and/or investment expenditure is staggered over time, the actual timing of aid disbursement and expenditure must be taken into account. Consequently, the investment expenditure and aid payments are discounted back to the end of the year in which the enterprise made its first depreciation write-off. Second, the present value is calculated of benefits obtained on repayment of a subsidised loan, or of the tax charged on a grant.

The rate used in such cases is the reference/discount rate determined by the EFTA Surveillance Authority for each EFTA State. In addition to being used as the discount rate, it is also used to calculate the interest subsidy on a low-interest loan.

1.3. Specific cases

In addition to the taxation and discounting calculations described above, some forms of aid require specific handling. Thus, in the case of aid for the renting of a building, the aid is measured by discounting the differences between the rent paid by the enterprise and a theoretical rent equivalent to the reference rate applied to the value of the building, plus an amount corresponding to depreciation for the building in the year in question. A similar method is used for aid to finance leasing ([4]).

In the case of aid for the renting of land, the theoretical rent is calculated on the basis of the reference rate, minus the rate of inflation, applied to the value of the land.

2. *Net grant equivalent of investment aid in the form of a capital grant*

2.1. General

Investment aid given to an enterprise in the form of a capital grant is expressed first as a percentage of the investment, representing the nominal grant equivalent or the gross grant equivalent.

According to the common assessment method, the net grant equivalent (NGE) of aid is the benefit accruing to the recipient after payment of taxes on company profits.

In most cases, grants are not taxable in themselves, but are deducted from the value of the depreciable investment. This means that the investor depreciates a smaller amount each year than if he had not received aid. Since depreciation amounts are deductible from taxable profits, a grant increases the proportion taken by the State each year in the form of tax on company profits.

The taxation method applying to grants described above, which consists in adding the grant to profits in step with depreciation, is the one most commonly used in all the EEA States, but other taxation methods are encountered in certain schemes.

2.2. **Calculation examples**

Example 1: the aid is not subject to tax

In all EEA States, grants are generally entered in the accounts as income and are made subject to tax. It may be, however, particularly in the case of certain R & D aid, that they are exempt from tax. In this case, the NGE is equal to the nominal grant.

Example 2: the investment involves only one category of expenditure and the grant is fully subject to tax at the end of the first financial year

This means that the full grant is subject to corporate profits tax from the first year onward. This convention is not excessive, if one remembers that firms, which generally record a loss in their first years of operation, can carry over their losses for several financial years.

To calculate the NGE of the grant, the amount of tax charged is deducted from it.

For instance:

— investment: 100,

— nominal grant: 20,

— rate of tax: 40,0 %.

The tax charged on the grant is thus $20 \times 40\ \% = 8$

The NGE will thus be: $(20 - 8)/100 = 12\ \%$

Example 3: The investment involves only one category of expenditure and the grant is subject to tax on a straight-line basis over five years.

Here the grant is subject to tax in equal portions over five years. One fifth of the aid will thus be added to profits each year for five years. To calculate the NGE, the discounted amounts of tax charged each year on each fifth under the tax arrangements applicable are deducted from the grant.

For instance:

— investment: 100,

— nominal grant: 20,

— rate of tax: 40,0 %,

— discount rate: 8,0 %.

The table below shows how the taxes charged each year, and the discounted values, are calculated:

Period	Tax charged on grant (1)	Discount factor (2)	Discounted value (1) × (2)
End of first year	(20/5) × 40 %	1,0	1,600
End of second year	(20/5) × 40 %	$1/(1+0,08)^1$	1,481
End of third year	(20/5) × 40 %	$1/(1+0,08)^2$	1,372
End of fourth year	(20/5) × 40 %	$1/(1+0,08)^3$	1,270
End of fifth year	(20/5) × 40 %	$1/(1+0,08)^4$	1,176
		Total	6,900

The total in the last column represents the sum of the discounted taxes charged each year. It has to be deducted from the nominal grant to obtain the Net Grant Equivalent.

Thus the NGE is: (20 − 6,9)/100 = 13,1 %

Note: The tax charged on the grant is discounted at the end of the first year on the assumption that this is the date when the enterprises makes its first depreciation write-off.

Example 4: the investment involves three categories of capital expenditure: land, buildings and plant, taxed over different timescales

The three types of expenditure constitute what is referred to as the standard base for aid. Expenditure is apportioned within the standard base using the following breakdown for all the EFTA States:

— Land: 5,

— Buildings: 45,

— Plant: 50.

These factors are used to calculate the theoretical NGEs under aid schemes. In individual cases of aid, on the other hand, the actual apportionment breakdown of the three categories of expenditure in the standard base is used.

As the timescale over which a grant is subject to tax differs according to the category of expenditure, the first step is to allocate the grant proportionally among the items forming the base of the aid.

The next step is to calculate the amounts charged as tax, separately for each category of expenditure (the calculations are of the same kind as those in Example 3).

Lastly, the taxes are deducted from the nominal grant in order to arrive at the NGE:

NGE = nominal grant less:

— the tax charged on aid allocated to land,

— the tax charged on aid allocated to buildings,

— the tax charged on aid allocated to plant, For instance:

— investment: 100

of which:

- — land: 3 not depreciable,
- — buildings 33 straight-line depreciation over 20 years,
- — plant: 64 decreasing-line depreciation over five years,

— nominal grant: 20,

— rate of tax: 55 %,

— discount rate: 8 %.

To calculate the tax on aid allocated to land

In general, land is not depreciable. Assuming that the aid is to be subject to tax at the same pace as depreciation, aid granted to land is not taxed and no tax is to be deducted from the grant made in respect of land.

To calculate the tax on aid allocated to buildings

Assuming that the aid allocated to buildings is to be subject to tax in equal portions at the same pace as depreciation, i.e. over 20 years:

— the nominal grant allocated to buildings would be: 20 × 33 % = 6,6,

— each year, the portion of the grant included in profits would be: 6,6/20 = 0,33,

— the amount of tax charged on that portion would be: 0,33 × 55 % = 0,18.

An amount of 0,18 would be due from profits each year for 20 years in respect of the grant made for buildings. If this stream of amounts is discounted at the end of the first year (same kind of calculation as in the table in Example 3), the total tax charged in the period on the aid grant to buildings will be 1,925.

To calculate the tax on aid allocated to plant

Let us assume that the aid allocated to plant is to be subject to tax at the same pace as depreciation, i. e. by the decreasing-line method, over five years, at the following rates: 40 %, 24 %, 14,4 %, 10,8 % and 10,8 %.

Unlike the case of buildings, taxation here is different each year. The tax will therefore have to be calculated year by year. The share of the nominal grant allocated to plant is 20 × 64 % = 12,8.

To calculate the tax charges

Period	Tax charged on grant (1)	Discount factor (2)	Discounted value (1) × (2)
End of first year	12,8 × 40 % × 55 %	1,0	2,816
End of second year	12,8 × 24 % × 55 %	$1/(1+0{,}08)^1$	1,564
End of third year	12,8 × 14,4 % × 55 %	$1/(1+0{,}08)^2$	0,869
End of fourth year	12,8 × 10,8 % × 55 %	$1/(1+0{,}08)^3$	0,604
End of fifth year	12,8 × 10,8 % × 55 %	$1/(1+0{,}08)^4$	0,559
		Total	6,412

To calculate the NGE:

Nominal grant:	20
less:	
— tax charged on aid allocated to land:	0
— tax charged on aid allocated to buildings	− 1,925
— tax charged on aid allocated to plant:	− 6,412

NGE = 11,6 %

Notes:

1. The taxation of grants, referred to in the common method of assessing aid, is governed both by the tax laws of the EFTA States concerned and by any special arrangements under the scheme in question.

2. For the purposes of determining an NGE, it is therefore necessary to have precise information on:

   (a) the scale of tax rates on profits in the country concerned,

   (b) the depreciation rules in force, or the specific method of incorporating aid into profits prescribed by the scheme in question.

3. *Net grant equivalent of investment aid in the form of a subsidised loan*

3.1. General

Investment aid given to an enterprise in the form of a subsidised loan is expressed first as the number of percentage points of the rebate, i.e. the difference between the reference rate and the rate charged by the lender.

The sole effect of the interest rebate is to reduce interest charges, since it is assumed that capital repayments are carried out in the same way whether the interest rate is normal or reduced.

This benefit obtained on repayment of the loan is expressed as a percentage of the investment, as for capital grants. This gives the nominal grant equivalent or gross grant equivalent.

This does not represent the final benefit which the enterprises derives from the interest subsidy. Since interest charges are deductible from taxable profits, an interest subsidy means the loss of part of such tax benefit by increasing the share taken by the State in the form of tax on company profits.

Consequently, the net grant equivalent (NGE) is obtained by deducting from the gross grant equivalent the tax charged by the State on the increase in taxable profits that is attributable to the rebate.

As in the case of a grant, the NGE of a subsidised loan is based on elements supplied either by the aid scheme or by the tax law of the country in question, plus any other factors established by convention.

The following elements are needed to calculate the NGE of investment aid in the form of a subsidised loan:

— period of the loan,
— length of the grace period, i. e. the initial period when no repayments need to be made, interest being paid on the total amount of principal,
— number of percentage points of the rebate,
— duration of the rebate, not necessarily the same as the loan,
— amount of the loan as a percentage or proportion of the investment,
— reference/discount rate,
— rate of tax.

It is also necessary to know the terms for repayment of the loan. In most cases the loan is repaid on a straight-line basis, in equal portions, interest being due on the balance outstanding. Repayment is occasionally by constant annual instalments, in which case this is taken into account in calculating the NGE.

3.2. **Calculation examples**

Example 1

1. Parameters

— the loan is for ten years with straight-line repayment and no grace period,
— the rebate is three percentage points throughout the period of the loan,
— the loan is for 40 % of the investment,
— the reference/discount rate is 8 %,
— the rate of tax is 35 %.

2. Calculation of the unit gift element

The unit gift element is the nominal grant equivalent of a one-point interest rebate on a loan of 100 % of the investment, taking account of the characteristics of the aid used as parameters. It is calculated as follows:

End of year No	Loan: balance outstanding (1)	0-0-point rebate (2)	Benefit obtained (1) × (2)	Discount factor (3)	Discounted value ([1]) (1) × (2) × (3)
1	100	1 %	1	$1/(1 + 0{,}08)^1$	0,926
2	90	1 %	0,9	$1/(1 + 0{,}08)^2$	0,772
3	80	1 %	0,8	$1/(1 + 0{,}08)^3$	0,635
4	70	1 %	0,7	$1/(1 + 0{,}08)^4$	0,515
5	60	1 %	0,6	$1/(1 + 0{,}08)^5$	0,408
6	50	1 %	0,5	$1/(1 + 0{,}08)^6$	0,315

End of year No	Loan: balance outstanding (1)	0-0-point rebate (2)	Benefit obtained (1) × (2)	Discount factor (3)	Discounted value ([1]) (1) × (2) × (3)
7	40	1 %	0,4	$1/(1 + 0{,}08)^7$	0,233
8	30	1 %	0,3	$1/(1 + 0{,}08)^8$	0,162
9	20	1 %	0,2	$1/(1 + 0{,}08)^9$	0,100
10	10	1 %	0,1	$1/(1 + 0{,}08)^{10}$	0,046
				Unit gift element:	4,112

([1]) Discounting starts at the beginning of the first year.

3. Calculation of net grant equivalent

The net grant equivalent is obtained simply by multiplying the unit gift element by the characteristics of the aid (three-point rebate, 40 % share, non-taxable portion of aid: (1 − 35 %):

$$\text{NGE} = 4{,}112 \times 3 \times 40\ \% \times (1 - 35\%) = 3{,}21\ \%$$

Example 2

1. Parameters

The parameters are the same as in Example 1, but with a two-year grace period from repayment. This means that capital is not repaid in the first two years. The ten-year loan will thus be repaid in eight equal portions from the third to the tenth year. Interest is payable during the ten years on the balance outstanding.

2. Calculation of unit gift element

End of year No	Loan: balance outstanding (1)	0-0-point rebate (2)	Benefit obtained (1) × (2)	Discount factor (3)	Discounted value ([1]) (1) × (2) × (3)
1	100	1 %	1	$1/(1+0{,}08)^1$	0,926
2	100	1 %	1	$1/(1+0{,}08)^2$	0,857
3	100	1 %	1	$1/(1+0{,}08)^3$	0,794
4	87,5	1 %	0,875	$1/(1+0{,}08)^4$	0,643
5	75,0	1 %	0,750	$1/(1+0{,}08)^5$	0,510
6	62,5	1 %	0,625	$1/(1+0{,}08)^6$	0,394
7	50	1 %	0,500	$1/(1+0{,}08)^7$	0,292
8	37,5	1 %	0,375	$1/(1+0{,}08)^8$	0,203
9	25,0	1 %	0,250	$1/(1+0{,}08)^9$	0,125
10	12,5	1 %	0,125	$1/(1+0{,}08)^{10}$	0,058
				Unit gift element:	4,802

([1]) Discounting starts at the beginning of the first year.

3. To calculate the net grant equivalent

As in Example 1, the unit gift element is multiplied by the number of rebate points, the proportion of expenditure covered by the loan and the complement to unity of the rate of tax:

$$NGE = 4{,}802 \times 3 \times 40\ \% \times (1 - 35\ \%) = 3{,}75\ \%$$

Note: It will be seen that, other things being equal, the result of introducing a grace period from capital repayments is to increase the NGE. The grace period increases the balance due each year and hence the benefit attributable to the rebate and, consequently, the unit gift element.

Example 3

1. Parameters

The same facts as in Example 2, but the loan is to be repaid in constant annual instalments.

In this case, the calculation method differs fundamentally from that used in the preceding two examples: first the "normal" annual instalments excluding the interest rebate are calculated, then the "rebated" instalments; the difference between the two series is established year by year, and the results discounted in order to obtain the grant equivalent.

2. To calculate the grant equivalent

The constant annual instalments, expressed as a percentage of the loan, are calculated as follows:

$$A = i/(1\text{-}r^n)$$

$$\text{where } r = 1/(1 + i)$$

"i" being the interest rate and "n" the number of years for which the instalment is calculated. The calculations below are based on a loan of 100 units:

Year	Normal instalment (1)	Rebated annual instalment (2)	Benefit obtained (3)	Discount factor (4)	Discounted value (1) (3) × (4)
1	8	5	3	$1/(1 + 0{,}08)^1$	2,778
2	8	5	3	$1/(1 + 0{,}08)^2$	2,572
3	17,401	15,472	1,929	$1/(1 + 0{,}08)^3$	1,532
4	17,401	15,472	1,929	$1/(1 + 0{,}08)^4$	1,418
5	17,401	15,472	1,929	$1/(1 + 0{,}08)^5$	1,313
6	17,401	15,472	1,929	$1/(1 + 0{,}08)^6$	1,216
7	17,401	15,472	1,929	$1/(1 + 0{,}08)^7$	1,126
8	17,401	15,472	1,929	$1/(1 + 0{,}08)^8$	1,042
9	17,401	15,472	1,929	$1/(1 + 0{,}08)^9$	0,965
10	17,401	15,472	1,929	$1/(1 + 0{,}08)^{10}$	0,894
				Grant equivalent:	14,85 %

(1) Discounting starts at the beginning of the first year.

3. To calculate the net grant equivalent

The net grant equivalent is obtained by multiplying the grant equivalent by the proportion, then deducting the portion charged as tax:

$$NGE = 14{,}85 \times 40\ \% \times (1 - 35\ \%) = 3{,}86\ \%$$

Note: If there is no grace period from repayment, the NGE calculated in the same way is 3,41 %.

3.3. **Formular for calculating the NGE of a subsidised loan**

The preceding methods, which can easily be transposed to a spreadsheet, make it possible to calculate the NGE of a low-interest loan according to the characteristics of the case in question. In standard cases, the NGE may also be calculated direct by means of the following formulae.

1. *Terms*

— i is the reference rate per maturity interval and $r = 1/(1+i)$,
— i' is the subsidised rate, per maturity interval and $r' = 1/(1+i')$,
— P is the period (in number of maturity intervals) of the loan,
— Q is the proportion,
— T is the rate of tax,
— F is the period, in number of intervals, of any grace period from repayment of principal: during the grace period, only interest on the loan is repaid, at the subsidised rate. ($F = 0$ where there is no grace period).

2. *Straight-line repayment*

$$ESN = (1 - T)\ Q\ (1 - \frac{i'}{i})\ (1 + \frac{r^P - r^F}{i \times (P - F)})$$

3. *Repayment in constant annual instalments*

$$ESN = (1 - T)\ Q \left[1 - \left(\frac{i'}{i}\right) \times \left(1 - r^F + \frac{r^F - r^P}{1 - r'^{P - F}}\right)\right]$$

([1]) Annex X corresponds to Annex I of Communication from the Commission — Guidelines on national regional aid (OJ C 74, 10.3.98).

([2]) Tax aid may be considered to be aid connected with an investment where it is based on an amount invested in the region. In addition, any tax aid may be connected with an investment if one sets a ceiling expressed as a percentage of the amount invested in the region. Where the grant of tax aid is spread over several years, any balance remaining at the end of a given year may be carried over to the following year and increased in accordance with the reference rate.

([3]) This system of recalculating intensities does not apply to the intangible investments referred to at Chapter 25.4, paragraphs (10) to (12).

([4]) It should be noted that the expenditure associated with the purchase of the land or the building by the renting firm may be considered as eligible, provided that the need for the aid in question is demonstrated.'

'ANNEX XI

AID TO OFFSET ADDITIONAL TRANSPORT COSTS IN REGIONS QUALIFYING FOR EXEMPTION UNDER ARTICLE 61(3)(c) ON THE BASIS OF THE POPULATION DENSITY TEST

Conditions to be met

— Aid may serve only to compensate for the additional cost of transport. The EFTA State concerned will have to show that compensation is needed on objective grounds. There must never be overcompensation. Account will have to be taken here of other schemes of assistance to transport.

— Aid may be given only in respect of the extra cost of transport of goods inside the national borders of the country concerned. It must not be allowed to become export aid.

— Aid must be objectively quantifiable in advance, on the basis of an aid-per-kilometre ratio or on the basis of an aid-per-kilometre and an aid-per-unit-weight ratio, and there must be an annual report drawn up which, among other things, shows the operation of the ratio or ratios.

— The estimate of additional cost must be based on the most economical form of transport and the shortest route between the place of production or processing and commercial outlets.

— Aid may be given only to firms located in areas qualifying for regional aid on the basis of the new population density test. Such areas will be made up essentially of NUTS (1) level III geographic regions with a population density of less than 12,5 inhabitants per square kilometre. However, a certain flexibility is allowed in the selection of areas, subject to the following limitations:

  — flexibility in the selection of areas must not mean an increase in the population covered by transport aid;
  — the NUTS III parts qualifying for flexibility must have a population density of less than 12,5 inhabitants per square kilometre;
  — they must be contiguous with NUTS III regions which satisfy the low population density test;
  — their population must remain low compared with the total coverage of the transport aid.

— No aid may be given towards the transport or transmission of the products of businesses without an alternative location (products of the extractive industries, hydroelectric power stations, etc.).

— Transport aid given to firms in industries which the EFTA Surveillance Authority considers sensitive (motor vehicles, synthetic fibres, shipbuilding and steel) must always be notified in advance and will be subject to the industry guidelines in force.

(1) Nomenclature of Statistical Territorial Units in the European Communities.'

'ANNEX XII

METHOD OF DETERMINING THE CEILINGS ON THE POPULATION COVERED BY THE ARTICLE 61(3)(c) DEROGATION

1. In applying Article 61(3)(c), the EFTA Surveillance Authority bases its decisions on a method which takes account of regional disparities in a national and EEA context (see section I). The results thus obtained are then adjusted to take account of certain other aspects (see section II).

SECTION I

2. The geographical unit used is NUTS level III or, in justified circumstances, a different homogeneous geographical unit. For each NUTS III region, an average value over three years is calculated for per capita GDP/PPS and unemployment indices, defined in relation to the national average.

3. The socio-economic situation of a region is considered in relation to certain thresholds. The thresholds are calculated for per capital GDP/PPS and unemployment, and for each of the EFTA States concerned.

4. The thresholds are calculated in two stages. The first stage establishes an identical basic threshold for all EFTA States, set at 85 for per capita GDP and 115 for the unemployment rate.

5. In the second stage, the basic thresholds are adjusted to take account of the relative situation of each of the EFTA States compared with the average for the EEA. The formula applied is as follows:

$$\text{Threshold} = \frac{1}{2} \times (\text{Basic threshold} + \frac{\text{Basic threshold} \times 100}{\text{EEA index}})$$

   The EEA index expresses the position of the different EFTA States in terms of unemployment or per capita GDP/PPS, as a percentage of the corresponding EEA average. The EEA index is calculated as an average value over the same three-year period used for the regional indices.

6. Thus, the more favourable an EFTA State's situation as regards unemployment or the standard of living, the more selective the thresholds used for the distribution of the ceiling on 61(3)(c) coverage, and vice versa.

7. However, so that the unemployment criterion does not become too rigorous, the corresponding threshold is subject to a ceiling of 150. This facilitates the granting of regional aid in EFTA States which show considerable disparities in domestic unemployment but whose situation does not seem that unfavourable at the EEA level. Since for the per capita GDP/PPS threshold the differences observed between the EEA States are small, it has not been thought necessary to establish a minimum level.

8. The regional indices are then compared with the above mentioned thresholds, which make it possible to determine whether the region concerned shows a sufficient regional disparity to be taken into account in the calculation of the national population ceilings. The population of all the regions not eligible for regional aid under the Article 61(3)(a) derogation, which show a sufficient regional disparity compared with at least one of the two abovementioned thresholds, is aggregated for each EFTA State.

9. The population ceiling for each EFTA State under the Article 61(3)(c) derogation is calculated by multiplying the EFTA State's aggregates as described above, with the ratio between the total population ceiling for Article 92(3)(c) of the EC Treaty regions and the total EC population living in regions with a sufficient regional disparity.

SECTION II

10. The results obtained in section I are corrected, if necessary, in order:

— to guarantee each EFTA State that the population assisted under the (c) derogation is at least equal to 15 % and does not exceed 50 % of its population not covered by the Article 61(3)(a) derogation;

— to attain, in each EFTA State, a sufficient level to include all the regions which have just lost Article 61(3)(a) status and the areas with a low population density;

— to limit the reduction in the total coverage (under the two Article 61(3) regional derogations) of an EFTA State to 25 % of its previous coverage.

11. To the extent these corrections imply that the share of total population in assisted regions under the Article 61(3) derogations in the EFTA States exceeds the overall ceiling covered by the Article 92(3) of the EC Treaty derogations in the EC, the EFTA States ceilings will be reduced to achieve the same overall population coverage as in the EC.'

EFTA PROCEDURAL AND SUBSTANTIVE RULES IN THE FIELD OF STATE AID [1]

Changes in Chapter 13.4 and certain footnotes

(a) Footnote 4, Chapter 6.2.3. [2] shall be changed to read as follows:

'See Part VII of these Guidelines'.

(b) Footnote 1, Chapter 10.3.1. [3] shall be changed to read as follows:

'There are certain exceptional circumstances in which operating aid is admissible in regions qualifying for regional aid under Article 61(3)(a) and (c). See Part VI of these Guidelines'.

(c) Footnote 1, Chapter 10.3.2.1. [4] shall be changed to read as follows:

'In accordance with Part VI of these Guidelines.'

(d) Footnote 2, Chapter 10.3.2.1. [5] shall be changed to read as follows:

'See Part VI of these Guidelines'

(e) Chapter 13.4 Special Rules [6], shall be changed to read as follows:

(1) 'The cumulation rules are without prejudice to the rules on regional aid and to the EFTA States' obligations under existing or future provisions laid down by the EFTA Surveillance Authority in decisions on particular regional or sectoral aid schemes to notify individual cases.'

(f) Footnote 1, Chapter 18.4.(4) [7], shall be changed to read as follows:

'See Part VI of these Guidelines'

Done at Brussels, 4 November 1998.

For the EFTA Surveillance Authority

The President

Knut ALMESTAD

(1) Adopted and issued by the EFTA Surveillance Authority on 19 January 1994, published OJ L 231, 3.9.1994.
(2) Amended 6 December 1995, OJ L 124, 23.5.1996, p. 41
(3) Amended 11 Septembre 1996, OJ L 42, 13.2.1997, p. 33
(4) Amended 11 Septembre 1996, OJ L 42, 13.2.1997, p. 33
(5) Amended 11 Septembre 1996, OJ L 42, 13.2.1997, p. 33
(6) OJ L 231, 3.9.1994.
(7) Amended 6 December 1995, OJ L 124, 23.5.1996, p. 41