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 Are (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 Chapter23, 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 Areas'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 26.A.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.

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

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 or 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, fok 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-syste” 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.'