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3. Dómstóllinn

EFTA-STOFNANIR

EFTIRLITSSTOFNUN EFTA

**Auglýst eftir athugasemdum, í samræmi við 2. mgr. 1. gr. í I. hluta bókar 3 2007/EES/61/01
við samning milli EFTA-ríkjanna um stofnun eftirlitsstofnunar og dómstóls, um
endurskipulagningu Vegagerðar ríkisins í Noregi og stofnun fyrirtækisins Mesta AS**

Ákvörðun Eftirlitsstofnunar EFTA 350/07/COL frá 18. júlí 2007, sem er birt á upprunalegu, fullgiltu tungumáli á eftir þessu ágrípi, markar upphaf málsmeðferðar samkvæmt 2. mgr. 1. gr. í I. hluta bókar 3 við samning milli EFTA-ríkjanna um stofnun eftirlitsstofnunar og dómstóls (samninginn um eftirlitsstofnun og dómstól). Stjórnvöldum í Noregi hefur verið tilkynnt þetta með afriti af ákvörðuninni.

Eftirlitsstofnun EFTA veitir EFTA-ríkjunum, aðildarríkjum Evrópusambandsins og öðrum áhugaaðilum eins mánaðar frest frá birtingu þessarar auglýsingar að telja til að leggja fram athugasemdir við hina áformuðu ráðstöfun. Athugasemdir skal senda á eftirfarandi póstfang:

EFTA Surveillance Authority
Registry
35, Rue Belliard
B-1040 Brussel/Bruxelles

Athugasemdunum verður komið á framfæri við stjórnvöld í Noregi. Þeim, sem leggja fram athugasemdir, er heimilt að óska nafnleyndar og skulu slíkar óskir vera skriflegar og rökstuddar.

Ágrip

Eftirlitsstofnun EFTA („eftirlitsstofnunin“) hefur ákveðið að hefja formlega rannsókn í kjölfar kvörtunar sem lýtur að stofnun fyrirtækisins Mesta AS. Mesta AS er vegagerðarfyrirtæki sem er að fullu í eigu norska ríkisins og var stofnað 1. janúar 2003 í þeim tilgangi að taka við starfsemi á sviði vegafremkvæmda sem var áður í höndum „framkvæmdadeildar“ Vegagerðar ríkisins í Noregi. Kvartandi taldi að Mesta AS hefði notið ríkisaðstoðar með því að hið opinbera hefði staðið straum af kostnaði við endurskipulagningu, eignir hefðu verið metnar of lágt, verð í millibilssamningum, sem fluttust til Mesta AS, hefði verið of hátt og loks með því að undanþága hefði verið veitt frá stimpilgjöldum og skráningargjöldum í tengslum við afsal fasteigna.

I. MÁLSATVIK

A. Endurskipulagning

Til þess að fjármagna endurskipulagningu í því skyni að fækka starfsfólki framkvæmdadeildarinnar, sem fluttist til Mesta AS, hefur ríkið greitt Mesta AS NOK 993,6 milljónir til að standa undir kostnaði af þrenns konar lífeyrissamningum, þ.e. i) kostnaði af samningum um snemmtækinn lífeyri sem voru í boði frá 1. janúar 2003 til ársloka 2005, ii) viðbótarkostnaði af áframhaldandi lífeyri ríkisstarfsmanna (umfram venjulegan lífeyri) frá 1. janúar 2003 til ársloka 2007 og iii) kostnaði sem fylgdi áframhaldandi rétti starfsmanna til að láta af störfum fyrir venjulegan lífeyrisaldur. Ríkið hefur einnig staðið straum af kostnaði við flutninga, ferðir starfsmanna milli heimilis og vinnustaðar, flutning skjalasafns og endurnýjun vélakosts.

Auk þessa hefur ríkið lagt Mesta AS til NOK 512 milljónir sem hlutafé í því skyni að mæta kostnaði sem tengist biðlaunum (launum sem greidd eru ríkisstarfsmönnum, sem sagt hefur verið upp störfum, þar til unnt er að bjóða þeim annað starf hjá hinu opinbera). Þó að sumt af þessu hlutafé hafi verið notað til greiðslu biðlauna (og í tengslum við lausnir sem hafa minni kostnað í för með sér) er ekki víst að fjárhæð sem nemur NOK 158 milljónum, og tekin var frá til að mæta framtíðarskuldbindingum, hafi verið nýtt í raun. Hvað sem öðru líður liggur ljóst fyrir að enn standa eftir NOK 211 milljónir sem hlutafé í fyrirtækinu.

B. Verðmat eigna

i) Verðmat eigna sérstaklega

Að því er varðar verðmat vélakosts sýnir skýrsla Ernst & Young með fyrirsögninni *Upphafsefnahagsreikningur*, dagsett í maí 2002, að bókfært virði vélakosts, sem var NOK 1 111 milljónir hinn 1. janúar 2002, var lækkað í áætlað virði að fjárhæð NOK 866 milljóna, og síðar leiðrétt í NOK 747 milljónir hinn 1. janúar 2003. Í annarri skýrslu með fyrirsögninni *Viðauki við upphafsefnahagsreikning: Verðmat eigna*, sem var dagsett í desember 2002, kom fram nýtt verðmat á vélakosti að fjárhæð NOK 572 milljóna, sem fengið var á grundvelli tveggja viðmiðunarfjárhæða, þ.e. verðmats vélakosts að fjárhæð NOK 747 milljóna og bókfærðs virðis vélakosts að fjárhæð NOK 1 035 milljóna.

Að því er varðar fasteignir sýnir skýrslan *Viðauki við upphafsefnahagsreikning: Verðmat eigna* frá desember 2002 hvernig bókfært virði fasteigna að fjárhæð NOK 596 milljóna var lækkað í raunvirði að fjárhæð NOK 331 milljóna á grundvelli i) söluvirðis og ii) verðmats á vegum OPAK, sjálfstæðs matsfyrirtækis. Samkvæmt skýrslu OPAK, sem var dagsett 28. febrúar 2002, var virði 375 fasteigna hér um bil NOK 336 milljónir. Samkvæmt framhaldsskýrslu OPAK frá 21. október 2002 var endurmetið virði fasteignanna hér um bil NOK 395 milljónir.

ii) Núvirt sjóðstreymi og gæðaprófun

Samkvæmt öðru sjálfstæðu verðmati, sem tekið var saman í skýrslu með fyrirsögninni *Verðmat*, dagsettri í október 2002, taldi Ernst & Young að með því að nota aðferð, sem byggist á núvirtu sjóðstreymi, yrði niðurstaðan sú að heildareiginfé Mesta AS væri NOK 600 milljónir (með +/- 25 % skekkjumörkum). Arðsemi eiginfjár (á grundvelli „verðmats fastafjármuna“) var reiknuð sem 6,7% nafnarðsemi heildareigna eftir skatta.

Í gæðamatsskýrslu með fyrirsögninni *Mat á tillögu að verðmati og upphafsefnahagsreikningi*, sem var dagsett 12. desember 2002, var niðurstaða Deloitte & Touche á þá leið að lækka bæri fyrra verðmat heildarfastafjármuna, að fjárhæð NOK 1 137 milljóna, um NOK 200 milljónir.

iii) Endanlegur upphafsefnahagsreikningur

Samkvæmt endanlegum upphafsefnahagsreikningi 1. janúar 2003 er heildarvirði fastafjármuna NOK 977 milljónir og þar af er virði i) vélakosts NOK 594 milljónir og ii) fasteigna 281 milljón. Virði vélakosts var lækkað um NOK 200 milljónir úr NOK 747 milljónum í NOK 547 milljónir. Í kjölfar nýrra fjárfestinga og nokkurra smávægilegra leiðréttinga varð endanlegt virði vélakosts NOK 594 milljónir. Að því er varðar fasteignir kemur fram í endanlegum upphafsefnahagsreikningi 1. janúar 2003 að fjárhæðin NOK 331 milljónir (samkvæmt skýrslunni frá desember 2002) hefur verið lækkuð í endanlegt virði að fjárhæð 281 milljón. Í endanlegum upphafsefnahagsreikningi voru einnig skráðir umtalsverðir lausafjármunir sem námu NOK 1 600 milljónum og ætlaðir voru til að mæta áætluðu neikvæðu sjóðstreymi.

C. Millibilssamningar

i) Verð samkvæmt millibilssamningum

Öllum framkvæmdasamningum og öllum rekstrar- og viðhaldssamningum, sem sneru að vinnu fyrir hönd Vegagerðar ríkisins og ekki voru fallnir úr gildi 1. janúar 2003, var breytt „formlega“ í „millibilssamninga“ sem fluttust til Mesta AS ⁽¹⁾. Um það leyti sem þetta var gert virðist sem virði framkvæmdasamninga og rekstrar- og viðhaldssamninga hafi verið hér um bil NOK 2 960 milljónir annars vegar og NOK 5 750 milljónir hins vegar, þ.e. samtals um NOK 8 710 milljónir ⁽²⁾.

Stjórnvöld í Noregi hafa greint frá því að upphaflegt verð *framkvæmdasamninga* hafi leitt af „umsömdu“ verði og það hafi verið ákveðið á grundvelli verðs sem var niðurstaða útboða á öðrum framkvæmdasamningum. Stjórnvöld hafa einnig tekið fram að verð framkvæmdasamninga hafi verið leiðrétt eftir á samkvæmt sérstakri aðferð til þess að taka mætti tillit til skattareglna. Svo virðist sem þessi aðferð hafi verið fölginn í því að hækka eða lækka verð til þess að tryggja að tap kæmi fram ef hagnaður hefði verið á undan (og öfugt). Loks hafa verið gerðar breytingar á samningunum með hliðsjón af nýjum skattalegum og stjórnsýslulegum kröfum sem Mesta AS þurfti að fullnægja.

⁽¹⁾ Engir millibilssamningar hafa verið gerðir um malbikun og vegamerkingar.

⁽²⁾ Tölurnar sýna eftirstandandi virði á þeim tíma sem samningarnir voru fluttir frá framkvæmdadeild til Mesta AS.

Stjórnvöld í Noregi hafa greint frá því að virði allra *rekstrar- og viðhaldssamninga* hafi byggst á kostnaði og verði sem ákveðið hafi verið í samningum við framkvæmdadeild. Útboð á þessum samningum, sem miðuðust við 1. september ár hvert, fóru fram á vegum Vegagerðar ríkisins allt til ársins 2006. Af 108 samningum alls fékk Mesta AS í sinn hlut 68 samninga, eða um 62,7 %. Samkvæmt samanburðaryfirliti, sem fyrirtækið Veidekke ASA hefur lagt fram, var samningsverð eftir útboð, sem fram fóru árin 2003 til 2006, yfirleitt lægra en verð samkvæmt samningunum sem áður höfðu flust til Mesta AS. Af yfirlitinu má einnig ráða að verð samkvæmt tilboðum Mesta AS (sjálfs) í seinni útboðum er lægra en verðið sem ákveðið var þegar samningarnir fluttust til Mesta AS. Í skýrslu, sem ViaNova Plan og fleiri létu gera og birta, kemur fram að í ýmsum rekstrar- og viðhaldssamningum, sem fluttust til Mesta, og voru eftir það boðnir út í janúar 2003, virðist kostnaður vera um 32 % lægri en upphaflegur kostnaður í sambærilegum millibilssamningum sem fluttust til Mesta AS.

Áður en Mesta AS var stofnað hafði norska þingið veitt fé til fimm tilraunaverkefna sem Vegagerð ríkisins hafði áform um að bjóða út. Verð samkvæmt þessum verkefnum hefur ekki verið notað sem grundvöllur verðs í millibilssamningunum. Í desember 2000 birti Vegagerð ríkisins skýrslu sem sýnir að í samanburði við samninga framkvæmdadeildar var kostnaðurinn 94 % af umsömdu verði, en í samanburði við samninga einkarekinna verktakafyrirtækja var kostnaðurinn 71 % af umsömdu verði. Þessi niðurstaða byggðist á tilraunaverkefnum. Spurningar, sem lagðar voru fram á lögjafarþinginu 1999–2000, leiddu jafnframt í ljós að samkvæmt eldri greiningu væri verð samkvæmt rekstrar- og viðhaldssamningunum 20–25 % hærra en verð samkvæmt samningum við einkarekin fyrirtæki⁽³⁾. Loks kom fram í fréttatilkyppingu frá 17. apríl 2001 að samanburður hefði sýnt að lægsta verðtilboð frá einkareknu fyrirtæki hefði verið um 15–20 % lægra en verð framkvæmdadeildar.

ii) *Millibilssamningar í upphafsefnahagsreikningi*

Stjórnvöld í Noregi tóku eftirfarandi fram: „Tekið var tillit til millibilssamninganna í upphafsefnahagsreikningi Mesta AS með því að reikna framlag þeirra til sjóðstreymis í framtíðinni sem lið í mati á virði fyrirtækisins sem félags í fullum rekstri.“ Jafnframt var þó bent á að millibilssamningarnir samsvöruðu aðeins litlum hluta þess virðis. Í þessu tilliti var vísað til eftirfarandi eldri yfirlýsingar: „Yfirstandandi rekstur Mesta var metinn á grundvelli núvirtis sjóðstreymis í framtíðinni og miðað við 6,7 % vexti. Raunvirði rekstrarins var metið NOK 600 milljónir. Áætlað raunvirði var talið til eigna og verðmat eigna í tillögu að upphafsefnahagsreikningi endurspeglar raunvirði.“⁽⁴⁾

D. Stimpilgjald og skráningargjald

Samkvæmt 2. mgr. 3. gr. laga um stofnun Mesta fór afsal fasteigna til Mesta AS fram með nafnbreytingu og var því undanþegið stimpilgjaldi og skráningargjaldi sem að jafnaði ber að greiða við afsal fasteigna. Veita má undanþágu frá stimpilgjaldi og skráningargjaldi með tilvísun til samfellureglunnar, en hún tekur til aðstæðna þar sem lögfest réttindi og skyldu flytjast frá afsalsfyrirtækinu til viðtökufyrirtækisins. Ákvæði um beitingu samfellureglunnar er að finna í tveimur dreifibréfum, öðru frá 25. maí 1990 og hinu frá 21. júní 2005. Samkvæmt fyrri dreifibréfinu var aðeins heimilt að veita undanþágu frá stimpilgjaldi og skráningargjaldi með tilvísun til samfellureglunnar þegar eignarhald var flutt milli hlutafélaga í tengslum við fyrirtækjasamruna. Í síðara dreifibréfinu var heimildin aftur á móti rýmkuð og látin taka til samruna, uppskiptingar fyrirtækja og breytinga á rekstrarformi sem fara fram samkvæmt félagarétti á grundvelli samfellureglunnar.

⁽³⁾ „Spørsmål fra Samferdselskomiteen om St.meld. nr. 46 (1999–2000) Nasjonal transportplan 2002–2011“.

⁽⁴⁾ Bréf stjórnvalda í Noregi til eftirlitsstofnunarinnar dagsett 1. nóvember 2004.

II. MAT

Að áliti eftirlitsstofnunarinnar liggur ekki ljóst fyrir hvort ofangreindar ráðstafanir fela í sér ríkisaðstoð.

A. Endurskipulagning

Eftirlitsstofnunin hefur ekki tekið endanlega afstöðu til þess hvort um ríkisaðstoð sé að ræða. Einkum leikur vafi á því, að áliti stofnunarinnar, hvort skilyrðinu um fjárhagslegt hagræði hafi verið fullnægt í tengslum við endurskipulagninguna.

Ef fjárskuldbindingar vegna atvinnuleysisbóta eða lífeyrisgreiðslna samkvæmt vinnumarkaðslöggjöf eða kjarasamningum eru taldar til eðlilegra útgjalda fyrirtækis mætti líta á lífeyrisskuldbindingar Mesta ⁽⁵⁾ sem „eðlileg útgjöld“ og kæmist fyrirtækið undan þeim með einhverjum hætti jafngilti það fjárhagslegu hagræði. Með slíkri nálgun væri þó horft fram hjá ráðningarskilmálum viðkomandi starfsmanna hjá fyrra vinnuveitanda, þ.e. ríkinu, og skuldbindingum ríkisins vegna þeirra. Þar eð fjármögnun ríkisins takmarkast við mismun á útgjöldum vegna venjulegra lífeyrisgreiðslna og útgjöldum vegna lífeyrisgreiðslna til ríkisstarfsmanns varða greiðslur ríkisins aðeins eigin skuldbindingar þess og því getur ríkisfjármögnun á slíkum útgjöldum ekki talist fjárhagslegt hagræði. Svipuð rök mætti nota í tengslum við ríkisfjármögnun sérstakra réttinda til að hefja töku eftirlauna við tiltekinn aldur, þar eð réttur til að láta af störfum fyrir venjulegan lífeyrisaldur var afleiðing af stöðu ríkisstarfsmanna og því er hann einnig skuldbinding sem ríkið hefur tekið á sig. Þessi sjónarmið gilda jafnframt um ríkisfjármögnun biðlauna þar eð þau eru meðal þeirra réttinda sem leiðir af stöðu viðkomandi starfsmanna sem fyrrverandi ríkisstarfsmanna.

Það er bráðabirgðaafstaða eftirlitsstofnunarinnar að endurgreiðsla ríkisins á kostnaði Mesta AS við liðina „flutningar“ og „ferðir milli heimilis og vinnustaðar“ feli í sér fjárhagslegt hagræði sem Mesta AS hefði ekki notið við venjulegar rekstraraðstæður. Við þetta bætist að útgjöld vegna flutnings starfsstöðva (m.a. stöðdeilda) og flutnings skjalasafns eru kostnaður sem ríkið og nýja fyrirtækið eiga að skipta milli sín. Að því er varðar útgjöld vegna endurnýjunar vélakosts er það eigandinn, í þessu tilviki ríkið, sem á að bera kostnað af því að farga ónýtum vélum. Hafi ónýtar vélar verið taldar til eigna sem fluttust til Mesta AS og þannig haft neikvæð áhrif á heildarverðmat eigna getur sú aðferð við förgun ónýtra véla falið í sér ríkisaðstoð eftir því hvaða arðsemi ríkið hefur krafist.

B. Eignaframlag

Eftirlitsstofnunin komst að þeirri niðurstöðu að óvist væri að virði fastafjármuna samkvæmt endanlegum upphafsefnahagsreikningi Mesta AS fæli í sér fjárhagslegt hagræði. Þó að mikil óvissa sé um hvaða virði fastafjármuna hefði átt að skrá í upphafsefnahagsreikninginn var það niðurstaða eftirlitsstofnunarinnar að virði fastafjármuna, sem stjórnvöld í Noregi afsöluðu til Mesta AS, var lækkað verulega frá fyrra mati og að lækkun á virði vélakosts hafi byggst á fjárhæðinni NOK 747 milljónir sem var aðeins áætlað bráðabirgðamat.

Að því er varðar fasteignir er eftirlitsstofnuninni ekki ljóst hvernig virðið var fengið að teknu tilliti til þess að samkvæmt nýjustu sérfræðiskýrslunni frá október 2002 var virði fasteignanna NOK 395 milljónir, en sú tala var lækkuð í NOK 331 milljón í desember 2002 og í NOK 281 milljón í endanlegum upphafsefnahagsreikningi. Jafnframt er óljóst með hvaða rökum virði vélakosts var lækkað um NOK 200 milljónir í NOK 547 milljónir með hliðsjón af því að samkvæmt greiningu á sjóðstreymi var virði heildareiginfjár NOK 600 milljónir.

C. Flutningur millibilssamninga

Eftirlitsstofnunin telur vafasamt að verð samkvæmt framkvæmdasamningum, sem fluttust til Mesta AS, hafi samsvarað markaðsverði.

Við það bætist að jafnframt því að óljóst er hvaða verð gildir samkvæmt viðhalds- og rekstrar-samningum sem fluttir voru er það álit eftirlitsstofnunarinnar að niðurstöður skýrslunnar frá ViaNova og samanburðaryfirlit Veidekke ASA geti verið vísbending um að rekstrar- og viðhaldssamningar hafi ekki miðast við markaðsverð.

⁽⁵⁾ Sjá til að mynda 62. mgr. undirkafla 3.2.6 í leiðbeiningum um ríkisaðstoð til björgunar og endurskipulagningar í illa stöddum fyrirtækjum og mál C-251/97 *Franska ríkið gegn framkvæmdastjórninni* [1999] ECR I- 6639, 40. mgr.

Þegar litið er til niðurstaðna tilraunaverkefnanna, en samanburðarskýrslurnar sýna að samningsverð framkvæmdadeildar var meira en 20 % hærra en verð samkvæmt samningum við einkarekin fyrirtæki, telur eftirlitsstofnunin einnig ástæðu til að draga í efa þau rök stjórnvalda í Noregi að markaðurinn hafi ekki verið þroskaður og að ekki hafi verið til að dreifa verði í hliðstæðum samningum á almennum markaði. Sú staðreynd að Mesta AS hefur eftir þetta boðið lægst í meiri hluta útboða virðist benda til þess að fyrirtækið beiti annarri verðstefnu en þeirri sem notuð var til að ákveða verð í samningunum sem fluttust til fyrirtækisins.

D. Stimpilgjald og skráningargjald

Í samræmi við niðurstöðu eftirlitsstofnunarinnar í ákvörðun frá 14. desember 2005 er það bráðabirgða-afstaða stofnunarinnar að ríkisaðstoð sé fölginn í undanþágunni sem Mesta AS var veitt frá stimpilgjaldi og skráningargjaldi í tengslum við afsal fasteigna ⁽⁶⁾.

E. Samkeppnisröskun og áhrif á viðskipti milli aðila að EES-samningnum

Vegna eðlis markaðar fyrir mannvirkjagerð sem fjölþjóðamarkaðar er það álit eftirlitsstofnunarinnar að hvers kyns ríkisaðstoð, sem hlýst af fjárstuðningi við Mesta AS (hvort heldur sem um er að ræða styrk eða undanþágu frá gjaldi), raski samkeppni og hafi áhrif á viðskipti.

F. Samrýmist aðstoðin samkeppnisreglum?

Með hliðsjón af því að endurskipulagning vegna lífeyrisgreiðslna kom að öllu leyti til af því, beint eða óbeint, að fyrirverandi starfsmenn Vegagerðar ríkisins voru ríkisstarfsmenn, virðist sem starfsmenn Vegagerðar ríkisins hafi fengið þessa sérstöku stöðu við aðstæður sem ekki réðust af samkeppni. Af þessum sökum getur kostnaður vegna endurskipulagningar, sem Mesta AS er gert að bera, talist hafa áhrif á samkeppnisstöðu fyrirtækisins á samkeppnismarkaði, og það getur aftur verið ástæða til að líta svo á að hugsanleg ríkisaðstoð, sem veitt er til að mæta þessum kostnaði, sé samrýmanleg samkeppnisreglum.

Að því er varðar ríkisfjármögnun annars kostnaðar við endurskipulagningu og hugsanlega aðstoð sem er fölginn í verðmati eigna og millibilssamningum, auk undanþágu frá stimpilgjaldi og skráningargjaldi, hefur eftirlitsstofnuninni ekki tekist að bera kennsl á atriði sem sýni að slík fjármögnun sé samrýmanleg samkeppnisreglum á grundvelli 3. mgr. 61. gr. EES-samningsins.

⁽⁶⁾ Ákvörðun 318/05/COL.

EFTA SURVEILLANCE AUTHORITY DECISION**of 18 July 2007****to initiate the procedure provided for in Article 1(2) in Part I of Protocol 3 to the Surveillance and Court Agreement with regard to the reorganisation of the Norwegian Public Road Administration and the establishment of Mesta AS**

(Norway)

THE EFTA SURVEILLANCE AUTHORITY ⁽¹⁾,Having regard to the Agreement on the European Economic Area ⁽²⁾, in particular to Articles 61 to 63 and Protocol 26 thereof,Having regard to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice ⁽³⁾, in particular to Article 24 thereof,

Having regard to Article 1(2) of Part I and Articles 4(4) and 6 of Part II of Protocol 3 to the Surveillance and Court Agreement,

Having regard to the Authority's Guidelines ⁽⁴⁾ on the application and interpretation of Articles 61 and 62 of the EEA Agreement,

Whereas:

I. FACTS**1. Procedure**

By letter dated 30 August 2004 the Authority received a complaint against the Norwegian authorities in relation to the establishment of Mesta AS which was created to take over the production activities carried out within the Public Road Administration in Norway ⁽⁵⁾. The letter was received and registered by the Authority on 2 September 2004 (Event No: 291 537).

By letter dated 15 September 2004 (Event No: 291631), the Authority requested information from the Norwegian authorities. By letter dated 24 September 2004 from the Norwegian authorities, both received and registered by the Authority on 24 September 2004 (Event No: 293749) the Norwegian authorities requested an extension of the deadline within which it had to reply ⁽⁶⁾. The Authority granted the request by letter dated 28 September 2004 (Event No: 294074).

By letter dated 4 November 2004 from the Norwegian Mission to the European Union, forwarding a letter from the Norwegian authorities dated 1 November 2004, both received and registered by the Authority on 4 November 2004 (Event No: 298076), the Norwegian authorities replied to the information request.

The Authority considered that further information was necessary and sent another request for information dated 8 September 2005 (Event No: 306025). By letter dated 17 October 2005 the Norwegian authorities requested an extension of the deadline within which it had to respond, both received and registered by the Authority on 19 October 2005 (Event No: 346953) ⁽⁷⁾. The Authority granted the request by letter dated 20 October 2005 (Event No: 347051).

⁽¹⁾ Hereinafter referred to as "the Authority".

⁽²⁾ Hereinafter referred to as "the EEA Agreement".

⁽³⁾ Hereinafter referred to as "the Surveillance and Court Agreement".

⁽⁴⁾ Procedural and Substantive Rules in the Field of State Aid – Guidelines on the application and interpretation of Articles 61 and 62 of the EEA Agreement and Article 1 of Protocol 3 to the Surveillance and Court Agreement, adopted and issued by the EFTA Surveillance Authority on 19 January 1994, published in OJ L 231, 3.9.1994, p. 1, EEA Supplement No 32, 3.9.94, p.1, last amended by the Authority's Decision No 388/06/COL of 13 December 2006 for purposes of prolonging Chapter 14 on Aid for research and development, hereinafter referred to as the "State Aid Guidelines".

⁽⁵⁾ Translation from "*Statens vegvesen*".

⁽⁶⁾ The request for an extension of the time limit was officially confirmed by letter dated 28 September 2004 from the Norwegian Mission to the European Union, forwarding the letter dated 24 September 2004 from the Norwegian authorities, both received and registered by the Authority on 29 September 2004 (Event No 294279).

⁽⁷⁾ The request for an extension of the time limit was officially confirmed by letter dated 21 October 2005 from the Norwegian Mission to the European Union, forwarding the letter dated 17 October 2005 from the Norwegian authorities, both received and registered by the Authority on 21 October 2005 (Event No 347285).

By letter dated 15 November 2005 from the Norwegian Mission to the European Union, forwarding a letter dated 10 November 2005 from the Norwegian authorities, including appendixes, both received and registered by the Authority on 17 November 2005 (Event No: 350245) the Norwegian authorities replied to the information request.

The Authority requested yet further information by letter dated 14 August 2006 (Event No: 383867). By letter dated 28 September 2006 from the Norwegian Mission to the European Union, forwarding a letter from the Norwegian authorities dated 26 September 2006, the Norwegian authorities requested an extension of the deadline within which it had to reply, both received and registered by the Authority on 28 September 2006 (Event No: 390099). By letter dated 2 October 2006 the Authority granted the request (Event No: 390486).

By letter dated 11 October 2006 from the Norwegian Mission to the European Union, enclosing a letter from the Norwegian authorities dated 6 October 2006, both received and registered by the Authority on 11 October 2006 (Event No: 392699) the Norwegian authorities replied to the information request.

In addition hereto, during the autumn of 2006 and the beginning of 2007 the Authority and the Norwegian authorities have had informal contact both via telephone and electronic mail. Information received by the Authority in this context has been consolidated by the Norwegian authorities in a letter dated 18 June 2007 received and registered by the Authority on 21 June 2007 (Event no: 426240).

2. Background for the existence of the alleged aid

2.1 *The complaint alleging the involvement of state aid*

The Public Road Administration in Norway is in charge of the construction and maintenance of national and county municipality roads, bridges and tunnels. Prior to 1 January 2003 the Norwegian Road Administration operated in-house production departments (hereinafter collectively referred to as the "Production Department") via district offices which carried out the construction work on behalf of the Public Road Administration. However, in 2001–2002 the Norwegian authorities decided to carry out an overall restructuring of the in-house production activities. In this regard the Government proposed that the Parliament should separate the production activities from the Public Road Administration and transfer them to a limited liability company owned by the State⁽⁸⁾. The administrative functions consisting of planning future construction activities, including the organisation of public tenders, remained within the state administration.

As a result, on 1 January 2003 the production activities of the Production Department within the Public Road Administration was separated from the State and transferred to a newly established company, Mesta AS. All assets, rights and obligations pertaining to the Production Department were transferred to Mesta AS as contributions in kind⁽⁹⁾. The assets included machinery and equipment as well as service contracts entered into between the Production Department and the Public Road Administration. In return the State received shares in the new company. Currently, Mesta AS carries out construction and maintenance activities in competition with other operators active on this market.

The complainant has argued that Mesta AS has received state aid contrary to Article 61(1) of the EEA Agreement on four accounts: (i) the State has financed the restructuring costs; (ii) the fixed assets transferred to Mesta AS have been assessed at below market value in the opening balance; (iii) Mesta AS has been cross-subsidized as a result of the takeover by the company of the Production Department's previous contract portfolio; and (iv) Mesta AS has not paid document and registration duties normally falling due in the case of transfer of ownership of real estate.

The following describes the facts relevant for assessing whether each of these alleged measures involve state aid.

⁽⁸⁾ The first proposal in this regard was included in St.prp. nr. 1 Tillegg nr. 4 (2001–2002). The proposal was further detailed in St.prp. nr. 1 Tillegg nr. 1 (2002–2003) entitled "om omdanning av Statens vegvesens produksjonsvirksomhet til statlig aksjeselskap" on the transfer of the production activities within the Public Road Administration into a state owned company.

⁽⁹⁾ Section 2 of Ot.prp. nr. 6 (2002–2003) entitled "Om lov om omdanning av Statens vegvesens produksjonsvirksomhet til statlig aksjeselskap" on the transfer of production activities within the Public Road Administration into a state owned limited liability company.

2.2 *Restructuring and other reorganisation measures*

It appears from preparatory legislative work that all employees (about 5000) previously employed in the Production Department were to be transferred to the newly established company. However, in order to ensure the establishment of an efficient company it was considered necessary to take measures for purposes of reducing the workforce (to about 3600) ⁽¹⁰⁾. The various restructuring measures undertaken to achieve this goal consisted of (i) early pension packages; (ii) temporary maintenance of civil servant pension ⁽¹¹⁾; (iii) maintenance of the right to a special retirement age ⁽¹²⁾; and (iv) various measures involving moving, commuting, the maintenance of wage and the renovation of machines ⁽¹³⁾.

The total costs for carrying out the restructuring measures were initially estimated to an amount of NOK 1468 million (discounted to present values) and foreseen to be reimbursed by the State to Mesta AS in instalments over a three-year period of 2003–2005. Initially the restructuring measures also included a further cost item (v) related to compensation for salary ⁽¹⁴⁾. However, immediately prior to fixing the opening balance of Mesta AS the Norwegian authorities decided that the relevant costs should rather be covered by a capital contribution to Mesta AS in the form of equity.

The restructuring costs were not included in the opening balance of Mesta AS since the restructuring costs were to be funded by the State via the State budget for the three years of 2003, 2004 and 2005 ⁽¹⁵⁾.

It appears from the State budget for 2006 that Mesta AS has received a total of NOK 993.5 million from the State to cover restructuring costs already accrued as well as future restructuring costs. In this regard Mesta AS received NOK 357 million for 2003; NOK 356.5 million for 2004; and NOK 280 million for 2005 ⁽¹⁶⁾. It appears furthermore from the State budget for 2007 that at the end of 2006 total restructuring costs were estimated by Mesta AS to amount to NOK 1212 million until the year of 2013 ⁽¹⁷⁾. However, the Norwegian authorities have explained that although it was initially foreseen that the State should cover all restructuring costs (implying that if the original estimate of the restructuring costs of NOK 1468 million would be insufficient the State would grant additional funds) the State budget for 2007 provides that Mesta AS will not be granted further restructuring funds than NOK 993.5 million (albeit subsequently amended by the Norwegian authorities to NOK 993.6 million).

The Norwegian authorities have explained that if at the end of the period the restructuring costs should turn out to be less than originally estimated the surplus amount must be repaid to the State or injected into the company as a capital contribution – which in the form of equity would be subject to the required rate of return. However, the authorities maintain that it is unlikely that Mesta AS will have a surplus of funds at the end of the period due to the fact that the total amount which Mesta AS ultimately will receive is considerably lower than the initial estimate for restructuring costs.

In terms of regulation, the Norwegian authorities adopted an Act on the transformation of the production activities of the Public Road Administration to a State owned limited liability company which regulates the rights of employees who were transferred from the Public Road Administration for employment in Mesta AS ⁽¹⁸⁾.

A. **Restructuring measures**

(i) *Early pension*

It appears from preparatory legislative work that during a three year period as of 1 January 2003 until the end of 2005 Mesta AS could offer employees transferred from the Production Department within the Public Road Administration an arrangement according to which they

⁽¹⁰⁾ Section 4.2 of St.prp. nr. 1 Tillegg nr. 1 (2002–2003).

⁽¹¹⁾ Civil servant pension is translated from “*tjenestepensjonsordning*”.

⁽¹²⁾ Translated from “*Opprettholdelse av særaldersgrense*”.

⁽¹³⁾ Section 5 of St.prp. nr. 1 Tillegg nr. 1 (2002–2003).

⁽¹⁴⁾ Translated from “*Ventelønn*”.

⁽¹⁵⁾ Section 5 of St.prp. nr. 1 Tillegg nr. 1 (2002–2003).

⁽¹⁶⁾ St.prp. nr. 1 (2005–2006).

⁽¹⁷⁾ St.prp. nr. 1 (2006–2007).

⁽¹⁸⁾ Act of 13 December 2002 (“*lov om omdanning av Statens vegvesens produksjonsvirksomhet til statlig aksjeselskap*”).

would be able to retire with pension at the age of 60 rather than the normal retirement age of 67 years. Both state owned and private companies have the right to make use of this instrument.

In legislative preparatory works the State funded costs of offering early pension arrangements (including administration costs representing about 5% of total costs) were estimated to amount to NOK 911 million ⁽¹⁹⁾. However, the Norwegian authorities have subsequently explained that in August 2005 accrued costs were merely NOK 113 million and that the amount of total estimated costs would be NOK 637 million (rather than NOK 911 million). The reason for this reduction is, according to the Norwegian authorities, that it was subsequently realised that the workforce could be reduced by means of normal retirement which reduced the need to offer early pension arrangements (in fact, only 470 individuals have benefited from early pension) ⁽²⁰⁾.

(ii) *Maintenance of civil servant pension rights*

The employees of the Public Road Administration had the status of a civil servant but lost this status upon their transfer to Mesta AS (although certain specific rights were maintained for a limited period, see further subsection (v) below). The authorities decided, however, that the employees should benefit from a five year transitional regime (i.e., from 1 January 2003 to the end of 2007). The transitional regime implies that the State pays Mesta AS the relevant costs for purposes of ensuring that employees are guaranteed pension contributions equal to that of civil servants during the relevant period ⁽²¹⁾.

In Norway the costs relating to the pension rights of civil servants are paid into the state pension fund ("*Statens pensjonskasse*" or "*SPK*") ⁽²²⁾. Membership of the SPK provides rights corresponding to those of civil servants. Therefore, in order to ensure the transitional regime the membership of the state pension fund was maintained.

The State funding to Mesta AS is intended to cover the difference between the average costs of an ordinary private pension scheme and the (higher) costs of maintenance of membership in the SPK. Originally the relevant costs were estimated to amount to NOK 395 million ⁽²³⁾. The Norwegian authorities have, however, subsequently explained that per August 2005 the costs accrued in this respect amounted merely to NOK 209 million. In this regard the authorities have also explained that the original amount of NOK 395 million was in any event not intended to be a fixed amount as the parameters for the annual pension premium to be paid (which are assessed by the SPK as a percentage of the pension-qualifying income) vary ⁽²⁴⁾.

Individuals employed after the establishment of Mesta AS are offered a pension scheme of which the costs are paid for in full by the company.

(iii) *Maintenance of special retirement age*

Certain of the civil servants who were transferred to Mesta AS were entitled to retire at an earlier age (i.e., at 65 years) than the normal retirement age of 67 years. In connection with the transfer of employees of the Public Road Administration to Mesta AS, the employees, who at the time of the establishment of Mesta AS (i.e., on 1 January 2003) had 10 years or less left before retirement (that is, those who were 55 years or older), were granted the right to maintain their special retirement age of 65 years ⁽²⁵⁾. The additional costs of maintaining the special retirement age arrangement were originally estimated to amount to NOK 85 million (including administration costs representing about 5% of the total amount) to be funded by the State ⁽²⁶⁾.

The Norwegian authorities have explained that per August 2005 NOK 24.5 million costs had been incurred for purposes of maintaining the special retirement age but further costs may incur until the expiry of the arrangement in 2012.

⁽¹⁹⁾ Section 5 of St.prp. nr. 1 Tillegg nr. 1 (2002–2003).

⁽²⁰⁾ The authorities have nonetheless pointed out that although early pension packages will not be offered after the end of 2005, payments in respect of the early pensions arrangements accepted prior to this date may still be made until the end of 2012.

⁽²¹⁾ The Norwegian authorities have explained that if Mesta AS decides to maintain the civil servant pension rights beyond 2007 the company must cover the costs itself and the State will not reimburse the company for such costs.

⁽²²⁾ The rights of civil servants are set out in the Act on civil servants "*Lov 04.03.1983 om statens tjenestemenn*".

⁽²³⁾ Section 5 of St.prp. nr. 1 Tillegg nr. 1 (2002–2003).

⁽²⁴⁾ The pension-qualifying income varies from year to year, amongst others, due to adjustment of salaries. Elements influencing the level of the premium are the premium rate and the contribution of employers to the National Insurance.

⁽²⁵⁾ The special retirement age arrangement would therefore be applicable until the end of 2012.

⁽²⁶⁾ Section 5 of St.prp. nr. 1 Tillegg nr. 1 (2002–2003).

- (iv) *Costs related to moving, commuting, maintenance of salary and renovation of machines as well as other related costs*

According to preparatory legislative works, this cost item covers costs for purposes of moving (“*flyttekostnader*”); commuting (“*pendlergodtgjørelse*”); maintenance of salary (“*bibehold av lønn*”); and renovation of machines (“*maskiner – sanering*”) (27). The Norwegian authorities have explained that it also involves costs related to moving offices (“*kontor-flyttekostnader*”); moving maintenance and support offices (“*støttepunkter-flyttekostnader*”); and transfer of archives (“*arkivoverføring*”).

With the exception of the measure relating to maintenance of salary (which has not been put into effect and hence did not incur any costs) all measures were carried out at the time of the establishment of Mesta AS and lasted until the end of 2005. While the total costs pertaining to all measures were originally estimated to amount to NOK 77 million (28), the Norwegian authorities have explained that, per January 2006, total costs accrued amounted to approximately NOK 82.4 million. The Norwegian authorities have also explained that although not being liable, the State nonetheless paid for the costs.

Moving: Costs accrued per January 2006: NOK 0.5 million

This item includes costs incurred in relation to relocating leading or administrative personnel in order to take up employment at Mesta AS. As the personnel took up positions in different locations within Mesta AS than those where such personnel previously worked within the Public Road Administration, certain employees had to move domiciles to take up their new employment. Examples of costs include actual, documented costs related to the purchase of domiciles (“*faktiske, legitimerede kostnader ved boligkjøp*”) (29), paid absence for purposes of moving (“*flyttepermisjon*”) and travel costs in relation to inspections of new property (“*visningsreise*”).

Commuting: Costs accrued per January 2006: NOK 6.8 million

This item also covers costs considered necessary to ensure that leading or administrative personnel took up employment within Mesta AS at premises far away from their domicile. Examples of costs include commuting costs between the domicile and work (“*hjemreise*”), costs for double rent (“*Dekning av husleie*”) (30) driving allowance between domicile and work (“*kjøregodtgjørelse*”) and board allowance (“*kostgodtgjørelse*”).

Moving offices: Costs accrued per January 2006: NOK 7.8 million

This item involves costs for moving from the offices of the Public Road Administration to the central headquarters and regional offices of Mesta AS. Examples of costs are cleaning out of old offices (“*Rydding og rengjøring av gamle kontorer*”); packing office material up (31) and transporting it to the new offices (“*Pakking og transport*”); preparation, furnishing and upgrading of new offices at Mesta AS (“*Klargjøring, innredning og oppgradering av nye kontorer*”); as well as costs for the administration of moving activities (“*administrasjon av flytting*”).

Moving of support and maintenance offices: Costs accrued per January 2006: NOK 40.1 million

This item includes costs for purposes of moving from old offices to new local maintenance and support offices as well as reorganising former operation and support offices into new operation and support offices for Mesta AS. Examples of costs are cleaning up of old operation and maintenance support offices (“*rydding og rengjøring av gamle driftsstøttepunkt*”), packing office material up and transporting it to the new offices (“*pakking og transport*”), preparation, furnishing and upgrading of new operation and maintenance support offices (“*Klargjøring, innredning og oppgradering av driftsstøttepunkt*”) and administration of moving activities (“*administrasjon av flytting*”).

(27) St.prp. nr. 1 Tillegg nr. 1 (2002–2003).

(28) Section 5 of St.prp. nr. 1 Tillegg nr. 1 (2002–2003).

(29) Such as actual moving costs.

(30) Such as where a room is rented during the week.

(31) With the exception of archives which is covered by a separate cost item below.

Transfer of archives: Costs accrued per January 2006: NOK 7.1 million

This item includes costs for purposes of installing electronic and physical archives in Mesta AS. It covers the costs involved in separating relevant archives from other irrelevant archives within the Public Road Administration as well as the costs related to the establishment of new archives in Mesta AS. Examples of costs included are the costs for assessing the extent of necessary resources for each archive (*“Ressursbehov pr. arkiv”*), photocopying (*“kopiering”*), transport (*“frakt”*), preparation (*“klargjøring”*) and quality assurance work (*“kvalitetssikring og sikkerhetsarbeid”*).

Renovation of machines: Costs accrued per January 2006: NOK 20.1 million

Although this cost item would suggest that it covers costs related to repairing or renovating machines this is not the case. The Norwegian authorities have explained that the contribution in kind to Mesta AS contained discarded machines, surplus machines and scrapped sites which could not be used for its business. The machines were old, wrecked, or in other ways not of any use for purposes of modern road construction. For practical reasons all machinery was transferred to the new company which should dispose of the machines and clean up the unusable sites. Hence this cost item covers costs related to cleaning up of sites (*“opprydding”*) and removing, scrapping and transporting unnecessary machinery (*“jerning, skrotning, og fraktkostnader”*).

The evaluation of machines and the identification of surplus and unusable machines and material were carried out by the machinery department in Mesta AS under the supervision of the Director for logistics and purchases. Mesta’s auditor verified that the use of the funds was in line with internal instructions ⁽³²⁾.

(v) Compensation for salary and other measures for reducing the work force

Although the cost item of compensation for salary does not form part of what the Norwegian authorities would refer to as “restructuring costs” it represents nonetheless one of the instruments used for reducing the previous work force of the Public Road Administration.

As mentioned above, while the employees transferred from the Production Department lost their civil servant status, certain specific rights derived from this status were nonetheless maintained for a limited period. These rights are regulated in the Act of 13 December 2002 No 84 on the conversion of the production activities to a state owned limited liability company (hereinafter the “Mesta Act”) ⁽³³⁾. Section 4 of the Mesta Act provides that during a period of three years after commencing employment in Mesta AS on 1 January 2003 employees who are subsequently dismissed and meet certain conditions (for example minimum employment of one year) have the right to be offered an appropriate position within the state administration (*“fortrinnsrett til annen statlig stilling”*) or, if a position cannot be offered, the right to receive compensation for salary (*“ventelønn”*).

Compensation for salary is regulated by the Act on civil servants ⁽³⁴⁾. It is an arrangement whereby civil servants who have been given notice for reasons of redundancy and who have not been offered a different suitable job will be entitled to 2/3 of the salary as of the date on which notice was given and up to a maximum of 16 years (depending on the age and duration of state employment).

Although the costs relating to compensation for salary initially formed part of the restructuring costs the Ministry of Labour later decided that the estimated costs should rather be taken into account when identifying the size of the equity of Mesta AS. Or in other words, the means to finance the relevant costs would be injected by the State in Mesta AS as equity ⁽³⁵⁾. The rationale for this approach was that funding through equity should result in a more careful use of dismissals as a reorganisation tool in the public sector. Instead, more use should be made

⁽³²⁾ The internal instructions are based on legislative preparatory works such as St.prp. nr. 1 Tillegg nr. 1 (2002–2003).

⁽³³⁾ Act of 13 December 2002 (*“lov av 13.12.2002 om omdanning av Statens vegvesens produksjonsvirksomhet til statlig aksjeselskap”*).

⁽³⁴⁾ The Act on civil servants (*“lov av 04.03.1983 om statens tjenestemenn”*).

⁽³⁵⁾ The Norwegian authorities have explained that while the State is responsible for paying compensation for salary directly to the entitled individuals, the State requires the costs reimbursed from Mesta AS – who in turn – has received NOK 512 million from the State in the form of equity to cover such costs.

of other (cheaper) reorganisation instruments, such as leave of absence with reduced pay and pension packages etc. ⁽³⁶⁾.

At the time of the establishment of Mesta AS it was originally foreseen that 450 employees would be covered by the compensation for salary scheme with total costs of approximately NOK 512 million. This amount was therefore taken into account when determining the equity of Mesta AS ⁽³⁷⁾. However, as Mesta AS made use of the following (cheaper) alternative workforce reducing instruments Mesta AS spent considerably less of its equity funding than initially anticipated ⁽³⁸⁾:

Termination packages which is an arrangement according to which employees terminate employment without benefiting from compensation for salary in return for receiving up to a years salary as well as financial assistance to find other employment.

Pension packages is an arrangement whereby employees at the age of 62 will terminate employment in return for being guaranteed 66% of the salary until the retirement age at 67 years and the right to continue to earn normal pension rights during this period ⁽³⁹⁾.

Leave of absence with reduced salary is an arrangement to induce employees who would acquire the right to receive early pension (at the age of 60) between 2003 and 2005 to terminate before by offering such employees to terminate immediately in return for paying them 66% of the salary up to the point in time at which they would have acquired the right to early pension.

In the context of implementing the above arrangements various administration costs were incurred, including the costs of external consultants to operate a career centre.

The Norwegian authorities have explained that NOK 17 million was spent for the abovementioned measures in 2003 while NOK 70 million was spent in 2004. In 2005 a further NOK 56 million was spent and a provision of NOK 158 million made for future liabilities. Costs for purposes of compensation of salary or alternative instruments are therefore currently expected to total approximately NOK 301 million. The “remaining” amount of NOK 211 million forms part of the company’s equity. The Norwegian authorities have explained that there is no decision dictating that an eventual surplus equity should be returned to the State and that the final accounts have to be assessed before a final decision can be taken on how to deal with surplus equity ⁽⁴⁰⁾.

2.3 Value of machinery and equipment (hereinafter “machinery”) and real estate and buildings (hereinafter “real estate”) in the opening balance

The following provides an overview of the process for purposes of establishing the value of the fixed assets in the final opening balance of Mesta AS. For purposes of this process two auditors were engaged: Ernst & Young, was engaged by the Public Road Administration in order to establish the new company while the Ministry of Transport and Communication engaged Deloitte & Touche in order to undertake a quality check of the value assessment of the assets and the proposal for an opening balance (including the documentation submitted) as well as evaluating the process, methods and principles applied in this context. Subsequently, Ernst & Young became the auditor of Mesta AS.

⁽³⁶⁾ A letter dated 3 June 2002 from the Ministry of Labour and Administration reveals that this approach was the result of a general review during which it was found that in all cases of transforming a state integrated entity into a separate state owned company the company needs to be given an incentive to reduce potential claims for compensation for salary. This was considered achieved by making the company pay for the costs of compensation for salary itself – while the State would finance the relevant costs via equity (which would be subject to a fixed rate of return).

⁽³⁷⁾ Section 4.4 of St.prp. nr. 1 Tillegg nr. 1 (2002–2003).

⁽³⁸⁾ By letter dated 6 October 2006 to the Authority, the Norwegian authorities have submitted a table providing an overview of the costs accrued in respect of the various instruments for reducing the work force.

⁽³⁹⁾ The description of the arrangement by the Norwegian authorities was as follows: “Der ordinær AFP ytelse var lavere enn garantert ytelse på 66 % (tidlig pensjon) ble det ytt et mellomlegg (gavepensjon)”.

⁽⁴⁰⁾ The final accounts referred to were those for the year of 2005 but the authorities have not provided an update of the situation yet.

A. Value assessment of assets separately

(i) Machinery

For purposes of assessing the value of the assets, the Public Road Administration, Arthur Andersen & Co AS, the attorney to the Norwegian Government, ViaNova and Skagerak Forsikringsmegling AS prepared a report dated 10 May 2002 entitled *the Opening balance* ⁽⁴¹⁾. In this report, the starting point for the assessment was the book value of machinery of NOK 1111 million on 1 January 2002. By deducting equipment (not planned for a transfer to Mesta AS) estimating investments and depreciation for the year 2002 and taking account of other correction factors, the estimated value of machinery was NOK 866 million, preliminary adjusted to NOK 747 million on 1 January 2003. While the report states that engineers of the Public Road Administration have assessed the real value on the basis of market price observations, Ernst & Young has in a subsequent letter stated that the value of NOK 747 million represented the retroactive creation of book values ⁽⁴²⁾.

The evaluation process was continued by the preparation of a report dated August 2002 entitled *the Opening balance* ⁽⁴³⁾ prepared by the Public Road Administration, Ernst & Young, Via Nova and Skagerak Forsikringsmegling AS. The report reveals that in July 2002 it was decided that the assets of the Production Department to be transferred to Mesta AS should be assessed on the basis of their real value. The report also reveals that since the process for obtaining real values of machinery had not been completed the value of machinery ⁽⁴⁴⁾ was based on the principle of “simulated continuity”, that is, the values would be re-constructed to what they would have been had the Production Department been subject to general accounting law ⁽⁴⁵⁾.

A further report dated December 2002 entitled *Opening balance Supplement: Value assessment of assets*, prepared by the Public Road Administration, Ernst & Young, Via Nova, OPAK and Skagerak Forsikringsmegling AS presents a new estimate in the value of machinery ⁽⁴⁶⁾. To arrive at real value two principles were followed (i) for certain groups of machinery, the starting point was recorded book value corrected for a value added tax and amended depreciation periods plus other discretionary assessments; for other groups (ii) values were based on external valuations and prices. The new estimate for the value of machinery to be included in the opening balance was NOK 572 million. This value was calculated by using two points of reference namely the estimated value of machinery of NOK 747 million and a book value of NOK 1035 million.

(ii) Real estate

In the May 2002 report entitled the “*Opening balance*” the value of real estate was estimated to be NOK 277 million. The estimate was fixed starting with the book value of NOK 596 million per 1 January 2002 which was adjusted downwards to take into account increased depreciations and non-transferred real estate.

In the August 2002 report entitled the “*Opening balance*” the value of NOK 277 million was stated to represent the value of real estate had the Production Department been subject to the regular law on accounting.

The December 2002 report entitled “*Opening balance Supplement: Value assessment of assets*” shows how a book value of real estate of NOK 596 million was reduced to a real value of NOK 331 million on the basis of (i) sales; and (ii) an evaluation carried out by the independent expert OPAK of about 1/3 of the properties and a description of the remaining properties.

In terms of expert assessments the Norwegian authorities have submitted a report dated 28 February 2002 in which OPAK assessed the value of 375 properties to approximately NOK 336 million (taking account of planned sales) ⁽⁴⁷⁾. A follow-up report dated 21 October

⁽⁴¹⁾ The original title of the report is “*Åpningsbalanse*”.

⁽⁴²⁾ Letter of 20 February 2007 from Ernst & Young to the Authority.

⁽⁴³⁾ The original title of the report is “*Åpningsbalanse*”.

⁽⁴⁴⁾ The value between NOK 866 million and NOK 747 million.

⁽⁴⁵⁾ The state administration is not subject to the general accounting law (“*regnskapsloven*”).

⁽⁴⁶⁾ The original title of the report is “*Åpningsbalanse Supplering: Verdivurdering av eiendeler*”. Page 11 of the report.

⁽⁴⁷⁾ Prior to sales the value would be NOK 420,486,240 million. Only 100 out of 375 properties were inspected and OPAK observed that certain information to be submitted by the Public Road Administration in respect of the remaining properties was lacking.

2002 prepared by OPAK explains that following, amongst others, the addition of 16 properties, a new evaluation resulted in the value of approximately NOK 395 million.

B. Value assessment based on discounted cash flow and quality check

A separate value assessment was carried out and summarised in a report dated October 2002 entitled: “*Value assessment*” prepared by Ernst & Young for purposes of verifying the results of the work undertaken in respect of the value assessment of the assets⁽⁴⁸⁾. The auditors conclude the report by stating that the application of the discounted cash flow method means that the employed capital (“*sysselsatt kapital*”) amounts to NOK 600 million (within an interval of +/- 25%). The analysis was based on a cash flow assessment for 2003–2012 for which period Ernst & Young estimated a negative present value of NOK 300 million while the terminal value was fixed at plus NOK 900 million. In this regard Ernst & Young has in a subsequent letter explained that “*the fair market value at a minimum must equal the company’s equity*”. The results of the discounted cash flow method meant therefore that a downward adjustment of the value of the assets had to be made⁽⁴⁹⁾. Ernst & Young has further explained that “*Had the value [of NOK 747 million] been fully applied in the Parliament Proposition, the company would have had equity of NOK 2100 million. This equity exceeds the value resulting from the verification of the value of the company against future cash flows by MNOK 200. On this background it was decided to adjust machines and equipment downward with MNOK 200 in relation to estimated value of the machinery at the time. The total adjustment was at the time ... done as an adjustment of machines, as it was expected that a valuation based on estimated fair market values would reduce the values of machines.*”

A quality control of the value assessments undertaken by Deloitte & Touche resulted in a report dated 12 December 2002 and entitled *Evaluation of proposal for a value assessment and the opening balance*⁽⁵⁰⁾. The report shows that the auditors endorse the application of the principle of real value for purposes of assessing assets⁽⁵¹⁾. The auditors also found that the previous estimated value of total fixed assets of NOK 1137 in the opening balance⁽⁵²⁾ should be reduced with NOK 200 million to NOK 937 million. According to the auditors this adjustment should be made as a result of the value assessment (resulting from the abovementioned discounted cashflow method)⁽⁵³⁾ which showed that the value would be lower by assessing the employed capital (“*sysselsatt kapital*”) than if the assets would be evaluated separately or in groups. Although Deloitte & Touche expressed concerns about the (discounted cashflow) value assessment they concluded that it was the best possible estimate of the values of the assets and that it could be used for a downward adjustment of the operational assets.

It appears from the Deloitte & Touche report that the report of December 2002 entitled *Opening balance Supplement: Value assessment of assets* (which provides for a value assessment of machinery of NOK 572 million) did not form part of the documents submitted to Deloitte & Touche for purposes of checking the value assessments undertaken.

The Norwegian authorities have explained that the discount factor used for the cash flow analysis was based on principles similar to those underlying the rate of return by a private investor. It was therefore based on the average market rate of return and the company’s commercial risk. The rate of return on equity was calculated based on the “capital asset pricing model” (CAPM) by using the following formula: Expected return of the assets (R) = risk free interest rate (r) plus Beta of the asset (b) X {expected return on the market portfolio – risk free interest rate (r)}. According to the authorities the rate was fixed at 6.7% nominal return on total assets after tax. It was based on risk free interest rate of 6% before tax, or 4.2% after tax (of 28%), a risk premium after tax of 2.1% (0.35% of 6%) and a correction for loss premium factor for debt of 0.4%.

⁽⁴⁸⁾ Translation from the Norwegian title “*Verdivudering*”

⁽⁴⁹⁾ Letter of 20 February 2007.

⁽⁵⁰⁾ Translation from the Norwegian title: “*Vurdering av forslag til verdsettelse og åpningsbalanse Vegproduksjon AS for Samferdselsdepartementet*”.

⁽⁵¹⁾ See page 3 of the report. It appears that Deloitte & Touche assumed that the value assessment (on which the opening balance is based) has been based on acknowledged principles for the value assessment of companies.

⁽⁵²⁾ The value of NOK 1137 million was made up of machinery NOK 747 million, real estate of NOK 331 million and other assets of NOK 59 million.

⁽⁵³⁾ I.e., the report entitled *Value Assessment* dated October 2002 by Ernst & Young.

C. Value assessment in final opening balance

(i) Machinery

The final opening balance of 1 January 2003 prepared by Mesta AS with assistance of Ernst & Young, ViaNova Plan and Trafikk AS (attached as Annex A) shows a total value of fixed assets of NOK 977 million of which value of (i) machinery is NOK 594 million; and (ii) real estate is NOK 281 million.

In line with previous recommendations to reduce the value of fixed assets by NOK 200 million, and to allocate this reduction to machinery, the value of this item was reduced from NOK 747 million to NOK 547 million⁽⁵⁴⁾. The addition of further investments and some minor adjustments brought the final value of machinery to NOK 594 million.

(ii) Real estate

In the final opening balance of 1 January 2003 the value of NOK 331 million (identified in the December 2002 report) is adjusted downwards to a final value of NOK 281 million.

(iii) Contribution of liquidity

The opening balance also recorded a substantial liquidity instalment of NOK 1600 million to cover expected negative cash flows during the first years of operation in respect of, inter alia, pension obligations and restructuring measures. Based on a balance sheet of NOK 2686 million, equity made up NOK 1900 million and liabilities constituted NOK 786 million.

2.4 Transfer of transitional contracts and their value in the opening balance

It appears from the legislative preparatory works that as of 1 January 2003 all new contracts of the Public Road Administration should be subject to public tender procedures in order to increase competition. At the same time, it was decided that already existing contracts under which the Production Department carried out work on behalf of the Public Road Administration would be transferred to Mesta AS to allow the latter to fulfil remaining obligations under the contracts⁽⁵⁵⁾. In this regard the Norwegian authorities have explained that all construction contracts (*“utbyggingsprosjekter”*) and operation and maintenance contracts (*“funksjonsavtaler”*) for carrying out works which expired after 1 January 2003 were “formalised” into “transitional contracts” and transferred to Mesta AS⁽⁵⁶⁾. The Norwegian authorities have stated that the method and schedule for handling transitional contracts have been subject to a review by “several external consultants” prior to the establishment of Mesta AS and the results of this have been laid down in a report prepared by the Public Road Administration, Arthur Andersen & Co, the attorney general, ViaNova and Skagerak Forsikrings-megling AS. However, so far, the Norwegian authorities have not submitted this report.

The Norwegian Authorities have explained that the manner of handling transitional contracts is intended to introduce competition in a fast and efficient manner while at the same time ensuring safety for the road users. The authorities considered that prices would gradually be reduced following the introduction of competition. The authorities have further explained that it was essential that all contract work was carried out uninterrupted as of 1 January 2003 and that *“Neither the NPRA nor the private sector was able to tender all the approximately 100 contracts before that date. It was not possible for Mesta to cut staff and machines from that date.”*

In terms of fixing the value of the transitional contracts the Norwegian authorities have explained that the transitional contracts are commercially based in the sense that they have been redrafted and contain contract terms similar to those included in contracts between the Public Road Administration and private operators, such as provisions ensuring the use of the Norwegian Standard (*“NS”*), the

⁽⁵⁴⁾ The report continues by referring to the value of machinery of NOK 572 million identified in the December 2002 report (entitled *Opening balance Supplement: Value assessment of assets*). It is stated that since the value assessment of Mesta AS shows that the company can only justify an equity of NOK 1900 million, the NOK 572 million had to be adjusted downwards by NOK 25 million. In a subsequent letter dated 20 February 2007 Ernst & Young has explained that this meant that the actual downward adjustment of the value of machinery was not NOK 200 million but rather NOK 25 million.

⁽⁵⁵⁾ St.prp. Nr. 1 Tillegg nr. 1 (2002–2003), Ot.prp. nr. 6 (2002–2003).

⁽⁵⁶⁾ No transitional contracts have been entered into with respect to asphalt and road marking.

obligation to pay value-added tax, insurance provisions, guarantee liabilities etc. which also reflect the (new) regulatory framework applicable to Mesta AS.

A. The construction contracts

The Norwegian authorities have explained that the construction contracts had to be transferred to Mesta AS in order to continue the completion of ongoing construction projects. The contracts vary in terms of complexity and duration but all expired in the course of one or two years after the establishment of Mesta AS.

The Authority has asked the Norwegian authorities whether the value of the construction contracts transferred to Mesta AS was fixed on the basis of the prices resulting from previous public tenders⁽⁵⁷⁾. The Norwegian authorities responded that *“prices were set as a continuation of the prices the productions division had set for the negotiated agreements”*, that new contractual obligations were not to affect prices and that prices had been negotiated on a model which is, as far as possible, based on market terms. According to the authorities this model includes the following feature: *“The model was that the prices set would ensure that the production division in each county would reach the demands estimated from the requirements specified in the fiscal budget. Prices were then to be adjusted in relation to the profit or deficit made in the preceding years. This implied that a deficit could be guaranteed already from the onset of an agreement, if the productions division of the county in question had made a large profit in the preceding years.”*⁽⁵⁸⁾ In subsequent correspondence the Norwegian authorities have explained that prior to the establishment of Mesta AS about 50% of the construction work (required by the Norwegian Public Road Administration to be carried out) had been put up for public tenders while the rest was awarded to the Production Department. Due to the fact that the Public Road Administration could identify a price level for construction contracts on the basis of such public tenders, it was practice that the price levels in the internal contracts should correspond to the price level in the contracts awarded through public tenders. On this basis the price level reflected in public tenders have been taken into account for purposes of identifying the price level for the internal construction contracts which were later transferred to Mesta AS⁽⁵⁹⁾.

B. The operation and maintenance contracts

102 existing operation and maintenance contracts (*“funksjonsavtaler”*) were taken over by Mesta AS. These contracts would all expire within a period of maximum four years, i.e. the third quarter of 2006. In terms of duration they fall in four categories set out below. Upon expiry of the operation and maintenance contracts the Public Road Administration put them up for public tenders per 1 September each year.

- Category A: 24 contracts, which expired during the autumn of 2003;
- Category B: 25 contracts, which expired during the autumn of 2004;
- Category C: 27 contracts, which expired during the autumn of 2005;
- Category D: 26 contracts, which expired during the autumn of 2006.

The Norwegian authorities have explained that the value of all operation and maintenance contracts have been based on the costs and prices fixed in the agreements with the Production Department and that the real market value will appear upon the completion of the contracts when the Public Road Administration can give an outline of the costs for these contracts. Upon querying the authorities whether they could provide such an outline at the current stage the authorities have responded that an indication of the cost price is the price resulting from a report referred to as a report issued by ViaNova Plan (see below).

⁽⁵⁷⁾ Letter dated 8 September 2005 from the Authority to the Norwegian authorities.

⁽⁵⁸⁾ Letter dated 10 November 2005 from the Norwegian authorities to the Authority.

⁽⁵⁹⁾ Letter dated 6 October 2006 from the Norwegian authorities to the Authority.

C. The value at which the contracts were transferred

The values at which the contracts have been transferred appear from an overview over contracts assigned to the Production Department ⁽⁶⁰⁾. It appears that construction contracts and operation and maintenance contracts had a value of about NOK 2960 million and NOK 5750 million, respectively, in total approximately NOK 8710 million ⁽⁶¹⁾. The overview of operation and maintenance contracts provides annual values per region but does not indicate the price of individual contracts.

The values in the abovementioned overview of the contracts correspond to the values forwarded in a letter from the Ministry of Transport dated 19 December 2002 to the association of construction businesses (*“Byggenæringens Landsforening”*). In this context the values for operation and maintenance contracts were referred to as being “estimates” only ⁽⁶²⁾.

Aside from this, the company, Veidekke ASA, has submitted an Excel spreadsheet showing the prices at which the operation and maintenance contracts were transferred to Mesta AS. According to Veidekke ASA the spreadsheet was forwarded from the Ministry of Transport to the association for asphalt entrepreneurs (*“Asfaltentreprenørenes Forening”*) who distributed it to its members (including Veidekke ASA) ⁽⁶³⁾. The spreadsheet shows that the total price at which the operation and maintenance contracts have been transferred to Mesta AS is NOK 5885.2 million.

D. Price level resulting from subsequent tenders

A report commissioned and published by the Directorate of Public Roads, ViaNova Plan and Trafikk AS covers an analysis of the price level of contracts in December 2003 (the “ViaNova Report”). The ViaNova Report shows that a number of transitional operation and maintenance contracts transferred to Mesta AS were subject to public tenders in January 2003. One of the conclusions in the report was that the cost level of the transitional contracts which have been subject to public tenders during 2003 appear to be about 32% below the original cost level of comparable transitional contracts transferred to Mesta AS.

In relation to questions regarding this report the Norwegian authorities have answered that reduced prices were expected in the future and that the Public Road Administration did not enter into re-negotiations for purposes of obtaining a price reduction in respect of the (remaining) transitional contracts. According to the authorities, it was in any event not an option to review the transitional contracts following the results of this report as this would infringe public procurement regulations. In this context the authorities have also explained that *“there is a wide gap between the bids as the market needs to be established and it is the first time that this type of contract is used in Norway. Hence all parties have to learn and identify the correct price level partly by calculating uncertainties involved in four to five years contracts carried out in difficult weather situations. The difference between some of the bids and later bids are up to a 100% taking into account the lowest and highest bids which is an indication of an immature market.”* ⁽⁶⁴⁾

The Norwegian authorities have submitted an overview of the prices resulting from tendering out operation and maintenance contracts between 2003 and 2006. The amounts represented in the overview submitted by the Norwegian authorities are (with some discrepancies) similar to those stated in an Excel spreadsheet submitted by Veidekke ASA which also includes a table comparing the winning (i.e., lowest) offer in each tender procedure with the prices at which the contracts were transferred. The comparison submitted by Veidekke ASA shows that in respect of contracts tendered out in 2003 to 2006 the resulting winning prices were generally lower than the prices at which the contracts were previously transferred to Mesta AS. Moreover, the overview also shows that the

⁽⁶⁰⁾ Enclosure 26 to the letter dated 1 November 2004 from the Norwegian authorities to the Authority. The overview is enclosed in a letter dated 13 November 2002 entitled: *“Kontrakter som tildeles Produksjonsavdelingen uten konkurranse i 2002.”*

⁽⁶¹⁾ The figures represent the values remaining at the point in time the contracts were transferred from the Production Department to Mesta AS.

⁽⁶²⁾ Referred to as *“Regionsvise anslag for funksjonskontrakter”*

⁽⁶³⁾ Veidekke ASA has submitted comments in the form of observations.

⁽⁶⁴⁾ Answer provided in section 2.2.3(b) (question 6) of the letter dated 10 November 2005 from the Norwegian authorities to the Authority.

prices submitted in offers by Mesta AS (itself) in subsequent tenders are lower than the prices at which the contracts have been transferred to Mesta AS ⁽⁶⁵⁾:

Tender year	Winning price (million NOK)	Amount by which contract transfer price exceeds winning price (million NOK)	Amount by which contract transfer price exceeds Mesta AS' tender offers (million NOK)
2003	1226,6	94	67
2004	1605,2	328	282
2005	1857,1	760	563
2006	7455,5	948	900

The overview of operation and maintenance contracts put up for public tender between 2003 and 2006 submitted by the authorities shows that Mesta AS won 14 out of 24 contracts tendered out in 2003. In 2004 Mesta AS won 13 out of 25 contracts while in 2005 Mesta AS won 20 out of 29 contracts. In 2006 Mesta AS won 21 out of 30 contracts ⁽⁶⁶⁾. This means that out of a total of 108 contracts Mesta AS won 68 contracts which equals about 62.7%.

E. Previous price examinations and experience of the Public Road Administration

The Norwegian authorities have explained that prior to the establishment of Mesta AS the Norwegian Parliament supported five test/pilot contracts which the Public Road Administration had planned to put up for public tender. The authorities have explained that the resulting prices were used to evaluate this type of contract internally (both in the period before and after the decision to establish Mesta AS in 2001). The prices have, however, not been used as a basis for fixing the prices of the transitional contracts. Upon queries by the Authority of the reason for this, the Norwegian authorities have explained that it had been decided that the value of the transitional contracts should be determined on the basis of the cost base for the contracts.

According to the authorities the winning prices of the five test/pilot contracts were as follows:

Bærum (1998) five years: NOK 74,940,000

Nedre Romerike (1999) five years: NOK 56,000,000;

Ibestad Dyrøy (1999) four years: NOK 30,418, 400;

Lågendalen (2000) four years: NOK 45,706,323;

Våler og Åsnes (2001) five years: NOK 39,018,023.

In December 2000 the Public Road Administration issued a report in which it examined the competitiveness of the operation and maintenance services of the Production Department ⁽⁶⁷⁾. The report contains preliminary results of August 2000 and the ability to compete has been calculated by identifying the relation between the calculated costs of a contract and the agreed price. In the case of the contracts of the Production Department the costs represented 94% of the price while with respect to contracts entered into by private entrepreneurs the costs represented 71% of the price. It appears that the test/pilot cases formed the basis for coming to this conclusion. On page 7 of the report the Bærum contract is listed as having an average annual value of NOK 15 million as a result of the public tender. This figure is a result of price per km of 125.000 x 120 km road which equals NOK 15 million (or NOK 75 million during five years) ⁽⁶⁸⁾. The Nedre Romerike contract is listed in the report with an annual value of NOK 11.2 million. The price per km is 50.000 x 198 km road which equals NOK 9.9 million (or NOK 49,5 million during five years) ⁽⁶⁹⁾.

⁽⁶⁵⁾ The prices set out in the Excel sheet have been calculated into annual prices by Veidekke ASA in order to allow for a comparison between them and the price submitted in tender offers.

⁽⁶⁶⁾ The figures deviate slightly from those submitted by Veidekke ASA.

⁽⁶⁷⁾ "Rapport nr. 110 'Produksjonsavdelingens konkurransevne Drift og vedlikehold' Statens vegvesen Akershus".

⁽⁶⁸⁾ The details regarding the road length and price per km is derived from a report on a meeting between the Transport Committee of the Parliament and the association for asphalt entrepreneurs dated 19 October 2000.

⁽⁶⁹⁾ There is, however, some discrepancy in the price of the Nedre Romerike contract reflected in the report and the price submitted by the Norwegian authorities.

Aside from this, it appears, from questions posed by the transport committee in the Parliament to the Ministry of Transport in 1999–2000 concerning the situation of the Public Road Administration, that an analysis had been carried out in Akershus which showed that the price level of the operation and maintenance contracts was 20–25% above those of the private contracts ⁽⁷⁰⁾. Moreover, in a press release dated 17 April 2001 the Public Road Administration refers to the fact that a comparison between, on the one hand, four contracts under which maintenance and operation services were provided by private operators, and on the other hand, contracts under which the Production Department carried out corresponding services, showed that the lowest price offer amongst the private providers was about 15–20 % lower than that of the Production Department.

F. The transitional contracts and the opening balance

Upon queries by the Authority as to whether the value of the transitional contracts have been reflected in the opening balance of Mesta AS, the Norwegian authorities have stated that the transitional contracts and all future contracts have been reflected in the opening balance. In this regard the authorities have stated that: “[t]he transitional contracts have been reflected in the opening balance of Mesta AS through their contribution to future cash flow as an element in the valuation of the business as a going concern.” but that the transitional contracts constituted only a small part of this value. In this context reference has been made to a previous statement that “[t]he ongoing operations of Mesta have been evaluated based on discounted future cash flows and an interest rate of 6,7%. The real value of operations has been established to MNOK 600. The estimated real value has been allocated to the assets and the valuation of the assets stated in the proposal to the opening balance reflects their real value.” ⁽⁷¹⁾

Furthermore, the Norwegian authorities have stated that as revenues from the “contracts must be entered as income in the account gradually as they produce revenues for the company.” the contracts “are included in the cash flow which form the basis for the valuation of the assets and as such reflected in the opening balance.”

2.5 Exemption from document duty and registration fee

According to section 3(2) of the Mesta Act, real estate transferred to Mesta AS have been exempted from the payment of document duty and registration fee.

In terms of legislation on document duty and registration fee the main rule is that when ownership of real estate is transferred a title document must be issued (“*formell overskjøtning*” or “*hjemmelsoverføring*”). The transfer of ownership in a title document may be registered in the real estate registry in Norway (“*Eiendomsregisteret*”) ⁽⁷²⁾, but there is no obligation to do so. However, registration of ownership to property in the real estate registry ensures that any third party can verify who is the owner of the property and in this manner protects the real owner from allowing, third parties to transfer title to his property to others in good faith. The registration of the issuance of a title document in the context of transfer of ownership triggers the payment of (i) document duty of 2.5% of the value of the property; and (ii) registration fee of fixed rate of NOK 982 per document ⁽⁷³⁾. The new title holder must pay the duty ⁽⁷⁴⁾.

If the registration does not involve registering the issuance of a title document there is no obligation to pay either document duty or registration fee. For example, if only the name of the owner of the real estate has been changed, the registration does not involve registering a title document and there is therefore no obligation to pay document duty or registration fee.

⁽⁷⁰⁾ “Spørsmål fra Samferdselskomiteen om St.meld. nr. 46 (1999–2000) Nasjonal transportplan 2002–2011”; “Spørsmål 28: Konkurransesituasjonen mellom Statens vegvesens produksjonsvirksomhet og den private asfaltbransjen” The question (No 28) and answer appear in Innst. S. nr. 119 (2000–2001) of 9 February 2001 p. 183. The question formed part of the background for the recommendation of the Transport Committee concerning St. meld. Nr. 46 (1999–2000) which was approved on 29 September 2000.

⁽⁷¹⁾ Letter dated 1 November 2004 from the Norwegian authorities to the Authority. Another similar statement appears in a letter dated 6 October 2006 from the authorities to the Authority: “The transitional contracts and all future contracts were reflected in the opening balance through the present value per 1 January 2003 of their estimated contribution to the estimated future cash flow in Mesta.”

⁽⁷²⁾ The Real Estate Registry contains information from “*Tinglysningsregisteret*” or “*Grunnboken*” and “*GAB-registeret (Grunneiendommer, Adresser og Bygninger)*”.

⁽⁷³⁾ Section 7(1) of Law No 59 of 1975 on document duty and Law No 86 of 1982 on court fees.

⁽⁷⁴⁾ Section 2-6 of the Regulation on Document Duty, Ministry of Finance, 16 September 1975 as amended.

Exemption from document duty and registration fee may be granted by reference to the continuity principle which is a term that covers situations where the acquiring company takes over the legal rights and obligations of the transferring company. Two circulars lay down principles on the application of the so-called continuity principle: One circular (“First Circular”) issued by the Ministry of Justice on 25 May 1990 (G-37/90) was replaced by another circular (“Second Circular”) issued by the Ministry of Justice on 21 June 2005 (G 06/2005). Under the First Circular it was only where ownership would be transferred in the context of mergers between limited liability companies that an exemption from document duty and registration fee would be granted by reference to the continuity principle. However, the Second Circular broadened the scope to cover both mergers, de-mergers and conversions undertaken on the basis of corporate legislation which is based on the continuity principle.

According to the Norwegian authorities and section 3(2) of the Mesta Act ⁽⁷⁵⁾ any real estate pertaining to the Production Department which was transferred to Mesta AS was processed in the real estate registry (and in other public registers) as a name change. Hence no document duties or registration fees have been paid by Mesta AS.

2.6 Trade in maintenance and construction activities

While the Norwegian market for construction includes a number of Norwegian operators ⁽⁷⁶⁾ it appears from offers submitted in open public tenders in Norway that market operators also include international participants in the EEA such as Lemminkäinen Norge AS, Skanska Norge AS and NCC Construction AS ⁽⁷⁷⁾. Moreover, operators on the Norwegian construction market are active in other EEA countries, such as the construction company, Veidekke ASA, which is active both in Denmark (via Hoffmann A/S) and in Sweden (via Veidekke Sverige AB).

3. Comments by the Norwegian authorities

3.1 Restructuring costs

The Norwegian authorities have argued that the grant of an amount of up to NOK 395 million for purposes of maintaining membership in the State Pension Fund (“SPK”) was necessary because continued membership of the SPK scheme is a burden imposed upon the company by the State. In order to protect the State’s investment the costs should be covered by the State.

With respect to the costs related to moving, commuting and renovation of machines, the Norwegian authorities have argued that the State, as an owner, should logically cover such costs in accordance with the private market investor principle. The authorities have further argued that when an owner spins off a part of its business and transfers it into a separate entity, it is normal that the owner covers the costs related to measures such as the transfer of archives to the new entity. It would be a burden on Mesta AS to cover such costs itself and it is therefore not an advantage for Mesta AS to receive compensation for this purpose. Hence in the present case the State paid for the costs while it was both practical and efficient to let Mesta AS handle the implementation of the relevant measures.

The Norwegian authorities have further argued that the State funded the renovation of machines because discarded machines and machines not compatible to the company’s business (which constituted part of the contribution in kind) constituted a burden on the company. The Norwegian authorities have argued that if one compares the situation to a situation in which a private company was to take over the Production Department, the surplus machines and other production facilities would have led to a discount for the buyer or a demand for compensation for taking on such a liability. It was therefore necessary to protect the State’s investment and logical that the costs inflicted on Mesta AS for taking over machines and other production facilities not compatible to its

⁽⁷⁵⁾ Section 3(2) of the Mesta Act (cf. footnote 33) concerns the transfer of ownership to real estate from the Public Road Administration to Mesta AS.

⁽⁷⁶⁾ Section 3.3 of St.prp. nr. 1 Tillegg nr. 1 (2002–2003). It appears that the total market for construction and building in Norway accounts for approximately NOK 130 billion per year. The construction market and those parts of the building market which are relevant for the newly established company accounts for approximately NOK 42 billion (of which operating and maintenance work accounts for NOK 12 billion while investment work accounts for NOK 30 billion).

⁽⁷⁷⁾ According to Section 2.1 of St.prp. nr. 1 Tillegg nr. 1 (2002–2003) the total turnover of the Production Department was NOK 6.55 billion for the year of 2001.

business should be covered by the State. The State could have chosen another model, namely to sell surplus machines and taken responsibility for cleaning up discarded sites itself.

More in general the authorities have pointed out that in order to ensure that the State only covered costs that were necessary to achieve an effective restructuring process, Mesta AS established written internal instructions on how to account for the relevant restructuring costs. When each business unit had identified items considered as “restructuring costs” it was assessed whether they could qualify as such on the basis of the internal criteria. The Chief Financial Officer in Mesta AS has been responsible for controlling that the internal instructions have been complied with. The company’s auditor controlled whether the company’s accounting practice in respect of the restructuring costs was in compliance with the State’s objective of only covering necessary costs.

3.2 *Transitional contracts*

In general the Norwegian authorities maintain that the transitional contracts were necessary because the State “has a responsibility for keeping the public roads open and in good repair” and that at the time no private operator was able to carry out the type of work. The authorities have moreover argued that had the contracts been made subject to open public tenders (i.e. exposed to competition) Mesta AS would have been the only supplier which possessed the resources, geographical presence and other qualifications required to be able to submit bids on many of the contracts. Mesta AS could therefore have won them all and thereby obtained a monopoly. A monopoly situation would not meet the objective of the reorganisation as outlined by the Norwegian Authorities. The Norwegian authorities have further argued that from the point of view of the Public Road Administration the act of putting a significant amount of existing and future projects out for public tenders requires new competence and resources for purposes of drafting contract terms. In this context the authorities have also argued that since Mesta AS could not cut down on staff and machinery as of 1 January 2003 it was not possible to tender all contracts prior to that date.

Specifically with respect to the operation and maintenance contracts the Norwegian authorities have pointed out that it did not seem prudent to reduce the four years period during which Mesta AS took over the operation and maintenance contracts.

In the context of answering questions from the Authority of whether the transitional contracts were transferred to Mesta AS at market rates, the Norwegian authorities explained that although prices in the relevant market are volatile the trend, that prices are reduced below that of the transitional contracts, was difficult to foresee at the time, considering that many elements influence the price (just like it is difficult to foresee whether the current prices will remain stable over the next years). The price reduction is argued by the authorities to demonstrate that the authorities are about to achieve the objectives of the reorganisation of the Production Department of the Public Road Administration.

3.3 *Exemption from document duty and registration fee*

The Norwegian authorities have argued that the manner of proceeding in the present case (which escapes the obligation to pay document duty or registration fee) constitutes a general practice based on the application of the “continuity principle” which is in line with the treatment accorded to all other state restructurings that have previously taken place. The Norwegian authorities have further argued that should the Authority consider that this way of proceeding constitutes an exemption from the general rules, the exemption – based on the continuity principle – is justified by the nature or general scheme of the tax system.

II. APPRECIATION

1. Procedural requirements

Pursuant to Article 1(3) of Part I of Protocol 3 to the Surveillance and Court Agreement, *“the EFTA Surveillance Authority shall be informed, in sufficient time to enable it to submit its comments, of any plans to grant or alter aid. [...] The State concerned shall not put its proposed measures into effect until the procedure has resulted in a final decision”*.

The Norwegian authorities have not notified the Authority of any of the measures taken in relation to the transfer of the activities of the Production Department to Mesta AS. Therefore, in the event that the Authority comes to the conclusion that Mesta AS has received state aid within the meaning of Article 61(1) of the EEA Agreement the Norwegian authorities will be considered not to have respected their notification obligation pursuant to Article 1(3) of Part I of Protocol 3 to the Surveillance and Court Agreement.

The grant of state aid within the meaning of Article 61(1) of the EEA Agreement which has not been notified constitutes unlawful state aid within the meaning of Article 1(f) in Part II of Protocol 3 to the Surveillance and Court Agreement. It follows from Article 14 in Part II of Protocol 3 to the Surveillance and Court Agreement that the Authority shall decide that unlawful aid which is incompatible with the state aid rules under the EEA Agreement must be recovered from the beneficiaries unless it would be contrary to a general principle of law.

2. The presence of state aid

2.1 *State aid within the meaning of Article 61(1) of the EEA Agreement*

Article 61(1) of the EEA Agreement reads as follows:

“Save as otherwise provided in this Agreement, any aid granted by EC Member States, EFTA States or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Contracting Parties, be incompatible with the functioning of this Agreement.”

To be termed state aid, within the meaning of Article 61(1) of the EEA Agreement a measure must meet the following four cumulative criteria: The measure must (i) confer on recipients an economic advantage which is not received in the normal course of business; (ii) the advantage must be granted by the State or through State resources and must (iii) be selective by favouring certain undertakings or the production of certain goods; and (iv) distort competition and affect trade between Contracting Parties. In the following it is examined whether these four cumulative criteria are met in the present case.

2.2 *Economic Advantage*

Restructuring and other reorganisation measures

(i) Restructuring measures

Mesta AS has received funding from the State for purposes of the costs related to three types of pension packages offered to employees transferred from their previous state employment to Mesta AS. The funds cover (i) the costs related to early pension packages offered between 1 January 2003 and the end of 2005; (ii) the additional costs of paying pension contributions corresponding to that of a civil servant (beyond those paid for an ordinary pension scheme) between 1 January 2003 and the end of 2007; and (iii) the costs involved in maintaining employees' entitlement to a special (early) retirement age.

In order to determine whether the three above mentioned measures involve an economic advantage the Authority must examine whether the costs of such measures may be considered as normally included in the budget of an undertaking.

From a general point of view financial obligations arising from the application of labour legislation or collective agreements to provide unemployment benefits or pension schemes constitute the normal costs of a company and hence any relief from such obligations are normally considered as state aid ⁽⁷⁸⁾. If this were not the case, a company could receive the benefit of the work carried out by its employees without, however, paying the full costs of the terms on which the company has employed them. If this approach is followed in the present case the financial obligations arising out of the three pension regimes established by the Norwegian authorities in 2003 in respect of Mesta AS could be considered to constitute the “normal costs” that Mesta AS has to bear and any relief from such costs would be equivalent to an economic advantage.

However, the Authority observes that this approach does not take into account the terms on which the previous employer i.e., the State, employed the relevant workers and the State liability arising from such arrangements. For example, the costs of paying additional pension contributions at a civil servant level (measure ii), may be considered to be a liability of the State because it is a direct consequence of the employees’ previous state employment as civil servants ⁽⁷⁹⁾. Since the State financing is limited to the difference between the costs of an ordinary pension scheme and the costs of a civil servant scheme, the State pays only for its own liability in the form of the additional costs resulting from the previous working relationship. If the relevant costs are considered to be a liability of the State the provision of State funding to cover such costs would not constitute an economic advantage.

In the context of a privatisation the European Commission has considered that the public funding of costs relating to employees’ previous civil servant status did not constitute aid as “[t]he state (as an employer) had the obligation to compensate its employees for the changing working conditions as the employees would lose their status and associated employment conditions as civil servant.” ⁽⁸⁰⁾ Moreover, in a case concerning the transfer of public transport activities to an independent State-owned undertaking (Combus A/S) for purposes of providing transport operations on a commercial basis, the Court of First Instance has ruled that the aim of a replacement of the privileged and costly status of officials with the status of employees (comparable to that of other similar undertakings) is to free the company from a structural disadvantage it would have in relation to its private sector competitors ⁽⁸¹⁾. Based on this judgment it could be maintained that if the State or a state entity has employed individuals by giving them a civil servant status (or a status similar to that) a State intervention in favour of such employees, which will allow the company to take on workers on conditions comparable to that of private company workers, does not constitute an advantage for the company.

A similar argument could be made with respect to the State’s funding of special retirement age packages since the entitlement to retire at a specific (early) age was offered in the context of the state employment and is hence therefore also a liability incurred by the State. At first sight this argument seems, however, not to be valid with respect to early retirement packages as this offer was made available by Mesta AS as part of the new employment terms of 1 January 2003. However, to the extent that employees accepting early retirement offers would have been part of a transitional regime for purposes of maintaining the civil servant status, early retirement packages constitute simply a (cheaper) alternative for the State to get rid of its civil servant liability. Under those circumstances the above argument could also be made with respect to early pension packages as the relevant costs substitute the State’s civil servant liability.

Due to the abovementioned considerations, the Authority has doubts as to whether the abovementioned three pension regimes offered by the State to Mesta AS in the context of restructuring involves an economic advantage. The Authority invites the Norwegian authorities to provide any additional information it may consider relevant for purposes of this matter.

With respect to the funding provided by the State to Mesta AS in order to cover costs incurred for purposes of “moving” and “commuting” the Authority observes that the obligation to cover such costs have not arisen from the previous working relationship between the State and the

⁽⁷⁸⁾ See for example paragraph 62 of Section 3.2.6 of the State Aid Guidelines on aid for rescuing and restructuring firms in difficulty and Case C-251/97 *France v Commission* [1999] ECR I- 6639, para 40.

⁽⁷⁹⁾ This may be considered in line with the approach adopted in the European Commission’s decision *Poste Italiane*, OJ L 282, 19.10.2002, p. 29.

⁽⁸⁰⁾ Decision of the European Commission No N 483/2000 – *The Netherlands; Sale of engineering group South Holland*.

⁽⁸¹⁾ Case T-157/01 *Danske Busvognmænd v Commission* [2004] ECR II-917.

employees. On the contrary, based on the description of the measures which are covered, the costs result from a range of incentives offered to previous leading or administrative personnel in the Public Road Administration (such as, reimbursement for costs in relation to the purchase of domiciles, commuting, double rent of domiciles, inspection trips, etc.) in order to induce them to take up employment at Mesta AS.

As referred to above, the normal financial obligations of an undertaking include as a starting point, any labour costs a company incurs for purposes of employing or attracting employees. While the most common incentive to attract employees is salary, other incentives, such as compensation for disadvantages related to the geographic location of employees' domiciles (such as the financing of moving and commuting) are no more or no less a tool used by a company to obtain and pay desired employees. The Authority has therefore taken the preliminary view that the reimbursement by the State to Mesta AS of the costs incurred under the items entitled "moving" and "commuting" constitutes an economic advantage which Mesta AS would not have received in the normal course of its business.

With respect to the State funding received by Mesta AS to cover costs for purposes of moving offices and support and maintenance offices from the Public Road Administration to the new offices of Mesta AS as well as reorganising former offices and sorting out old archives for purposes of establishing new archives (covering a total amount of NOK 50.2 million), such costs include not only costs for purposes of cleaning out old offices at the Public Road Administration but also the preparation and upgrading of new offices for Mesta AS as well as installing electronic and physical archives in Mesta AS.

The Authority considers that while it may be argued that costs related to cleaning out old offices of the Public Road Administration relate to the work previously carried out by the latter, the nature of the costs for purposes of preparing and upgrading offices for the use of Mesta AS are similar to costs incurred for purposes of establishing a new company. These costs should thus be borne by the new company. The preliminary conclusion of the Authority is therefore that the costs related to moving offices (including support and maintenance offices) as well as the transfer of archives are costs which should be partly borne by the State and partly by the new company itself. The Norwegian authorities are therefore invited to provide the Authority with information allowing the Authority to allocate costs to the specific measures undertaken under each cost item.

As to the cost item of renovation of machines, it is the owner, in this case the State, which is responsible for covering the costs of discarding machinery which can no longer be used. The fact that the authorities did not itself discard such machinery but chose to transfer the machinery to Mesta AS and reimburse the costs incurred for the disposal does not change this assessment. Nonetheless, if the inclusion of unusable machinery in the assets transferred to Mesta AS has had a negative impact on the value assessment of all assets, this manner of handling the disposal of unusable machinery may result in the grant of state aid via the rate of return required by the State. This is further explained below in the section entitled "*Contribution of assets*". In the light of this the Norwegian authorities are invited to inform the Authority of whether the unusable or obsolete machinery formed part of the machinery subject to the value assessment carried out by the auditors.

(ii) *Other reorganisation measures – compensation for salary*

With respect to the compensation for salary the State has financed the relevant costs by means of a capital contribution to Mesta AS in the form of equity.

As a preliminary point, the Authority observes that the manner in which costs may be funded are irrelevant from the point of view of the application of the state aid rules. Hence, the fact that the Norwegian authorities have chosen to finance the costs for compensation of salary in the form of equity does not influence the assessment as to whether the State's financing of the relevant costs may constitute state aid. As may be recalled, the reason that the Norwegian authorities chose to fund via equity (rather than by grants) was simply to induce the company to spend the funds for alternative instruments for reducing the work force than the compensation for salary arrangement.

Secondly, with respect to whether State financing of costs incurred for purposes of offering compensation for salary constitutes an economic advantage, it could be argued that in line with the approach set out above, the financial obligations arising out of pension arrangements established by the State constitutes the “normal costs” that the company has to bear. If this approach is followed Mesta AS has received an economic advantage in the form of funds to cover the costs related to compensation for salary since this regime was established and imposed on Mesta AS as of the date of its establishment.

However, the entitlement to compensation for salary is one of the rights derived from the civil servant status previously held by the relevant employees of the Public Road Administration and could therefore be argued to be the liability of the State as a direct consequence of its previous working relationship with the employees. If this approach is taken the State funding of such costs would not constitute an economic advantage.

The Authority has not taken a final position on how to proceed in this matter. In the meantime the Norwegian authorities are invited to submit any further information of relevance for the issue.

With respect to the fact that the funds intended for compensation for salary were spent on alternative measures to reduce the work force, namely the termination and pension packages as well as packages for leave of absence, such measures merely represent acknowledged alternatives to compensation for salary. Indeed, if the State funding earmarked for compensation for salary is used to cover costs of alternative work force reducing measures, intending to achieve the same aim as compensation for salary, it does not alter the assessment of whether the company has received an economic advantage via funding for compensation for salary. In this regard it is recalled that the State’s intention of funding compensation for salary by means of equity was simply to bring down overall costs by inducing the company to use cheaper alternative work force reducing instruments.

Finally, with respect to eventual surplus funding, the Authority understands that out of the total amount of NOK 512 million the “remaining” amount of NOK 211 million remains to form part of the company’s equity. However, out of the amount of NOK 301 million expected to be spent for compensation of salary and alternative measures, NOK 143 million has already been spent, while NOK 158 million represents only the estimated amount for future liabilities. Should this amount not be spent in full, or at all, any remainders will also form part of the equity.

In view of the fact that the Norwegian authorities have not yet decided on how to deal with eventual surplus funding in relation to the above mentioned measures, at the current stage it is difficult to address the question of whether any remaining equity may constitute a capital injection which could have been made by a private investor (under the rules governing the private market investor principle) ⁽⁸²⁾.

In the light of the above considerations the Norwegian authorities are invited to inform the Authority on how the authorities will proceed in this matter.

(iii) Surplus funding

The Norwegian authorities have not requested Mesta AS to repay any funding in excess of the amounts spent for purposes of the restructuring costs. If it turns out that the State funding is in excess of the restructuring costs the Norwegian authorities must inform the Authority of the extent of the excess funding and how the authorities intend to proceed in this respect.

Contribution of assets

(i) The application of the private market investor principle

Mesta AS qualifies as a public undertaking within the meaning of the Transparency Directive ⁽⁸³⁾. In determining whether a financial transaction by the owner of a public undertaking involves an economic advantage the Authority applies the “market economy investor principle” which has been confirmed several times by the European Court of Justice. According to this

⁽⁸²⁾ According to this principle, if public authorities contribute capital or contribution in kind to one of its undertakings on conditions which would be acceptable to a private market investor no economic advantage is involved. The principle is explained in more detail below in the following section.

⁽⁸³⁾ Commission Directive 80/723 on the transparency or financial relations between Member States and public undertakings (the “Transparency Directive”); OJ 1980 L 195/35, as amended by OJ 1985 L 229/20; OJ 1993 L 254/16; and OJ 2000 L 193/75. The Directive is incorporated into the EEA Agreement by means of Article 1 of Annex XV.

principle, if public authorities contribute capital or contribution in kind (e.g. assets) to one of their undertakings on conditions which would be acceptable to a private market investor no economic advantage is involved⁽⁸⁴⁾. Conversely, if money or other assets are contributed to public undertakings on conditions which are unacceptable to a private market investor an economic advantage is involved⁽⁸⁵⁾. This is normally considered to be the case where the structure and future prospects of the company is such that a normal return (by way of dividend payments or capital appreciation) by reference to a comparable private enterprise cannot be expected within a reasonable time⁽⁸⁶⁾. For example, if the rate of return is fixed on the basis of the value of assets, which have been assessed at below market value, the return may not be equivalent to what a private investor would consider acceptable in similar circumstances.

The Authority observes that in a case like Mesta AS, there is considerable uncertainty with respect to the value of fixed assets to be recorded in the opening balance. The Authority observes also that valuations have been carried out by independent auditors/experts and on the basis of different methods and combinations of methods.

The Authority observes furthermore that the value of fixed assets, transferred by the Norwegian authorities to Mesta AS, was adjusted considerably downwards compared to previous estimates. This is the case both with respect to value assessments of the assets on an individual basis and as a result of the discounted cash flow analysis which assumed substantial negative cash flows during the first years of operation. In this context the Authority observes that the downward reduction of machinery was made on the basis of NOK 747 million which was merely an estimated preliminary value.

As regards real estate, the value identified in the most recent OPAK report (of October 2002) was NOK 395 million. Later, in the December 2002 report⁽⁸⁷⁾ this value was reduced to NOK 331 million and the final opening balance fixes a value of NOK 281 million. It is not clear on what basis the final value of real estate was fixed. Aside from this, the Authority observes that the value of real estate determines the actual amount payable in document duty and registration fee and that any such charges should be calculated on the basis of the relevant valuation principles laid down in the relevant rules.

The Authority recalls that the cash flow analysis estimated the value of employed capital at NOK 600 million. On the basis of this analysis it was decided to reduce the value of assets with NOK 200 million of which the entire amount was allocated to machinery. Still, in the final opening balance the overall value of fixed assets was fixed at NOK 977 million of which machinery alone was fixed at a value of approximately NOK 600 million (NOK 594 million). The logic behind this manner of proceeding is not entirely clear to the Authority.

Moreover, as discussed in the section below, there is a question as to whether the transitional contracts were transferred to Mesta AS at above market values. To the extent that this took place, the additional value could, from an accounting point of view, have been included as an asset in the opening balance. The consequence of this would have been that the value of other assets would be reduced correspondingly which could potentially lead to very low calculated values of all machinery and real estate.

Finally, the Authority observes that the December 2002 report (by Deloitte & Touche) comments that the equity ratio is very high – which was partly a result of the substantial liquidity injection of NOK 1600 million.

On the basis of these considerations, the Authority is uncertain as to whether the value of fixed assets set out in the final opening balance of Mesta AS involves an economic advantage within the meaning of article 61(1). The Authority therefore invites the Norwegian authorities to further clarify the uncertainties outlined above.

⁽⁸⁴⁾ See the State Aid Guidelines on the application of state aid provisions to public enterprises in the manufacturing sector. The guidelines apply, however, also to other sectors. The principle is explained in section 3 which provides that “[t]o ensure respect for the principle of neutrality the aid must be assessed as the difference between the terms on which the funds were made available by the State to the public enterprise, and the terms which a private investor would find acceptable in providing funds to a comparable private undertaking when the private investor is operating under normal market economy conditions (hereinafter ‘market economy investor principle’).”

⁽⁸⁵⁾ See first indent paragraph 6(c) of the State Aid Guidelines on rules on state ownership of enterprises and on aid to public enterprises.

⁽⁸⁶⁾ Section 7.1 of the State Aid Guidelines on the application of state aid provisions to public enterprises in the manufacturing sector. This manner of applying the market economy investor principle has been confirmed by the Court of Justice; see joined Cases T-228/99 and T 233/99 *Westdeutsche Landesbank Girozentrale, Land Nordrhein-Westfalen v Commission* [2003] ECR II-435, at para 254 and 258.

⁽⁸⁷⁾ Entitled “Opening balance Supplement: Value assessment of assets”.

Transfer of transitional contracts

One example of the application of the private market investor principle is that if the State sells land and buildings at market price, state aid is presumed not to be involved since the State has behaved like a private market investor⁽⁸⁸⁾. However, the private market investor principle applies equally when the State is purchasing goods and services. Thus, if the State enters into a contract for purposes of having services provided by a market operator, no state aid will be presumed to be involved if the State behaves as a private market investor by paying the market price. Conversely, if the price is higher than the market price the contract may involve an economic advantage for the service provider, corresponding to the difference between the market price for providing similar services and the price at which such services are provided under the contract. One way for the State to obtain an indication of the market price is to subject work contracts to a non-discriminatory public tender. However, this is not the only manner in which the market price may be established and the Authority will take into account all circumstances of the transaction for purposes of determining whether a market price has been applied.

In the present case a number of the service contracts, entered into between the Public Road Administration and the Production Department for purposes of the provision of services by the latter to the former, were transferred from the Production Department to Mesta AS in the sense that Mesta AS replaced the Production Department in its capacity as service provider. The Authority must therefore examine whether the prices at which the contracts have been “entered into” between the Public Road Administration and Mesta AS reflect market prices.

(i) Construction contracts

At the current stage it is not clear to the Authority how the prices of the construction contracts transferred to Mesta AS have been fixed. The Authority observes that the Norwegian authorities have explained that the original prices of construction contracts resulted from “*negotiated*” prices and have been fixed on the basis of the price level resulting from submitting other construction contracts to public tenders. The authorities have also stated that the price of construction contracts was subject to an ex-post adjustment mechanism in order to take account of fiscal requirements. It seems that this mechanism involved adjusting prices so as to ensure a deficit if a profit had been made in previous years (and vice versa). According to the authorities this price was based on market terms. Finally, the authorities have stated that at the point in time of the transfer of contracts to Mesta AS the contracts were adjusted to take into account new fiscal and regulatory requirements. However, it is not clear whether those adjustments changed the actual price of the contracts.

The Authority finds reason to question whether the prices in the construction contracts transferred to Mesta AS reflected market price. Hence, the Authority requests the Norwegian authorities to clarify the manner in which the prices of the construction contracts transferred to Mesta AS have actually been fixed. In this regard it would be helpful if the authorities could clarify, in particular, to which extent the price level resulting from parallel public tenders have played in fixing the prices. The Authority would also appreciate it if the Norwegian authorities could confirm that the price at which the construction contracts were transferred to Mesta AS is about NOK 2960 million, and, in the negative, provide the correct amount.

(ii) Operation and maintenance contracts

The price at which the maintenance and operation contracts have been transferred is not clear to the Authority. According to the overview submitted by the Norwegian authorities it should be NOK 5750 million. However, the Authority is uncertain whether this is the correct amount in view of the fact that a corresponding figure has been referred to as being an estimate only. Moreover, according to the spreadsheet submitted by Veidekke ASA, the total value of operation and maintenance is NOK 5885,2 million.

With respect to whether the operation and maintenance contracts were transferred to Mesta AS at market price, the Authority has taken note of the fact that the ViaNova report revealed that the cost level of the transitional contracts which have been subject to subsequent public

⁽⁸⁸⁾ The State Aid Guidelines on state aid elements in sales of land and buildings by public authorities.

tenders during 2003, appeared to be about 32% below the original cost level of comparable transitional contracts transferred to Mesta AS. This could indicate that the operation and maintenance contracts may not have been fixed at market prices. Moreover, the comparison submitted by Veidekke ASA showing that the price at which the contracts were transferred to Mesta AS was generally higher than the price at which similar contracts were subsequently won is another indication that the contracts transferred to Mesta AS may not have been fixed at market value.

The Norwegian authorities have argued that the market was not developed or the prices of similar contracts were not identified by the market. In the opinion of the Authority, this argument could be questioned in view of the fact that the Norwegian authorities – prior to the establishment of Mesta AS – had obtained prices resulting from five test/pilot projects. Some of these formed the basis for establishing that the cost share of the contract price was about 23% points higher in the case of the Production Department than in the case of contracts entered into by other market operators. One example of this was the price identified for the Bærum contract (with a value of approximately NOK 75 million) ⁽⁸⁹⁾. Moreover, it seems that a price analysis was carried out in Akershus prior to 2000 showing that the price level of the operation and maintenance contracts was about 20–25% above that of the contracts entered into by market operators.

In such circumstances it seems as if a price level had been identified by the market for comparable contracts prior to 1 January 2003 and that the Norwegian authorities were not unaware that the price level identified by the market was considerably lower than the prices at which the contracts were transferred. Moreover, even after the issuance of the first public tenders – upon which the authorities must have become aware of the price difference – the authorities did not take steps to renegotiate the contracts. Finally, the fact that Mesta AS has subsequently won the majority of the public tenders seems to show that the company applies a different price structure than the one applied for purposes of fixing the prices at which the contracts were transferred.

The Norwegian authorities have stated that they have a responsibility to ensure that the public roads are open and in a good state and that a private operator would not be able to carry out the contract work under the transitional contracts. According to the authorities this means that if the contracts were tendered out at that time, Mesta AS would have won them all. However, the Authority considers that the fact that the tenders in respect of the pilot/test projects appeared to be carried out without problems seems to indicate the opposite.

The above could indicate that the operation and maintenance contracts have not been transferred at market price to Mesta AS. Hence, in the light of the comments set out above the Authority invites the Norwegian authorities to explain further why the prices of transitional operation and maintenance contracts were not fixed on the basis of the prices resulting from the test cases. The Norwegian authorities are also invited to explain their argument that the public procurement rules would be infringed if the contracts transferred to Mesta AS were to be renegotiated for purposes of fixing the price. Finally, the authorities are invited to confirm whether the price at which the operation and maintenance contracts were transferred to Mesta AS is NOK 5750 million, and, in the negative, provide the correct price.

Document duty and registration fee

An economic advantage may be provided through a reduction in the undertaking's tax burden in various ways, including a reduction in the tax base or total or partial reduction in the amount of tax, or a deferment, cancellation or even special rescheduling of tax debt ⁽⁹⁰⁾. The real estate transferred from the Production department to Mesta AS was registered as a name change implying that Mesta AS benefits from the protection offered by registration in the real estate registry while being exempted from paying document duty and registration fees, normally falling due in the case of transfer of title to property. Mesta AS received therefore an economic advantage which it would not have received during the normal course of business. This is in line with the Authority's conclusion in the *Entra* case adopted on 14 December 2005 ⁽⁹¹⁾.

⁽⁸⁹⁾ The price level listed in the report for the Nedre Romerike contract does not correspond entirely to the price which the Norwegian authorities have submitted and the Authority invites the Norwegian authorities to provide clarifying information in this respect.

⁽⁹⁰⁾ See point 2 of Section 3 of the State Aid Guidelines regarding state aid measures on direct business taxation.

⁽⁹¹⁾ Decision No 318/05/COL.

On 14 December 2005 the Authority adopted a negative decision in which it considered that the exemption granted in July 2000 to the company Entra AS (in the context of a transfer of real estate to Entra from the State) from paying document duty and registration fee involved state aid which was not compatible with the functioning of the EEA Agreement ⁽⁹²⁾. In this decision the Authority considered that the exemption did not form part of an administrative practice qualifying as a general measure as the application of the continuity principle to the reorganisation of companies was not an administrative practice at the time: Until late June 2005 the application of the continuity principle was limited to cases of the transfer of ownership in the context of mergers between limited liability companies. Only as of 21 June 2005 was its scope of application broadened to other transactions. Therefore the Authority found that the exemption was not justified by the nature or general scheme of the tax system in Norway.

2.3 *Presence of state resources*

(i) *Restructuring and other reorganization measures*

The condition of the presence of state resources is fulfilled because the total amount of estimated restructuring costs of NOK 1468 million is intended to be covered by grants awarded by the Norwegian State between 2003 and 2005 (of which Mesta AS has received an amount of NOK 993,6 million). Moreover, the capital injected by the Norwegian authorities as equity into Mesta AS for purposes of covering the costs of the temporary salary also represents funds provided by the State.

(ii) *The contribution of capital and assets (i.e., machinery, real estate and contracts)*

It appears from the Transparency Directive ⁽⁹³⁾ and the State Aid Guidelines on Public authorities' holdings' that the provision of capital to public undertakings involves state resources. In line with the Commission's decision practice the Authority considers likewise the investment by the State in the form of contribution in kind (such as machinery, real estate and contracts) involves the transfer of state resources ⁽⁹⁴⁾.

(iii) *Transfer of transitional contracts*

The transfer by the public authorities of a contract for purposes of the provision of services by a state integrated entity in return for revenues by the State, to an undertaking, which takes over the role as a service provider, involves state resources in the form of payments by the State for the provision of services.

(iv) *Document duty and registration fee*

A loss of tax revenue is equivalent to consumption of State resources in the form of fiscal expenditure. Such state support may be provided just as much through tax provisions of a legislative nature as through the practices of the tax authorities. By virtue of its exemption from paying document duty and registration fee Mesta AS has kept the sums corresponding to the payment of the relevant duty and fee otherwise payable to the Norwegian authorities. As the State is therefore foregoing revenue the exemption involves the transfer of state resources. This is in line with the Authority's conclusion in the Entra case adopted on 14 December 2005 ⁽⁹⁵⁾.

2.4 *Favouring certain undertakings or the production of certain goods*

The provision by the State of funds to finance the restructuring costs as well as any contribution by the State of assets, including contracts, at a value which is below market value favour one company only, namely Mesta AS. The measures are therefore selective in nature.

⁽⁹²⁾ Decision No 318/05/COL.

⁽⁹³⁾ Commission Directive 80/723 on the transparency or financial relations between Member States and public undertakings (the "Transparency Directive"); OJ 1980 L 195/35, as amended by OJ 1985 L 229/20; OJ 1993 L 254/16; and OJ 2000 L 193/75. The Directive is incorporated into the EEA Agreement by means of Article 1 of Annex XV.

⁽⁹⁴⁾ See for example Commission Decision on state aid implemented by Germany for Landesbank Schleswig-Holstein – Girozentrale, now HSH Nordbank AG; OJ 2006 L 307, p. 134.

⁽⁹⁵⁾ Decision no 318/05/COL.

With respect to document duty and registration fee, the Authority considers that the circulars issued by the Ministry of Justice confirm that, at the time of the establishment of Mesta AS on 1 January 2003, only mergers could benefit from the continuity principle which provided for an exemption from payment of document duty and registration fee. The Second Circular extended this practice to de-mergers and conversions in late June 2005; implicitly meaning that such transactions were not subject to any exemption prior to this point in time. Since the establishment of Mesta AS took place on 1 January 2003, and cannot be considered as a merger, the exemption established by means of the First Circular for mergers is not applicable in the case of Mesta AS.

Hence, the exemption of the latter from payment of the document duty and registration fee is selective which is not justified by the nature or the logic of the system. This is also in line with the conclusion reached in the case of *Entra* of 14 December 2005 ⁽⁹⁶⁾.

2.5 Distortion of competition and effect on trade between Contracting Parties

The international character within the EEA of the construction market is evidenced both by the fact that Norwegian construction operators are active in other EEA countries (such as Veidekke ASA), while international companies originating in other EEA countries than Norway are active on the Norwegian construction market (such as Lemminkäinen Norge AS, Skanska Norge AS, NCC Construction AS). In such circumstances, the contribution of funds to one operator on the construction market, Mesta AS, will strengthen and reinforce its position compared to other undertakings which are located in Norway or in other EEA countries and competing in the construction (and related) businesses ⁽⁹⁷⁾. The funding will amongst others enable Mesta AS to offer lower priced bids for purposes of winning construction contracts in competition with its competitors.

On this basis, the Authority considers that the contribution of financial support to Mesta AS (either in the form of grants or in the form of an exemption from a duty) will distort competition and affect trade.

2.6 Conclusion

As appears from the above, the Authority has doubts as to whether the measures identified above involve state aid.

3. Compatibility of the aid

With respect to Article 61(2) of the EEA Agreement, it appears that none of the exceptions under this Article apply in the present case as none of the measures possibly involving state aid in favour of Mesta AS has been aimed at the objectives listed in those provisions.

With respect to Article 61(3)(a) of the EEA Agreement, a state aid measure is considered compatible with the functioning of the EEA Agreement under this provision when it is designed to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment. However, the measures which may involve state aid to Mesta AS are neither destined for such areas nor are they designed for this purpose. This provision is therefore not relevant.

The exception in Article 61(3)(b) of the EEA Agreement does not apply to the present case either since any state aid granted to Mesta AS is not intended to promote the execution of an important project of common European interest nor to remedy a serious disturbance in the economy of Norway.

The exception laid down in Article 61(3)(c) EEA which provides that state aid may be considered compatible with the common market where it facilitates the development of certain economic activities or of certain economic areas may be relevant.

⁽⁹⁶⁾ Section 1.2.1 in Part II of Decision 318/05/COL.

⁽⁹⁷⁾ See in this respect Case 730/79 *Philip Morris v Commission* [1989] ECR 2671, at para 11 where it is stated that “[i]f State financial aid strengthens the position of an undertaking compared with other undertakings competing in intra-Community trade the latter must be regarded as affected by that aid.”

For purposes of assessing the compatibility of the restructuring and reorganisation measures – except for those related to moving, commuting, moving offices and the transfer of archives – the Commission's decision practice is relevant. In the context of assessing compatibility of pension schemes, the Commission has considered that a partial relief of the financial burden on a company resulting from pension rights, acquired by employees in the past, and exceeding those provided under generally applicable pension regimes, could be declared compatible. The Commission's conclusion in this regard was motivated by the fact that the pension regime in question removed previously existing barriers to entry to the respective market and that the financing of additional pension rights (acquired at a point in time when the market was still closed) affected the companies' competitiveness once the market was open to competition.

In the present case the relevant restructuring and reorganisation costs all stem either directly or indirectly from the fact that the previous employees of the Public Road Administration held a civil servant status. Although the market for road construction has been open for competition for a long time, the Production Department was not on the market as it merely served the State in-house. Since the specific status of employees of the Public Road Administration was therefore granted in a framework which was not exposed to competition, the related costs (of the restructuring and reorganisation costs) imposed on Mesta AS could be considered to affect the latter's competitive position in a market open for competition. This could therefore be a reason to consider potential state aid to cover the extra costs of such pension obligations as compatible.

As regards the State funding of the remaining restructuring and organisation costs, the Authority has not been able to identify elements showing that such funding would facilitate the development of certain economic activities or of certain economic areas.

With respect to the compatibility under Article 61(3)(c) of potential state aid as a result of the contribution of assets (i.e., under evaluation of machinery, real estate and transitional contracts), any aid involved would be operating aid. The Authority has not identified elements showing how such potential aid would facilitate the development of certain economic activities or of certain economic areas. Likewise have the authorities not shown this with respect to any potential aid involved in the prices of the transitional contracts transferred to Mesta AS.

As to aid involved as a result of an exemption from the payment of document duty and registration fee in favour of Mesta AS, the Authority considers that it constitutes operating aid and, in line with its position taken in its decision adopted on 14 December 2005, that such aid cannot be found compatible on the basis of Article 61(3)(c) of the EEA Agreement.

Finally, at the current stage the Authority does not possess sufficiently detailed information to identify the existence of any public service costs. The Norwegian authorities have stated that they have a responsibility to ensure that the public roads are open and in a good state without claiming, however, that the conditions of Article 59(2) of the EEA Agreement are fulfilled. The Authority has therefore doubts that any state aid in favour of Mesta AS may be declared compatible under Article 59(2) of the EEA Agreement and invites the Norwegian authorities to submit further information in this regard should this argument be of relevance.

4. Conclusion

Based on the information submitted by the Norwegian authorities, the Authority has doubts as to whether the measures in favour of Mesta AS involve state aid within the meaning of Article 61(1) of the EEA Agreement and whether the measures may be considered as compatible with Article 61(2) or (3) of the EEA Agreement.

Consequently, and in accordance Article 4(4) of Part II of Protocol 3 to the Surveillance and Court Agreement, the Authority is obliged to open the procedure provided for in Article 1(2) of Part I of Protocol 3 of the Surveillance and Court Agreement. The decision to open proceedings is without prejudice to the final decision of the Authority, which may conclude that the measures in question are compatible with the functioning of the EEA Agreement or do not involve state aid at all.

In light of the foregoing considerations, the Authority, acting under the procedure laid down in Article 1(2) of Part I of Protocol 3 to the Surveillance and Court Agreement, requests the Norwegian authorities to submit their comments within one month of the date of receipt of this Decision.

In light of the foregoing consideration, the Authority requires that, within one month of receipt of this decision, the Norwegian authorities provide all documents, information and data needed for assessment of the measures in favour of Mesta AS and requests the Norwegian authorities to forward a copy of this letter to the potential aid recipient of the aid immediately.

HAS ADOPTED THIS DECISION:

Article 1

The EFTA Surveillance Authority has decided to open the formal investigation procedure provided for in Article 1(2) of Part I of Protocol 3 to the Surveillance and Court Agreement against Norway regarding the restructuring and reorganisation measures in favour of Mesta AS, the contribution of assets and the transfer of transitional contracts to Mesta AS as well as the exemption of Mesta AS from paying document duty and registration fee.

Article 2

The Norwegian authorities are requested, pursuant to Article 6(1) of Part II of Protocol 3 to the Surveillance and Court Agreement, to submit their comments on the opening of the formal investigation procedure within one month from the notification of this Decision.

Article 3

The Norwegian authorities are required to provide within one month from notification of this decision, all documents, information and data needed for assessment of the compatibility of the aid measure.

Article 4

The EC Commission shall be informed, in accordance with Protocol 27(d) of the EEA Agreement, by means of a copy of this Decision.

Article 5

Other EFTA States, EC Member States, and interested parties shall be informed by the publishing of this Decision in its authentic language version, accompanied by a meaningful summary in languages other than the authentic language version, in the EEA Section of the Official Journal of the European Communities and the EEA Supplement thereto, inviting them to submit comments within one month from the date of publication.

Article 6

This Decision is addressed to the Kingdom of Norway.

Article 7

Only the English version is authentic.

Done at Brussels, 18 July 2007

For the EFTA Surveillance Authority,

Kristján Andri Stefánsson

College Member

Kurt Jaeger

College Member

ANNEX A

Final opening balance of Mesta AS on 1 January 2003

Fixed assets	977	
<i>Intellectual property</i>		
Self-developed systems		23
<i>Permanent operational assets</i>		
Computer - hardware, etc.		47
Real estate and buildings		281
Other fixed assets*		32
Machinery and equipment		594
Current assets	1709	
Stock/inventory		103
<i>Claims</i>		
Customer claims		6
Other claims		
<i>Bank contribution and cash</i>		
Liquidity		1600
Total assets	2686	
Equity	1900	
<i>Injected equity</i>		
Share Capital		1000
Premium fund**		900
Liabilities	786	
<i>Set aside for future obligations</i>		
Guarantees		60
Cleaning obligations relating to the environment		37
Pension liabilities		319
Other liabilities		24
<i>Short-term debts</i>		
Supplier debt		6
Public charges due		85
Accrued wage payments		242
Other short-term debt		13
Total equity and liabilities	2686	

* "Materialforekomster"

** "Overkursfond"

**ÁKVÖRÐUN EFTIRLITSSTOFNUNAR EFTA
349/07/COL****2007/EES/61/02****Ákvörðun um kvörtun vegna Vegagerðar ríkisins í Noregi, umdæmisskrifstofu
Mæris og Raumsdals**

Eftirlitsstofnun EFTA hefur úrskurðað að framkvæmdadeild umdæmisskrifstofu Mæris og Raumsdals hafi ekki fengið ríkisaðstoð í tengslum við framkvæmdir sem taka m.a. til vinnu við að ljúka „Riksveg 651 – Rotsethorntunnelen“.

Dagsetning ákvörðunar: 18. júlí 2007

EFTA-ríki: Noregur

Málsnúmer: 48187

Fyrirsögn: Vegagerð ríkisins í Noregi, umdæmisskrifstofa Mæris og Raumsdals

Markmið: Framkvæmdir

Fullgildan texta ákvörðunarinnar, að trúnaðarupplýsingum slepptum, er að finna á eftirfarandi slóð:

<http://www.eftasurv.int/fieldsOfWork/fieldStateAid/stateAidRegistry>

EB-STOFNANIR

FRAMKVÆMDASTJÓRNIN

Tilkynning um fyrirhugaða samfylkingu fyrirtækja

2007/EES/61/03

(Mál COMP/M.4765 – Symantec/Huawei/JV)

Mál sem kann að verða tekið fyrir samkvæmt einfaldaðri málsmeðferð

1. Framkvæmdastjórninni barst 16. nóvember 2007 tilkynning samkvæmt 4. gr. reglugerðar ráðsins (EB) nr. 139/2004 ⁽¹⁾ um fyrirhugaða samfylkingu þar sem bandaríska fyrirtækið Symantec Corporation („Symantec“) og kínverska fyrirtækið Huawei Technologies Co., Ltd („Huawei“) öðlast með kaupum á hlutafé í nýstofnuðu sameiginlegu fyrirtæki í sameiningu yfirráð, í skilningi b-liðar 1. mgr. 3. gr. fyrrnefndrar reglugerðar, í kínverska fyrirtækinu JVCO.
2. Starfsemi hlutaðeigandi fyrirtækja er sem hér segir:
 - Symantec: sala um allan heim á hugbúnaði og forritalausnum og tengdri vöru og þjónustu sem gera einstaklingum og fyrirtækjum kleift að tryggja að gögn séu örugg, aðgangur að þeim sé fullnægjandi og að þau spillist ekki
 - Huawei: sala um allan heim á lausnum fyrir fjarskiptanet, ásamt tengdri þjónustu; sérsvið fyrirtækisins eru rannsóknir og þróunarstarf, framleiðsla og markaðsfærsla í tengslum við fjarskipta-búnað ásamt sérhæfðum netlausnum fyrir fjarskiptafyrirtæki
 - JVCO: þróun og sala forritalausna á sviði gagnavörslu og gagnaöryggis
3. Að lokinni frumathugun telur framkvæmdastjórnin að samfylkingin, sem tilkynnt hefur verið, geti fallið undir gildissvið reglugerðar (EB) nr. 139/2004. Fyrirvari er þó um endanlega ákvörðun. Hafa ber í huga að þetta mál kann að verða tekið fyrir samkvæmt málsmeðferðinni sem kveðið er á um í tilkynningu framkvæmdastjórnarinnar um einfaldaða málsmeðferð við meðhöndlun tiltekinna samfylkinga samkvæmt reglugerð ráðsins (EB) nr. 139/2004 ⁽²⁾.
4. Hagsmunaaðilar eru hvattir til að senda framkvæmdastjórninni athugasemdir sem þeir kunna að hafa fram að færa um hina fyrirhuguðu samfylkingu.

Athugasemdir verða að berast framkvæmdastjórninni innan tíu daga frá því að tilkynning þessi birtist í Stjtið. ESB (C 304, 15. desember 2007). Þær má senda með símbrefi (faxnr. +32 (0)22 96 43 01 og +32 (0)22 96 72 44) eða í pósti, með tilvísuninni COMP/M.4765 – Symantec/Huawei/JV, á eftirfarandi pósthfang:

European Commission
Directorate-General for Competition
Merger Registry
J-70
B-1049 Bruxelles/Brussel

⁽¹⁾ Stjtið. ESB L 24, 29.1.2004, bls. 1.

⁽²⁾ Stjtið. ESB C 56, 5.3.2005, bls. 32.

Tilkynning um fyrirhugaða samfylkingu fyrirtækja
(Mál COMP/M.4987 – IBM/Cognos)

2007/EES/61/04

Mál sem kann að verða tekið fyrir samkvæmt einfaldaðri málsmeðferð

1. Framkvæmdastjórninni barst 13. desember 2007 tilkynning samkvæmt 4. gr. reglugerðar ráðsins (EB) nr. 139/2004 ⁽¹⁾ um fyrirhugaða samfylkingu þar sem bandaríska fyrirtækið International Business Machines Corporation („IBM“) öðlast með hlutafjárkaupum að fullu yfirráð, í skilningi b-liðar 1. mgr. 3. gr. fyrrnefndrar reglugerðar, í kanadíska fyrirtækinu Cognos Incorporated („Cognos“).
2. Starfsemi hlutaðeigandi fyrirtækja er sem hér segir:
 - IBM: þróun, framleiðsla og sala á tölvuvörum, þ.e. vélbúnaði, hugbúnaði og þjónustu
 - Cognos: rekstrargreiningarhugbúnaður
3. Að lokinni frumathugun telur framkvæmdastjórnin að samfylkingin, sem tilkynnt hefur verið, geti fallið undir gildissvið reglugerðar (EB) nr. 139/2004. Fyrirvari er þó um endanlega ákvörðun. Hafa ber í huga að þetta mál kann að verða tekið fyrir samkvæmt málsmeðferðinni sem kveðið er á um í tilkynningu framkvæmdastjórnarinnar um einfaldaða málsmeðferð við meðhöndlun tiltekinna samfylkinga samkvæmt reglugerð ráðsins (EB) nr. 139/2004 ⁽²⁾.
4. Hagsmunaaðilar eru hvattir til að senda framkvæmdastjórninni athugasemdir sem þeir kunna að hafa fram að færa um hina fyrirhuguðu samfylkingu.

Athugasemdir verða að berast framkvæmdastjórninni innan tíu daga frá því að tilkynning þessi birtist í Stjtið. ESB (C 319, 20. desember 2007). Þær má senda með símbréfi (faxnr. +32 (0)22 96 43 01 og +32 (0)22 96 72 44) eða í pósti, með tilvísuninni COMP/M.4987 – IBM/Cognos, á eftirfarandi pósthfang:

European Commission
Directorate-General for Competition
Merger Registry
J-70
B-1049 Bruxelles/Brussel

⁽¹⁾ Stjtið. ESB L 24, 29.1.2004, bls. 1.

⁽²⁾ Stjtið. ESB C 56, 5.3.2005, bls. 32.

Ákvörðun um að hreyfa ekki andmælum við tilkynntri samfylkingu fyrirtækja **2007/EES/61/05**
(Mál COMP/M.4590 – REWE/Delvita)

Framkvæmdastjórnin ákvað 25. apríl 2007 að hreyfa ekki andmælum við framangreindri tilkynntri samfylkingu og lýsa yfir að hún samrýmdist sameiginlega markaðnum. Ákvörðunin er tekin í samræmi við b-lið 1. mgr. 6. gr. reglugerðar ráðsins (EB) nr. 139/2004. Óstytt útgáfa af ákvörðuninni er eingöngu til á ensku og verður birt eftir að brott hafa verið felld hvers kyns viðskiptaleyndarmál. Hún verður fánleg:

- á samkeppnisvefsetri framkvæmdastjórnarinnar (<http://ec.europa.eu/comm/competition/mergers/cases>). Þar má leita að einstökum ákvörðunum um samfylkingar m.a. eftir fyrirtæki, málsnúmeri, dagsetningu og atvinnugrein;
- á rafrænu sniði á vefsetrinu EUR-Lex undir skjalnúmeri 32007M4590. EUR-Lex er vefsetur með beinlínuaðgangi að löggjöf Evrópubandalaganna (<http://eur-lex.europa.eu>).

Ákvörðun um að hreyfa ekki andmælum við tilkynntri samfylkingu fyrirtækja **2007/EES/61/06**
(Mál COMP/M.4640 – BAE Systems/VT/JV)

Framkvæmdastjórnin ákvað 17. október 2007 að hreyfa ekki andmælum við framangreindri tilkynntri samfylkingu og lýsa yfir að hún samrýmdist sameiginlega markaðnum. Ákvörðunin er tekin í samræmi við b-lið 1. mgr. 6. gr. reglugerðar ráðsins (EB) nr. 139/2004. Óstytt útgáfa af ákvörðuninni er eingöngu til á ensku og verður birt eftir að brott hafa verið felld hvers kyns viðskiptaleyndarmál. Hún verður fánleg:

- á samkeppnisvefsetri framkvæmdastjórnarinnar (<http://ec.europa.eu/comm/competition/mergers/cases>). Þar má leita að einstökum ákvörðunum um samfylkingar m.a. eftir fyrirtæki, málsnúmeri, dagsetningu og atvinnugrein;
- á rafrænu sniði á vefsetrinu EUR-Lex undir skjalnúmeri 32007M4640. EUR-Lex er vefsetur með beinlínuaðgangi að löggjöf Evrópubandalaganna (<http://eur-lex.europa.eu>).

Ákvörðun um að hreyfa ekki andmælum við tilkynntri samfylkingu fyrirtækja **2007/EES/61/07**
(Mál COMP/M.4651 – Cinven/Camaïeu)

Framkvæmdastjórnin ákvað 16. maí 2007 að hreyfa ekki andmælum við framangreindri tilkynntri samfylkingu og lýsa yfir að hún samrýmdist sameiginlega markaðnum. Ákvörðunin er tekin í samræmi við b-lið 1. mgr. 6. gr. reglugerðar ráðsins (EB) nr. 139/2004. Óstýtt útgáfa af ákvörðuninni er eingöngu til á ensku og verður birt eftir að brott hafa verið felld hvers kyns viðskiptaleyndarmál. Hún verður fánleg:

- á samkeppnisvefsetri framkvæmdastjórnarinnar (<http://ec.europa.eu/comm/competition/mergers/cases>). Þar má leita að einstökum ákvörðunum um samfylkingar m.a. eftir fyrirtæki, málsnúmeri, dagsetningu og atvinnugrein;
- á rafrænu sniði á vefsetrinu EUR-Lex undir skjalnúmeri 32007M4651. EUR-Lex er vefsetur með beinlínuaðgangi að löggjöf Evrópubandalaganna (<http://eur-lex.europa.eu>).

Ákvörðun um að hreyfa ekki andmælum við tilkynntri samfylkingu fyrirtækja **2007/EES/61/08**
(Mál COMP/M.4703 – Fujitsu/GFI Informatique)

Framkvæmdastjórnin ákvað 2. júlí 2007 að hreyfa ekki andmælum við framangreindri tilkynntri samfylkingu og lýsa yfir að hún samrýmdist sameiginlega markaðnum. Ákvörðunin er tekin í samræmi við b-lið 1. mgr. 6. gr. reglugerðar ráðsins (EB) nr. 139/2004. Óstýtt útgáfa af ákvörðuninni er eingöngu til á ensku og verður birt eftir að brott hafa verið felld hvers kyns viðskiptaleyndarmál. Hún verður fánleg:

- á samkeppnisvefsetri framkvæmdastjórnarinnar (<http://ec.europa.eu/comm/competition/mergers/cases>). Þar má leita að einstökum ákvörðunum um samfylkingar m.a. eftir fyrirtæki, málsnúmeri, dagsetningu og atvinnugrein;
- á rafrænu sniði á vefsetrinu EUR-Lex undir skjalnúmeri 32007M4703. EUR-Lex er vefsetur með beinlínuaðgangi að löggjöf Evrópubandalaganna (<http://eur-lex.europa.eu>).

Ákvörðun um að hreyfa ekki andmælum við tilkynntri samfylkingu fyrirtækja **2007/EES/61/09**
(Mál COMP/M.4732 – Terra Firma/EMI)

Framkvæmdastjórnin ákvað 11. júlí 2007 að hreyfa ekki andmælum við framangreindri tilkynntri samfylkingu og lýsa yfir að hún samrýmdist sameiginlega markaðnum. Ákvörðunin er tekin í samræmi við b-lið 1. mgr. 6. gr. reglugerðar ráðsins (EB) nr. 139/2004. Óstytt útgáfa af ákvörðuninni er eingöngu til á ensku og verður birt eftir að brott hafa verið felld hvers kyns viðskiptaleyndarmál. Hún verður fánleg:

- á samkeppnisvefsetri framkvæmdastjórnarinnar (<http://ec.europa.eu/comm/competition/mergers/cases>). Þar má leita að einstökum ákvörðunum um samfylkingar m.a. eftir fyrirtæki, málsnúmeri, dagsetningu og atvinnugrein;
- á rafrænu sniði á vefsetrinu EUR-Lex undir skjalnúmeri 32007M4732. EUR-Lex er vefsetur með beinlínuaðgangi að löggjöf Evrópubandalaganna (<http://eur-lex.europa.eu>).

Ákvörðun um að hreyfa ekki andmælum við tilkynntri samfylkingu fyrirtækja **2007/EES/61/10**
(Mál COMP/M.4801 – OEP/Schoeller/SAS)

Framkvæmdastjórnin ákvað 16. nóvember 2007 að hreyfa ekki andmælum við framangreindri tilkynntri samfylkingu og lýsa yfir að hún samrýmdist sameiginlega markaðnum. Ákvörðunin er tekin í samræmi við b-lið 1. mgr. 6. gr. reglugerðar ráðsins (EB) nr. 139/2004. Óstytt útgáfa af ákvörðuninni er eingöngu til á ensku og verður birt eftir að brott hafa verið felld hvers kyns viðskiptaleyndarmál. Hún verður fánleg:

- á samkeppnisvefsetri framkvæmdastjórnarinnar (<http://ec.europa.eu/comm/competition/mergers/cases>). Þar má leita að einstökum ákvörðunum um samfylkingar m.a. eftir fyrirtæki, málsnúmeri, dagsetningu og atvinnugrein;
- á rafrænu sniði á vefsetrinu EUR-Lex undir skjalnúmeri 32007M4801. EUR-Lex er vefsetur með beinlínuaðgangi að löggjöf Evrópubandalaganna (<http://eur-lex.europa.eu>).

Ákvörðun um að hreyfa ekki andmælum við tilkynntri samfylkingu fyrirtækja **2007/EES/61/11**
**(Mál COMP/M.4817 – Aviva Italia Holding SpA/Banco Popolare Soc. Coop./
Novara Assicura SpA)**

Framkvæmdastjórnin ákvað 6. desember 2007 að hreyfa ekki andmælum við framangreindri tilkynntri samfylkingu og lýsa yfir að hún samrýmdist sameiginlega markaðnum. Ákvörðunin er tekin í samræmi við b-lið 1. mgr. 6. gr. reglugerðar ráðsins (EB) nr. 139/2004. Óstýtt útgáfa af ákvörðuninni er eingöngu til á ensku og verður birt eftir að brott hafa verið felld hvers kyns viðskiptaleyndarmál. Hún verður fánleg:

- á samkeppnisvefsetri framkvæmdastjórnarinnar (<http://ec.europa.eu/comm/competition/mergers/cases>). Þar má leita að einstökum ákvörðunum um samfylkingar m.a. eftir fyrirtæki, málsnúmeri, dagsetningu og atvinnugrein;
- á rafrænu sniði á vefsetrinu EUR-Lex undir skjalnúmeri 32007M4817. EUR-Lex er vefsetur með beinlínuaðgangi að löggjöf Evrópubandalaganna (<http://eur-lex.europa.eu>).

Ákvörðun um að hreyfa ekki andmælum við tilkynntri samfylkingu fyrirtækja **2007/EES/61/12**
(Mál COMP/M.4823 – Yara/Praxair/JV)

Framkvæmdastjórnin ákvað 28. nóvember 2007 að hreyfa ekki andmælum við framangreindri tilkynntri samfylkingu og lýsa yfir að hún samrýmdist sameiginlega markaðnum. Ákvörðunin er tekin í samræmi við b-lið 1. mgr. 6. gr. reglugerðar ráðsins (EB) nr. 139/2004. Óstýtt útgáfa af ákvörðuninni er eingöngu til á ensku og verður birt eftir að brott hafa verið felld hvers kyns viðskiptaleyndarmál. Hún verður fánleg:

- á samkeppnisvefsetri framkvæmdastjórnarinnar (<http://ec.europa.eu/comm/competition/mergers/cases>). Þar má leita að einstökum ákvörðunum um samfylkingar m.a. eftir fyrirtæki, málsnúmeri, dagsetningu og atvinnugrein;
- á rafrænu sniði á vefsetrinu EUR-Lex undir skjalnúmeri 32007M4823. EUR-Lex er vefsetur með beinlínuaðgangi að löggjöf Evrópubandalaganna (<http://eur-lex.europa.eu>).

Ákvörðun um að hreyfa ekki andmælum við tilkynntri samfylkingu fyrirtækja **2007/EES/61/13**
(Mál COMP/M.4872 – Eurovia/Compagnie Signature/JV)

Framkvæmdastjórnin ákvað 21. nóvember 2007 að hreyfa ekki andmælum við framangreindri tilkynntri samfylkingu og lýsa yfir að hún samrýmdist sameiginlega markaðnum. Ákvörðunin er tekin í samræmi við b-lið 1. mgr. 6. gr. reglugerðar ráðsins (EB) nr. 139/2004. Óstýtt útgáfa af ákvörðuninni er eingöngu til á frönsku og verður birt eftir að brott hafa verið felld hvers kyns viðskiptaleyndarmál. Hún verður fánleg:

- á samkeppnisvefsetri framkvæmdastjórnarinnar (<http://ec.europa.eu/comm/competition/mergers/cases>). Þar má leita að einstökum ákvörðunum um samfylkingar m.a. eftir fyrirtæki, málsnúmeri, dagsetningu og atvinnugrein;
- á rafrænu sniði á vefsetrinu EUR-Lex undir skjalnúmeri 32007M4872. EUR-Lex er vefsetur með beinlínuaðgangi að löggjöf Evrópubandalaganna (<http://eur-lex.europa.eu>).

Ákvörðun um að hreyfa ekki andmælum við tilkynntri samfylkingu fyrirtækja **2007/EES/61/14**
(Mál COMP/M.4878 – Continental/Siemens VDO)

Framkvæmdastjórnin ákvað 29. nóvember 2007 að hreyfa ekki andmælum við framangreindri tilkynntri samfylkingu og lýsa yfir að hún samrýmdist sameiginlega markaðnum. Ákvörðunin er tekin í samræmi við b-lið 1. mgr. 6. gr. reglugerðar ráðsins (EB) nr. 139/2004. Óstýtt útgáfa af ákvörðuninni er eingöngu til á þýsku og verður birt eftir að brott hafa verið felld hvers kyns viðskiptaleyndarmál. Hún verður fánleg:

- á samkeppnisvefsetri framkvæmdastjórnarinnar (<http://ec.europa.eu/comm/competition/mergers/cases>). Þar má leita að einstökum ákvörðunum um samfylkingar m.a. eftir fyrirtæki, málsnúmeri, dagsetningu og atvinnugrein;
- á rafrænu sniði á vefsetrinu EUR-Lex undir skjalnúmeri 32007M4878. EUR-Lex er vefsetur með beinlínuaðgangi að löggjöf Evrópubandalaganna (<http://eur-lex.europa.eu>).

Ákvörðun um að hreyfa ekki andmælum við tilkynntri samfylkingu fyrirtækja **2007/EES/61/15**
(Mál COMP/M.4882 – Goldman Sachs/H.P.)

Framkvæmdastjórnin ákvað 30. nóvember 2007 að hreyfa ekki andmælum við framangreindri tilkynntri samfylkingu og lýsa yfir að hún samrýmdist sameiginlega markaðnum. Ákvörðunin er tekin í samræmi við b-lið 1. mgr. 6. gr. reglugerðar ráðsins (EB) nr. 139/2004. Óstýtt útgáfa af ákvörðuninni er eingöngu til á ensku og verður birt eftir að brott hafa verið felld hvers kyns viðskiptaleyndarmál. Hún verður fánleg:

- á samkeppnisvefsetri framkvæmdastjórnarinnar (<http://ec.europa.eu/comm/competition/mergers/cases>). Þar má leita að einstökum ákvörðunum um samfylkingar m.a. eftir fyrirtæki, málsnúmeri, dagsetningu og atvinnugrein;
- á rafrænu sniði á vefsetrinu EUR-Lex undir skjalnúmeri 32007M4882. EUR-Lex er vefsetur með beinlínuaðgangi að löggjöf Evrópubandalaganna (<http://eur-lex.europa.eu>).

Ákvörðun um að hreyfa ekki andmælum við tilkynntri samfylkingu fyrirtækja **2007/EES/61/16**
(Mál COMP/M.4883 – Petrofina/Galactic/Futero/JV)

Framkvæmdastjórnin ákvað 13. desember 2007 að hreyfa ekki andmælum við framangreindri tilkynntri samfylkingu og lýsa yfir að hún samrýmdist sameiginlega markaðnum. Ákvörðunin er tekin í samræmi við b-lið 1. mgr. 6. gr. reglugerðar ráðsins (EB) nr. 139/2004. Óstýtt útgáfa af ákvörðuninni er eingöngu til á ensku og verður birt eftir að brott hafa verið felld hvers kyns viðskiptaleyndarmál. Hún verður fánleg:

- á samkeppnisvefsetri framkvæmdastjórnarinnar (<http://ec.europa.eu/comm/competition/mergers/cases>). Þar má leita að einstökum ákvörðunum um samfylkingar m.a. eftir fyrirtæki, málsnúmeri, dagsetningu og atvinnugrein;
- á rafrænu sniði á vefsetrinu EUR-Lex undir skjalnúmeri 32007M4883. EUR-Lex er vefsetur með beinlínuaðgangi að löggjöf Evrópubandalaganna (<http://eur-lex.europa.eu>).

Ákvörðun um að hreyfa ekki andmælum við tilkynntri samfylkingu fyrirtækja **2007/EES/61/17**
(Mál COMP/M.4888 – Advent International/Domestic & General Group plc)

Framkvæmdastjórnin ákvað 5. nóvember 2007 að hreyfa ekki andmælum við framangreindri tilkynntri samfylkingu og lýsa yfir að hún samrýmdist sameiginlega markaðnum. Ákvörðunin er tekin í samræmi við b-lið 1. mgr. 6. gr. reglugerðar ráðsins (EB) nr. 139/2004. Óstýtt útgáfa af ákvörðuninni er eingöngu til á ensku og verður birt eftir að brott hafa verið felld hvers kyns viðskiptaleyndarmál. Hún verður fánleg:

- á samkeppnisvefsetri framkvæmdastjórnarinnar (<http://ec.europa.eu/comm/competition/mergers/cases>). Þar má leita að einstökum ákvörðunum um samfylkingar m.a. eftir fyrirtæki, málsnúmeri, dagsetningu og atvinnugrein;
- á rafrænu sniði á vefsetrinu EUR-Lex undir skjalnúmeri 32007M4888. EUR-Lex er vefsetur með beinlínuaðgangi að löggjöf Evrópubandalaganna (<http://eur-lex.europa.eu>).

Ákvörðun um að hreyfa ekki andmælum við tilkynntri samfylkingu fyrirtækja **2007/EES/61/18**
(Mál COMP/M.4906 – CPI Europe Fund/Corpus/Real Estate Portfolio)

Framkvæmdastjórnin ákvað 29. október 2007 að hreyfa ekki andmælum við framangreindri tilkynntri samfylkingu og lýsa yfir að hún samrýmdist sameiginlega markaðnum. Ákvörðunin er tekin í samræmi við b-lið 1. mgr. 6. gr. reglugerðar ráðsins (EB) nr. 139/2004. Óstýtt útgáfa af ákvörðuninni er eingöngu til á þýsku og verður birt eftir að brott hafa verið felld hvers kyns viðskiptaleyndarmál. Hún verður fánleg:

- á samkeppnisvefsetri framkvæmdastjórnarinnar (<http://ec.europa.eu/comm/competition/mergers/cases>). Þar má leita að einstökum ákvörðunum um samfylkingar m.a. eftir fyrirtæki, málsnúmeri, dagsetningu og atvinnugrein;
- á rafrænu sniði á vefsetrinu EUR-Lex undir skjalnúmeri 32007M4906. EUR-Lex er vefsetur með beinlínuaðgangi að löggjöf Evrópubandalaganna (<http://eur-lex.europa.eu>).

Ákvörðun um að hreyfa ekki andmælum við tilkynntri samfylkingu fyrirtækja **2007/EES/61/19**
(Mál COMP/M.4909 – Nissan Forklift/Atlet)

Framkvæmdastjórnin ákvað 12. október 2007 að hreyfa ekki andmælum við framangreindri tilkynntri samfylkingu og lýsa yfir að hún samrýmdist sameiginlega markaðnum. Ákvörðunin er tekin í samræmi við b-lið 1. mgr. 6. gr. reglugerðar ráðsins (EB) nr. 139/2004. Óstýtt útgáfa af ákvörðuninni er eingöngu til á ensku og verður birt eftir að brott hafa verið felld hvers kyns viðskiptaleyndarmál. Hún verður fánleg:

- á samkeppnisvefsetri framkvæmdastjórnarinnar (<http://ec.europa.eu/comm/competition/mergers/cases>). Þar má leita að einstökum ákvörðunum um samfylkingar m.a. eftir fyrirtæki, málsnúmeri, dagsetningu og atvinnugrein;
- á rafrænu sniði á vefsetrinu EUR-Lex undir skjalnúmeri 32007M4909. EUR-Lex er vefsetur með beinlínuaðgangi að löggjöf Evrópubandalaganna (<http://eur-lex.europa.eu>).

Ákvörðun um að hreyfa ekki andmælum við tilkynntri samfylkingu fyrirtækja **2007/EES/61/20**
(Mál COMP/M.4914 – Carlyle/Sequa)

Framkvæmdastjórnin ákvað 18. október 2007 að hreyfa ekki andmælum við framangreindri tilkynntri samfylkingu og lýsa yfir að hún samrýmdist sameiginlega markaðnum. Ákvörðunin er tekin í samræmi við b-lið 1. mgr. 6. gr. reglugerðar ráðsins (EB) nr. 139/2004. Óstýtt útgáfa af ákvörðuninni er eingöngu til á ensku og verður birt eftir að brott hafa verið felld hvers kyns viðskiptaleyndarmál. Hún verður fánleg:

- á samkeppnisvefsetri framkvæmdastjórnarinnar (<http://ec.europa.eu/comm/competition/mergers/cases>). Þar má leita að einstökum ákvörðunum um samfylkingar m.a. eftir fyrirtæki, málsnúmeri, dagsetningu og atvinnugrein;
- á rafrænu sniði á vefsetrinu EUR-Lex undir skjalnúmeri 32007M4914. EUR-Lex er vefsetur með beinlínuaðgangi að löggjöf Evrópubandalaganna (<http://eur-lex.europa.eu>).

Ákvörðun um að hreyfa ekki andmælum við tilkynntri samfylkingu fyrirtækja **2007/EES/61/21**
(Mál COMP/M.4923 – Avnet/Acal IT)

Framkvæmdastjórnin ákvað 11. desember 2007 að hreyfa ekki andmælum við framangreindri tilkynntri samfylkingu og lýsa yfir að hún samrýmdist sameiginlega markaðnum. Ákvörðunin er tekin í samræmi við b-lið 1. mgr. 6. gr. reglugerðar ráðsins (EB) nr. 139/2004. Óstýtt útgáfa af ákvörðuninni er eingöngu til á ensku og verður birt eftir að brott hafa verið felld hvers kyns viðskiptaleyndarmál. Hún verður fánleg:

- á samkeppnisvefsetri framkvæmdastjórnarinnar (<http://ec.europa.eu/comm/competition/mergers/cases>). Þar má leita að einstökum ákvörðunum um samfylkingar m.a. eftir fyrirtæki, málsnúmeri, dagsetningu og atvinnugrein;
- á rafrænu sniði á vefsetrinu EUR-Lex undir skjalnúmeri 32007M4923. EUR-Lex er vefsetur með beinlínuaðgangi að löggjöf Evrópubandalaganna (<http://eur-lex.europa.eu>).

Ákvörðun um að hreyfa ekki andmælum við tilkynntri samfylkingu fyrirtækja **2007/EES/61/22**
(Mál COMP/M.4933 – Emerson Electric Co/Motorola ECC)

Framkvæmdastjórnin ákvað 20. nóvember 2007 að hreyfa ekki andmælum við framangreindri tilkynntri samfylkingu og lýsa yfir að hún samrýmdist sameiginlega markaðnum. Ákvörðunin er tekin í samræmi við b-lið 1. mgr. 6. gr. reglugerðar ráðsins (EB) nr. 139/2004. Óstýtt útgáfa af ákvörðuninni er eingöngu til á ensku og verður birt eftir að brott hafa verið felld hvers kyns viðskiptaleyndarmál. Hún verður fánleg:

- á samkeppnisvefsetri framkvæmdastjórnarinnar (<http://ec.europa.eu/comm/competition/mergers/cases>). Þar má leita að einstökum ákvörðunum um samfylkingar m.a. eftir fyrirtæki, málsnúmeri, dagsetningu og atvinnugrein;
- á rafrænu sniði á vefsetrinu EUR-Lex undir skjalnúmeri 32007M4933. EUR-Lex er vefsetur með beinlínuaðgangi að löggjöf Evrópubandalaganna (<http://eur-lex.europa.eu>).

Ákvörðun um að hreyfa ekki andmælum við tilkynntri samfylkingu fyrirtækja **2007/EES/61/23**
(Mál COMP/M.4939 – Uberior/L&R/Versailles Holdco)

Framkvæmdastjórnin ákvað 12. desember 2007 að hreyfa ekki andmælum við framangreindri tilkynntri samfylkingu og lýsa yfir að hún samrýmdist sameiginlega markaðnum. Ákvörðunin er tekin í samræmi við b-lið 1. mgr. 6. gr. reglugerðar ráðsins (EB) nr. 139/2004. Óstýtt útgáfa af ákvörðuninni er eingöngu til á ensku og verður birt eftir að brott hafa verið felld hvers kyns viðskiptaleyndarmál. Hún verður fánleg:

- á samkeppnisvefsetri framkvæmdastjórnarinnar (<http://ec.europa.eu/comm/competition/mergers/cases>). Þar má leita að einstökum ákvörðunum um samfylkingar m.a. eftir fyrirtæki, málsnúmeri, dagsetningu og atvinnugrein;
- á rafrænu sniði á vefsetrinu EUR-Lex undir skjalnúmeri 32007M4939. EUR-Lex er vefsetur með beinlínuaðgangi að löggjöf Evrópubandalaganna (<http://eur-lex.europa.eu>).

Ákvörðun um að hreyfa ekki andmælum við tilkynntri samfylkingu fyrirtækja **2007/EES/61/24**
(Mál COMP/M.4943 – Groupe Norbert Dentressangle/Christian Salvesen)

Framkvæmdastjórnin ákvað 6. desember 2007 að hreyfa ekki andmælum við framangreindri tilkynntri samfylkingu og lýsa yfir að hún samrýmdist sameiginlega markaðnum. Ákvörðunin er tekin í samræmi við b-lið 1. mgr. 6. gr. reglugerðar ráðsins (EB) nr. 139/2004. Óstýtt útgáfa af ákvörðuninni er eingöngu til á ensku og verður birt eftir að brott hafa verið felld hvers kyns viðskiptaleyndarmál. Hún verður fánleg:

- á samkeppnisvefsetri framkvæmdastjórnarinnar (<http://ec.europa.eu/comm/competition/mergers/cases>). Þar má leita að einstökum ákvörðunum um samfylkingar m.a. eftir fyrirtæki, málsnúmeri, dagsetningu og atvinnugrein;
- á rafrænu sniði á vefsetrinu EUR-Lex undir skjalnúmeri 32007M4943. EUR-Lex er vefsetur með beinlínuaðgangi að löggjöf Evrópubandalaganna (<http://eur-lex.europa.eu>).

Ákvörðun um að hreyfa ekki andmælum við tilkynntri samfylkingu fyrirtækja **2007/EES/61/25**
(Mál COMP/M.4948 – 3i Group/Global Garden Products)

Framkvæmdastjórnin ákvað 5. desember 2007 að hreyfa ekki andmælum við framangreindri tilkynntri samfylkingu og lýsa yfir að hún samrýmdist sameiginlega markaðnum. Ákvörðunin er tekin í samræmi við b-lið 1. mgr. 6. gr. reglugerðar ráðsins (EB) nr. 139/2004. Óstýtt útgáfa af ákvörðuninni er eingöngu til á ensku og verður birt eftir að brott hafa verið felld hvers kyns viðskiptaleyndarmál. Hún verður fánleg:

- á samkeppnisvefsetri framkvæmdastjórnarinnar (<http://ec.europa.eu/comm/competition/mergers/cases>). Þar má leita að einstökum ákvörðunum um samfylkingar m.a. eftir fyrirtæki, málsnúmeri, dagsetningu og atvinnugrein;
- á rafrænu sniði á vefsetrinu EUR-Lex undir skjalnúmeri 32007M4948. EUR-Lex er vefsetur með beinlínuaðgangi að löggjöf Evrópubandalaganna (<http://eur-lex.europa.eu>).

Ákvörðun um að hreyfa ekki andmælum við tilkynntri samfylkingu fyrirtækja **2007/EES/61/26**
(Mál COMP/M.4953 – Sony Ericsson/Motorola/UIQ)

Framkvæmdastjórnin ákvað 11. desember 2007 að hreyfa ekki andmælum við framangreindri tilkynntri samfylkingu og lýsa yfir að hún samrýmdist sameiginlega markaðnum. Ákvörðunin er tekin í samræmi við b-lið 1. mgr. 6. gr. reglugerðar ráðsins (EB) nr. 139/2004. Óstýtt útgáfa af ákvörðuninni er eingöngu til á ensku og verður birt eftir að brott hafa verið felld hvers kyns viðskiptaleyndarmál. Hún verður fánleg:

- á samkeppnisvefsetri framkvæmdastjórnarinnar (<http://ec.europa.eu/comm/competition/mergers/cases>). Þar má leita að einstökum ákvörðunum um samfylkingar m.a. eftir fyrirtæki, málsnúmeri, dagsetningu og atvinnugrein;
- á rafrænu sniði á vefsetrinu EUR-Lex undir skjalnúmeri 32007M4953. EUR-Lex er vefsetur með beinlínuaðgangi að löggjöf Evrópubandalaganna (<http://eur-lex.europa.eu>).

Ákvörðun um að hreyfa ekki andmælum við tilkynntri samfylkingu fyrirtækja **2007/EES/61/27**
(Mál COMP/M.4973 – Oak Hill/Forings International)

Framkvæmdastjómin ákvað 11. desember 2007 að hreyfa ekki andmælum við framangreindri tilkynntri samfylkingu og lýsa yfir að hún samrýmdist sameiginlega markaðnum. Ákvörðunin er tekin í samræmi við b-lið 1. mgr. 6. gr. reglugerðar ráðsins (EB) nr. 139/2004. Óstýtt útgáfa af ákvörðuninni er eingöngu til á ensku og verður birt eftir að brott hafa verið felld hvers kyns viðskiptaleyndarmál. Hún verður fánleg:

- á samkeppnisvefsetri framkvæmdastjórnarinnar (<http://ec.europa.eu/comm/competition/mergers/cases>). Þar má leita að einstökum ákvörðunum um samfylkingar m.a. eftir fyrirtæki, málsnúmeri, dagsetningu og atvinnugrein;
- á rafrænu sniði á vefsetrinu EUR-Lex undir skjalnúmeri 32007M4973. EUR-Lex er vefsetur með beinlínuaðgangi að löggjöf Evrópubandalaganna (<http://eur-lex.europa.eu>).

Ríkisaðstoð – Ákvarðanir um að leggja til viðeigandi ráðstafanir í samræmi við **2007/EES/61/28**
1. mgr. 88. gr. EB-sáttmálans er samþykktar hafa verið í viðkomandi aðildarríkjum

Dagsetning ákvörðunar: 22.3.2006

Tilvísunarnúmer aðstoðar: E 22/04

Aðildarríki: Spánn

Hérað: –

Fyrirsögn (og/eða heiti styrkþega): Ayuda fiscal a la exportación

Lagaheimild: Art. 37 y 23 del Real Decreto Legislativo no 4.2004, de 5 de marzo, por el que se aprueba el texto refundido de la Ley del Impuesto sobre Sociedades

Tegund aðstoðar: Aðstoðarkerfi

Markmið: Útflutningur og útrás

Aðstoðarform: Skattfrádráttur, lækkun skattstofns

Fjárveiting: –

Aðstoðarhlutfall: –

Gildistími: Ótímabundið

Atvinnugreinar: Allar atvinnugreinar

Heiti og pósthfang stofnunarinnar sem veitir aðstoð: Ministerio de Economía y Hacienda, Madrid

Nánari upplýsingar: –

Fullgildan texta ákvörðunarinnar að trúnaðarupplýsingum slepptum er að finna á eftirfarandi slóð:
http://ec.europa.eu/community_law/state_aids

Ríkisaðstoð – Ítalía**2007/EES/61/29****Málsnúmer C 39/07 (áður N 188/07) – Aðstoð til endurskipulagningar í vefjariðnaðarsamsteypunni Legler****Auglýst eftir athugasemdum í samræmi við 2. mgr. 88. gr. EB-sáttmálans**

Framkvæmdastjórnin tilkynnti stjórnvöldum á Ítalíu með bréfi dagsettu 25. september 2007 að ákveðið hefði verið að hefja rannsókn á ofangreindri aðstoð í samræmi við 2. mgr. 88. gr. EB-sáttmálans, sjá [Stjtið. ESB C 289, 1.12.2007](#).

Frestur hagsmunaaðila til að gera athugasemdir við aðstoðina, sem framkvæmdastjórnin hefur tekið til rannsóknar, er einn mánuður frá því að tilkynning þessi birtist í Stjtið. ESB. Athugasemdir skal senda á eftirfarandi pósthfang:

European Commission
Directorate-General Competition
State aid Greffe
B-1049 Brussel/Bruxelles
Bréfasími +32 (0)22 96 12 42

Athugasemdunum verður komið á framfæri við stjórnvöld á Ítalíu. Þeim, sem leggja fram athugasemdir, er heimilt að óska nafnleyndar og skulu slíkar óskir vera skriflegar og rökstuddar.

Ríkisaðstoð – Pólland**2007/EES/61/30****Málsnúmer C 43/07 (áður N 64/07) – Aðstoð til endurskipulagningar í fyrirtækinu Huta Stalowa Wola – BIS****Auglýst eftir athugasemdum í samræmi við 2. mgr. 88. gr. EB-sáttmálans**

Framkvæmdastjórnin tilkynnti stjórnvöldum í Póllandi með bréfi dagsettu 10. október 2007 að ákveðið hefði verið að hefja rannsókn á ofangreindri aðstoð í samræmi við 2. mgr. 88. gr. EB-sáttmálans, sjá [Stjtið. ESB C 298, 11.12.2007](#).

Frestur hagsmunaaðila til að gera athugasemdir við aðstoðina, sem framkvæmdastjórnin hefur tekið til rannsóknar, er einn mánuður frá því að tilkynning þessi birtist í Stjtið. ESB. Athugasemdir skal senda á eftirfarandi pósthfang:

European Commission
Directorate-General for Competition
State Aid Greffe
Rue de la Loi/Wetstraat, 200
B-1049 Brussel/Bruxelles
Bréfasími +32 (0)22 96 12 42

Athugasemdunum verður komið á framfæri við stjórnvöld í Póllandi. Þeim, sem leggja fram athugasemdir, er heimilt að óska nafnleyndar og skulu slíkar óskir vera skriflegar og rökstuddar.

Ríkisaðstoð – Pólland**2007/EES/61/31****Málsnúmer C 34/07 (áður N 93/06) – Nýtt kerfi tonnatöluskatts sem ætlað er að efla sjóflutninga****Auglýst eftir athugasemdum í samræmi við 2. mgr. 88. gr. EB-sáttmálans**

Frankvæmdastjórnin tilkynnti stjórnvöldum í Póllandi með bréfi dagsettu 12. september 2007 að ákveðið hefði verið að hefja rannsókn á ofangreindri aðstoð í samræmi við 2. mgr. 88. gr. EB-sáttmálans, sjá [Stjtið. ESB C 300, 12.12.2007](#).

Frestur hagsmunaaðila til að gera athugasemdir er einn mánuður frá því að tilkynning þessi birtist í Stjtið. ESB. Athugasemdir skal senda á eftirfarandi póstfang:

European Commission
Directorate-General for Energy and Transport
Directorate A – Unit 4
B-1049 Brussel/Bruxelles
Bréfasími +32 (0)22 96 12 42

Athugasemdunum verður komið á framfæri við stjórnvöld í Póllandi. Þeim, sem leggja fram athugasemdir, er heimilt að óska nafnleyndar og skulu slíkar óskir vera skriflegar og rökstuddar.

Upplýsingar aðildarríkjanna um ríkisaðstoð sem veitt hefur verið í samræmi við reglugerð framkvæmdastjórnarinnar (EB) nr. 70/2001 um beitingu 87. og 88. gr. EB-sáttmálans gagnvart ríkisaðstoð til lítilla og meðalstórra fyrirtækja

2007/EES/61/32

Málsnúmer	Aðildarríki	Hérað	Fyrirsögn aðstoðarkerfis eða heiti fyrirtækis sem þiggur staka viðbótaraðstoð	Upplýsingarnar birtust í
XS 90/07	Slóvenía	Slovenija	Finančne spodbude za tuje neposredne investicije – majhna in srednje velika podjetja	Stjtið. ESB C 241, 13.10.2007
XS 205/07	Spánn	Galicia	IG119: Elaboración de planes estratégicos, de innovación y competitividad, o de internacionalización, cooperativos (planes cooperativos)	Stjtið. ESB C 250, 25.10.2007
XS 206/07	Spánn	Galicia	IG121: Preparación de proyectos de innovación para concurrir a convocatorias públicas estatales o europeas	Stjtið. ESB C 250, 25.10.2007
XS 207/07	Spánn	Galicia	IG127: Adopción de nuevos modelos empresariales innovadores que incidan en la mejora de las diferentes áreas de la empresa	Stjtið. ESB C 250, 25.10.2007
XS 208/07	Spánn	Galicia	IG128: Diagnósticos integrales de situación y elaboración e implantación de planes estratégicos	Stjtið. ESB C 250, 25.10.2007

Málsnúmer	Aðildarríki	Hérað	Fyrirsögn aðstoðarkerfis eða heiti fyrirtækis sem þiggur staka viðbótaraðstoð	Upplýsingarnar birtust í
XS 209/07	Spánn	Galicia	IG129: Proyectos de diseño de nuevo producto	Stjtið. ESB C 250, 25.10.2007
XS 210/07	Spánn	Galicia	IG130: Diagnósticos tecnológicos y planes de mejora tecnológica	Stjtið. ESB C 250, 25.10.2007
XS 211/07	Spánn	Galicia	IG131: Desarrollo tecnológico aplicado	Stjtið. ESB C 250, 25.10.2007
XS 212/07	Spánn	Galicia	IG132: Implantación y certificación de proyectos de I+D+i y de sistemas de Gestión	Stjtið. ESB C 250, 25.10.2007
XS 213/07	Spánn	Galicia	IG133: Implantación y certificación de sistemas de gestión medioambiental, sistemas integrados de calidad y medioambiente, excelencia empresarial y sistemas de gestión de la seguridad de la información	Stjtið. ESB C 250, 25.10.2007
XS 214/07	Spánn	Galicia	IG134: Proyectos integrados destinados a mejorar procesos y productos de empresas relacionadas por la cadena de valor	Stjtið. ESB C 250, 25.10.2007
XS 216/07	Ungverjaland	Magyarország valamennyi régiója	Állami támogatás KKV-knak a Kutatási és Innovációs Alapból	Stjtið. ESB C 250, 25.10.2007
XS 217/07	Holland	Provincie Groningen	Wolfard & Wessels Werktuigbouw B.V. te Foxhol	Stjtið. ESB C 250, 25.10.2007
XS 218/07	Holland	Provincie Groningen	Gebr. De Haan B.V. te Hoogezand	Stjtið. ESB C 250, 25.10.2007
XS 219/07	Holland	Provincie Groningen	Bodewes Managementservices B.V. Hoogezand	Stjtið. ESB C 250, 25.10.2007
XS 232/07	Ítalía	Umbria	L. 598/94 art.11 – Interventi per ricerca industriale e sviluppo precompetitivo	Stjtið. ESB C 251, 26.10.2007
XS 244/07	Holland	Á ekki við	Stichting Kenniscentrum Windturbine Materialen en Constructies (WMC)	Stjtið. ESB C 251, 26.10.2007
XS 245/07	Þýskaland	–	Richtlinien des Bundesministeriums für Ernährung, Landwirtschaft und Verbraucherschutz (BMELV) über die Verwendung des Zweckvermögens des Bundes bei der Landwirtschaftlichen Rentenbank (LR), Ziffer 2.1 vorwettbewerbliche Entwicklungsvorhaben und Ziffer 2.2 Markt- und Praxiseinführung	Stjtið. ESB C 251, 26.10.2007
XS 252/07	Austurríki	Oberösterreich	Tourismus-Impulsprogramm (TIP/Betriebe) des Landes Oberösterreich für den Zeitraum 1.9.2007–31.12.2013	Stjtið. ESB C 251, 26.10.2007
XS 265/07	Bretland	Wales	Welsh Local Government SME Development scheme	Stjtið. ESB C 251, 26.10.2007

Málsnúmer	Aðildarríki	Hérað	Fyrirsögn aðstoðarkerfis eða heiti fyrirtækis sem þiggur staka viðbótaraðstoð	Upplýsingarnar birtust í
XS 236/07	Ítalía	Regione autonoma Friuli-Venezia Giulia	Aiuti concessi alle PMI artigiane tramite Friulia Lis Spa	Stjtið. ESB C 263, 6.11.2007
XS 237/07	Ítalía	Regione autonoma Friuli-Venezia Giulia	Concessione di finanziamenti agevolati alle PMI industriali e di servizio e loro consorzi	Stjtið. ESB C 263, 6.11.2007
XS 243/07	Ítalía	Regione autonoma Friuli-Venezia Giulia	Incentivi alle PMI per l'adozione di misure di politica industriale che supportino progetti di sviluppo competitivo	Stjtið. ESB C 263, 6.11.2007
XS 253/07	Spánn	Galicia	Ayudas a la diversificación hacia actividades no agrícolas, incluidas en el proyecto de Resolución por la que se aprueban las bases reguladoras de las subvenciones a los proyectos destinados a la mejora de la calidad de vida en zonas rurales y la diversificación de la economía rural de Galicia	Stjtið. ESB C 263, 6.11.2007
XS 254/07	Spánn	Galicia	Ayudas a la creación y desarrollo de empresas, incluidas en el proyecto de Resolución por la que se aprueban las bases reguladoras de las subvenciones a los proyectos destinados a la mejora de la calidad de vida en zonas rurales y la diversificación de la economía rural de Galicia	Stjtið. ESB C 263, 6.11.2007
XS 268/07	Malta	–	Skema ghall-Promozzjoni ta' l-Innovazzjoni	Stjtið. ESB C 266, 8.11.2007
XS 269/07	Danmörk	–	Program for brugerdiven innovation støtter udvikling og afprøvning af den brugerdivne tilgang til innovation til SMV'ere	Stjtið. ESB C 266, 8.11.2007
XS270/07	Spánn	Islas Canarias	Fomento de la creación y expansión de empresas innovadoras de base tecnológica	Stjtið. ESB C 266, 8.11.2007
XS 271/07	Spánn	Islas Canarias	Innovación y desarrollo tecnológico de empresas industriales y de base tecnológica	Stjtið. ESB C 266, 8.11.2007
XS 239/07	Ítalía	Regione Autonoma Friuli Venezia Giulia	Servizi di consulenza forniti da consulenti esterni alle PMI	Stjtið. ESB C 275, 16.11.2007
XS 241/07	Ítalía	Regione Autonoma Friuli Venezia Giulia	Concessione alle imprese artigiane di finanziamenti per investimenti aziendali a valere sul Fondo di rotazione per le imprese artigiane	Stjtið. ESB C 275, 16.11.2007
XS 258/07	Spánn	Navarra	Convocatoria de Ayudas a la inversión en infraestructuras turísticas en el período 2004–2007	Stjtið. ESB C 275, 16.11.2007

Málsnúmer	Aðildarríki	Hérað	Fyrirsögn aðstoðarkerfis eða heiti fyrirtækis sem þiggur staka viðbótaraðstoð	Upplýsingarnar birtust í
XS 266/07	Spánn	Comunidad Valeciana	Plan de Implantación de Empresas en el Exterior	Stjtið. ESB C 275, 16.11.2007
XS 267/07	Malta	–	Skema ghall-Izvilupp ta' l- e-Business	Stjtið. ESB C 275, 16.11.2007

Upplýsingar aðildarríkjanna um ríkisaðstoð sem veitt hefur verið í samræmi við 2007/EES/61/33 reglugerð framkvæmdastjórnarinnar (EB) nr. 1628/2006 um beitingu 87. og 88. gr. EB-sáttmálans gagnvart innlendri, svæðisbundinni fjárfestingaraðstoð

Málsnúmer	Aðildarríki	Hérað	Fyrirsögn aðstoðarkerfis eða heiti fyrirtækis sem þiggur staka viðbótaraðstoð	Upplýsingarnar birtust í
XR 53/07	Eistland	–	Saastetasu asendamise regionaalabi kava	Stjtið. ESB C 220, 20.9.2007
XR 71/07	Eistland	–	Teadus- ja tehnoloogiaparkide investeeingute toetamise programm	Stjtið. ESB C 220, 20.9.2007
XR 98/07	Pólland	–	Program pomocy regionalnej udzielanej przedsiębiorcom prowadzącym działalność gospodarczą w specjalnych strefach ekonomicznych na podstawie zezwolenia wydanego po 1 stycznia 2007 r.	Stjtið. ESB C 220, 20.9.2007
XR 124/07	Bretland	Wales	Regional Selective Assistance (RSA) Cymru Wales	Stjtið. ESB C 220, 20.9.2007
XR 127/07	Pólland	Zachodniopomorskie	Program regionalnej pomocy inwestycyjnej dla przedsiębiorców na terenie miasta Stargardu Szczecińskiego	Stjtið. ESB C 220, 20.9.2007
XR 128/07	Pólland	Kujawsko-Pomorskie	Program pomocy regionalnej dla podmiotów podejmujących nowe działania inwestycyjne na terenie gminy Świecie	Stjtið. ESB C 220, 20.9.2007
XR 130/07	Pólland	Zachodniopomorskie	Program pomocy regionalnej dla przedsiębiorców inwestujących na terenie Gminy Goleniów	Stjtið. ESB C 220, 20.9.2007
XR 143/07	Kýpur	c-liður 3. mgr. 87. gr.	ΕΝΙΣΧΥΣΗ ΤΗΣ ΑΝΤΑΓΩΝΙΣΤΙΚΟΤΗΤΑΣ ΤΩΝ ΜΙΚΡΟΜΕΣΑΙΩΝ ΕΠΙΧΕΙΡΗΣΕΩΝ ΤΟΥ ΜΕΤΑΠΟΙΗΤΙΚΟΥ ΤΟΜΕΑ Enysxisi tis antagonistikotitas ton MME tou metapoiitkou tomea	Stjtið. ESB C 220, 20.9.2007

Málsnúmer	Aðildarríki	Hérað	Fyrirsögn aðstoðarkerfis eða heiti fyrirtækis sem þiggur staka viðbótaraðstoð	Upplýsingamar birtust í
XR 89/07	Tékkland	a-liður 3. mgr. 87. gr.	Obnova a rozvoj vesnic	Stjtið. ESB C 232, 4.10.2007
XR 90/07	Tékkland	a-liður 3. mgr. 87. gr.	Občanské vybavení a služby	Stjtið. ESB C 232, 4.10.2007
XR 92/07	Tékkland	a-liður 3. mgr. 87. gr.	Podpora zakládání podniků a jejich rozvoje	Stjtið. ESB C 232, 4.10.2007
XR 117/07	Frakkland	c-liður 3. mgr. 87. gr.	Prime à l'aménagement du territoire pour les projets industriels et services	Stjtið. ESB C 232, 4.10.2007
XR 129/07	Pólland	Śląskie	Program regionalnej pomocy inwestycyjnej w sprawie zwolnienia od podatku od nieruchomości dla podmiotów prowadzących działalność gospodarczą na terenie miasta Katowice	Stjtið. ESB C 232, 4.10.2007
XR 148/07	Rúmenía	–	Schemă de ajutor de stat regional privind reducerea emisiilor în aer a dioxidului de sulf, dioxidului de azot, particulelor și pulberilor în suspensie, plumb, monoxid de carbon, benzen și compuși organici volatili	Stjtið. ESB C 232, 4.10.2007
XR 150/07	Rúmenía	–	Schemă de ajutor de stat regional privind promovarea tehnologiilor curate și a producerii energiei din surse regenerabile de energie	Stjtið. ESB C 232, 4.10.2007
XR 151/07	Kýpur	c-liður 3. mgr. 87. gr.	Σχέδιο χορηγιών για ενθάρρυνση της αξιοποίησης της βιομάζας (sxedio xorigion gia entharynsi tis axiopoiiis tis biomazas)	Stjtið. ESB C 232, 4.10.2007
XR 20/07	Lettland	a-liður 3. mgr. 87. gr.: Liepājas speciālā ekonomiskā zona Rēzeknes speciālā ekonomiskā zona Ventspils brīvosta Rīgas brīvosta	Nodokļu piemērošana brīvostās un speciālajās ekonomiskajās zonās	Stjtið. ESB C 239, 11.10.2007
XR 111/07	Tékkland	a-liður 3. mgr. 87. gr.	Operační program Podnikání a inovace 2007–2013 Podprogram Ekoenergie Výzva I	Stjtið. ESB C 239, 11.10.2007
XR 36/07	Ungverjaland	Zalaegerszeg	Zalaegerszeg vállalkozásfejlesztési és befektetés-támogató programja	Stjtið. ESB C 244, 18.10.2007
XR 37/07	Ungverjaland	–	A decentralizált helyi önkormányzati fejlesztések támogatásai és a <i>vis maior</i> tartalék felhasználása	Stjtið. ESB C 244, 18.10.2007
XR 56/07	Ungverjaland	–	Magas hozzáadott értékű tevékenységek munkahelyteremtő beruházásainak támogatása és munkahelyteremtő beruházások támogatása	Stjtið. ESB C 244, 18.10.2007

Málsnúmer	Aðildarríki	Hérað	Fyrirsögn aðstoðarkerfis eða heiti fyrirtækis sem þiggur staka viðbótaraðstoð	Upplýsingamar birtust í
XR 61/07	Frakkland	a-liður 3. mgr. 87. gr., c-liður 3. mgr. 87. gr.	Régime cadre d'aide publique à finalité régionale	Stjtið. ESB C 244, 18.10.2007
XR 63/07	Spánn	Murcia	Programa de Apoyo a Empresas a través de Sistemas de Garantía Recíproca	Stjtið. ESB C 244, 18.10.2007
XR 65/07	Spánn	Murcia	Programa de Creación y Consolidación de Departamento de I+D	Stjtið. ESB C 244, 18.10.2007
XR 93/07	Ungverjaland	HU 23 Dél-Dunántúl; HU 31 Észak-Magyarország; HU 32 Észak-Alföld; HU 33 Dél-Alföld; HU 21 Közép-Dunántúl; HU 22 Nyugat-Dunántúl	Gazdaságfejlesztési Operatív Program	Stjtið. ESB C 244, 18.10.2007
XR 108/07	Spánn	a-liður 3. mgr. 87. gr., c-liður 3. mgr. 87. gr.	Ayudas dirigidas a proyectos empresariales generadores de empleo, que promuevan el desarrollo alternativo de las zonas mineras, para el período 2007–2012	Stjtið. ESB C 244, 18.10.2007
XR 138/07	Ungverjaland	–	Regional investment aid from the Research and Technology Innovation Fund	Stjtið. ESB C 244, 18.10.2007
XR 147/07	Ungverjaland	–	Regionális beruházási támogatás a Regionális Fejlesztés Operatív Programokból	Stjtið. ESB C 244, 18.10.2007
XR 149/07	Bretland	Merseyside	Regional Investment Aid – Merseyside	Stjtið. ESB C 244, 18.10.2007
XR 145/07	Holland	c-liður 3. mgr. 87. gr.: Groningen, Friesland, Drenthe, Limburg	Uitvoeringsregeling Besluit subsidies regionale investeringsprojecten 2007/2013	Stjtið. ESB C 251, 26.10.2007
XR 9/07	Bretland	West Wales and the Valleys	Denbighshire Business Development Grant	Stjtið. ESB C 262, 1.11.2007
XR 155/07	Bretland	Wales	Welsh Local Government Regional Investment Aid Scheme	Stjtið. ESB C 262, 1.11.2007
XR 163/07	Pólland	Łódzkie	Program pomocy regionalnej miasta Łodzi na wspieranie nowych inwestycji w działalność wytwórczą i tworzenie związanych z nimi nowych miejsc pracy	Stjtið. ESB C 270, 13.11.2007
XR 164/07	Pólland	Łódzkie	Program pomocy regionalnej miasta Łodzi na wspieranie nowych, dużych inwestycji i tworzenie związanych z nimi nowych miejsc pracy	Stjtið. ESB C 270, 13.11.2007
XR 154/07	Frakkland	a-liður 3. mgr. 87. gr., c-liður 3. mgr. 87. gr.	Aide à l'investissement immobilier et à la location d'immeubles accordées aux entreprises par les collectivités territoriales et leurs groupements	Stjtið. ESB C 276, 17.11.2007

Málsnúmer	Aðildarríki	Hérað	Fyrirsögn aðstoðarkerfis eða heiti fyrirtækis sem þiggur staka viðbótaraðstoð	Upplýsingarnar birtust í
XA 7031/07	Ítalía	Umbria	Fondo di rotazione per la promozione e lo sviluppo della cooperazione – Foncooper – in relazione alle iniziative nella regione Umbria	Stjtið. ESB C 277, 20.11.2007
XA 7034/07	Spánn	Navarra	Ayudas a las pequeñas y medianas empresas para la elaboración de productos Alimentarios	Stjtið. ESB C 277, 20.11.2007

**Heimild til að veita ríkisaðstoð samkvæmt 87. og 88. gr. EB-sáttmálans
Mál sem framkvæmdastjórnin hreyfir ekki andmælum við**

2007/EES/61/34

Málsnúmer	Aðildarríki	Hérað	Fyrirsögn aðstoðarkerfis eða heiti fyrirtækis sem þiggur staka viðbótaraðstoð	Upplýsingarnar birtust í
N 103/07	Spánn	Provincia de Soria (Comunidad Autónoma de Castilla y León)	Plan de ayudas a la Televisión Digital Terrestre en Soria	Stjtið. ESB C 262, 1.11.2007
N 661/06	Tékkland	Moravskoslezsko	Investiční pobídka pro společnost Hyundai Motor Manufacturing Czech s.r.o.	Stjtið. ESB C 262, 1.11.2007
N 905/06	Pólland	Dolnośląskie	Toshiba Television Central Europe Sp. z o.o.	Stjtið. ESB C 262, 1.11.2007
N 215b/06	Ítalía	Friuli-Venezia Giulia	Regolamento di attuazione degli interventi a favore dell'innovazione nei settori dell'agricoltura e dell'itticoltura di cui all'articolo 17 della L. R. 26/2005.	Stjtið. ESB C 262, 1.11.2007
N 685/06	Ítalía	Toscana	Ammodernamento per la messa in sicurezza di imbarcazioni da pesca	Stjtið. ESB C 262, 1.11.2007
N 913/06	Tékkland	–	Odstranění povodňových škod na hrázích, rybnících a vodních nádržích	Stjtið. ESB C 262, 1.11.2007
N 336/07	Ítalía	Provincia di Trento	Poli di innovazione	Stjtið. ESB C 262, 1.11.2007
N 251/06	Pólland	Dolnośląskie	LG Innotek Poland Sp. z o.o.	Stjtið. ESB C 270, 13.11.2007
N 267/07	Þýskaland	Sachsen-Anhalt	Richtlinie über die Gewährung von Zuwendungen zur einzelbetrieblichen Forschungs-, Entwicklungs- und Innovationsförderung (FuEuI-Förderung) und Förderung von Verbundvorhaben der Wirtschaft in Verbindung mit wissenschaftlichen Forschungseinrichtungen	Stjtið. ESB C 270, 13.11.2007

Málsnúmer	Aðildarríki	Hérað	Fyrirsögn aðstoðarkerfis eða heiti fyrirtækis sem þiggur staka viðbótaraðstoð	Upplýsingarnar birtust í
N 850/06	Þýskaland	Sachsen-Anhalt	Q-Cells	Stjtið. ESB C 270, 13.11.2007
N 274/07	Þýskaland	Sachsen-Anhalt	Richtlinie über die Gewährung von Zuwendungen zur Beschäftigung von Innovationsassistenten und zur Förderung des Personalaustauschs	Stjtið. ESB C 270, 13.11.2007
N 257/06	Pólland	Dolnośląskie	Pomoc dla LG Electronics Wrocław Sp. z o.o. — Odbiorniki telewizyjne	Stjtið. ESB C 270, 13.11.2007
N 99/07	Þýskaland	Hamburg	Hamburger FuE-Richtlinie	Stjtið. ESB C 270, 13.11.2007
N 268/07	Þýskaland	Sachsen-Anhalt	Richtlinie über die Gewährung von Zuwendungen zur Förderung von Projekten des Wissens- und Technologietransfers	Stjtið. ESB C 270, 13.11.2007
N 269/07	Frakkland	–	Fonds de Compétitivité des Entreprises	Stjtið. ESB C 270, 13.11.2007
N 900/06	Portúgal	Figueira da Foz	CELBI, S.A.	Stjtið. ESB C 271, 14.11.2007
N 156/07	Belgía	Vlaanderen	Luchtvaartmaatschappijen (te definiëren) Aanloopbijdrage voor belangrijke programma's die de promotie en ontwikkeling van de Luchthaven Antwerpen ten goede komen	Stjtið. ESB C 271, 14.11.2007
N 188/06	Spánn	Galicia	Subvenciones a proyectos colectivos de gestión para la utilización de los recursos marinos en Galicia	Stjtið. ESB C 275, 16.11.2007
N 250/06	Pólland	Dolnośląskie	LG Chem Poland Sp. z o.o.	Stjtið. ESB C 275, 16.11.2007
N 89/07	Frakkland	–	Projet de soutien de l'Agence de l'Innovation Industrielle en faveur du programme «HOMES»	Stjtið. ESB C 275, 16.11.2007
N 117/07	Þýskaland	Bayern	Sanierung des Betriebsgeländes der „Neuen Maxhütte Stahlwerke GmbH“ durch „57 Profi-Start GmbH 2003“	Stjtið. ESB C 275, 16.11.2007
N 256/06	Pólland	Dolnośląskie	Pomoc dla LG Electronics Wrocław Sp. z o.o. – Urządzenia gospodarstwa Domowego	Stjtið. ESB C 276, 17.11.2007
N 245/06	Pólland	Dolnośląskie	LG.Philips LCD Poland Sp. z o.o.	Stjtið. ESB C 278, 21.11.2007
N 828/06	Pólland	Zachoniopomorskie	Ad hoc regional investment aid to Bridgestone Stargard Sp. z o.o.	Stjtið. ESB C 278, 21.11.2007
N 289/07	Ítalía	Ancona	Fiem S.r.l.	Stjtið. ESB C 278, 21.11.2007

Málsnúmer	Aðildarríki	Hérað	Fyrirsögn aðstoðarkerfis eða heiti fyrirtækis sem þiggur staka viðbótaraðstoð	Upplýsingarnar birtust í
N 390/07	Þýskaland	Mecklenburg-Vorpommern	Richtlinie für die Gewährung von Zuwendungen des Landes Mecklenburg-Vorpommern zur Umsetzung des Aktionsplans Klimaschutz (Klimaschutz-Förderrichtlinie) vom 31.5.2007	Stjtið. ESB C 278, 21.11.2007

**Upplýsingar aðildarríkjanna um ríkisaðstoð sem veitt hefur verið í samræmi við 2007/EES/61/35
reglugerð framkvæmdastjórnarinnar (EB) nr. 68/2001 um beitingu 87. og 88. gr.
EB-sáttmálans gagnvart aðstoð til menntunar**

Málsnúmer	Aðildarríki	Hérað	Fyrirsögn aðstoðarkerfis eða heiti fyrirtækis sem þiggur staka viðbótaraðstoð	Upplýsingarnar birtust í
XT 77/07	Belgía	Vlaams Gewest	Ad hoc opleidingssteun aan de BVBA GE SECURITY EMEA te Zaventem (dossier 2007G00034)	Stjtið. ESB C 222, 22.9.2007
XT 78/07	Belgía	Vlaams Gewest	Ad hoc opleidingssteun aan de NV TUPPERWARE BELGIUM (dossier 006G00200)	Stjtið. ESB C 222, 22.9.2007
XT 80/07	Ítalía	Piemonte	Direttiva relativa alla formazione continua – Legge 236/1993 – Piani aziendali, settoriali e territoriali concordati tra le parti sociali. Periodo 2007/2008	Stjtið. ESB C 222, 22.9.2007
XT 81/07	Ítalía	Friuli Venezia Giulia	Formazione a favore di lavoratori occupati (Legge 8 marzo 2000 n. 5, articolo 6, comma 4)	Stjtið. ESB C 222, 22.9.2007
XT 82/07	Ítalía	Lombardia	Interventi regionali in materia di formazione	Stjtið. ESB C 222, 22.9.2007
XT 83/07	Ungverjaland	Észak-Magyarország, Észak-Alföld, Dél-Alföld, Dél-Dunántúl, Közép-Dunántúl, Nyugat-Dunántúl, Közép-Magyarország, azaz Magyarország egész területe	Képzési célú támogatás a Regionális Fejlesztés Operatív Programokból	Stjtið. ESB C 222, 22.9.2007
XT 85/07	Spánn	Cataluña	Programa Forma't	Stjtið. ESB C 222, 22.9.2007
XT 73/07	Belgía	Vlaams Gewest	Ad hoc opleidingssteun aan de NV KATOEN NATIE te Antwerpen (dossier 2006G00258)	Stjtið. ESB C 236, 9.10.2007

Málsnúmer	Aðildarríki	Hérað	Fyrirsögn aðstoðarkerfis eða heiti fyrirtækis sem þiggur staka viðbótaraðstoð	Upplýsingarnar birtust í
XT 74/07	Belgía	Vlaams Gewest	Ad hoc opleidingssteun aan de NV SEDAC-MECOBEL te Wevelgem (dossier 2007G00032)	Stjtið. ESB C 236, 9.10.2007
XT 76/07	Belgía	Vlaams Gewest	Ad hoc opleidingssteun aan de NV Volvo Europa Trucks (dossier 2006G00267)	Stjtið. ESB C 236, 9.10.2007
XT 86/07	Þýskaland	Bayern	Richtlinie vom 24. August 2007 zur Förderung zusätzlicher Ausbildungsstellen in der Altenpflege im Rahmen des Europäischen Sozialfonds (ESF): Regionale Wettbewerbsfähigkeit und Beschäftigung in Bayern 2007 (Richtlinie zusätzliche Ausbildungsstellen Altenpflege 2007)	Stjtið. ESB C 236, 9.10.2007
XT 87/07	Kýpur	Κύπρος (Kypros)	Σχέδιο Καταβολής Χορηγημάτων για Συμμετοχή στο Μεταπτυχιακό Πρόγραμμα του Μεσογειακού Ινστιτούτου Διεύθυνσης, (Shedio Katabolis Horigimaton gia Symmetohi sto Metapythiako Programma toy Mesogeiakoy Institutoytoy Dieythynsis)	Stjtið. ESB C 236, 9.10.2007
XT 72/07	Ungverjaland	Érintett régiók	Foglalkoztatási támogatás a Kutatási és Technológiai Innovációs Alapból	Stjtið. ESB C 239, 11.10.2007
XT 89/07	Þýskaland	Freistaat Sachsen	Richtlinie des Sächsischen Staatsministeriums für Soziales und des Sächsischen Staatsministeriums für Umwelt und Landwirtschaft zur Förderung von aus dem Europäischen Sozialfonds mitfinanzierten Vorhaben der Förderperiode 2007-2013 (ESF-Richtlinie SMS/SMUL) vom 31. Juli 2007 (SächsABl. 33/2007 S. 1095)	Stjtið. ESB C 239, 11.10.2007
XT 91/07	Bretland	Wales	Welsh Local Government Training Support Scheme	Stjtið. ESB C 265, 7.11.2007

Auglýsing um framkvæmd Vaxtar- og nýsköpunarsjóðs fyrir lítil og meðalstór fyrirtæki samkvæmt rammaáætlun um samkeppnishæfni og nýsköpun (2007–2013) **2007/EES/61/36**

Þessari auglýsingu er beint til sérhæfðra fjárfestingarfyrirtækja sem fjármagna nýskapandi lítil og meðalstór fyrirtæki, sem eru að hefja starfsemi eða stækkun og eiga mikil vaxtarfæri, með hlutafjárframlögum eða víkjandi fjármagni („milligöngufjárfesta“).

Í auglýsingunni er gerð grein fyrir fjármögnunarsjóði, Vaxtar- og nýsköpunarsjóði fyrir lítil og meðalstór fyrirtæki (GIF), sem ætlað er að gera litlum og meðalstórum fyrirtækjum, sem eru að hefja starfsemi eða stækkun, auðveldara að afla fjár. Sjóðurinn hefur eftirtalin markmið:

- a) Að stuðla að stofnun og fjármögnun lítilla og meðalstórra fyrirtækja og draga úr mismæmi í aðgangi að hlutafjármögnun og áhættufé sem kemur í veg fyrir að lítil og meðalstór fyrirtæki geti nýtt vaxtarfæri, í þeim tilgangi að styrkja framtaksfjármarkað í Evrópu.
- b) Að styrkja nýskapandi lítil og meðalstór fyrirtæki sem eiga mikil vaxtarfæri, einkum þau sem sinna rannsóknunum, þróunarstarfi og annarri nýsköpun.

Vaxtar- og nýsköpunarsjóðurinn er rekinn á vegum Fjárfestingasjóðs Evrópu fyrir hönd framkvæmdastjórnar Evrópubandalaganna í samræmi við ákvæði ákvörðunar Evrópuþingsins og ráðsins 1639/2006/EB frá 24. október 2006 um að koma á rammaáætlun um samkeppnishæfni og nýsköpun (2007–2013) („CIP“).

Aðgang að þessari áætlun hafa aðildarríki Evrópusambandsins og þau aðildarríki Fríverslunarsamtaka Evrópu („EFTA“) sem eiga aðild að Evrópska efnahagssvæðinu („EES“), ríki sem bíða aðildar og ríki sem hafa sótt um aðild og njóta ákvæða áætlunar um slík ríki, ríki á vestanverðum Balkanskaga í samræmi við viðeigandi rannsóknir og öll önnur lönd sem er að finna á skrá um þátttökuríki sem birtur er öðru hvoru í Stjtið. ESB.

Áætlaðar heildarfjárveitingar vegna fjármögnunarsjóða áætlunarinnar eru 1 100 milljónir evra á tímabilinu 2007–2013, og er um það bil helmingur þess fjár ætlaður Vaxtar- og nýsköpunarsjóði fyrir lítil og meðalstór fyrirtæki.

Eftirtaldar tvær fjármögnunarleiðir eru í boði:

1. GIF1, sem tekur til hvers kyns fjárfestinga á uppbyggingarstigi (sprotafjármagns og uppbyggingarfjármagns). GIF1 leggur fé í sérhæfða framtaksfjármagnssjóði, til að mynda uppbyggingarsjóði, svæðisbundna sjóði, sjóði sem sinna tilteknum atvinnugreinum, tiltekinni tækni eða rannsóknunum og tækniþróun, og sjóði sem vinna með fyrirtækjaafvlökum. Einnig kemur til greina að leggja fé í sjóði og fjárfestingarfyrirtæki á vegum einkafjárfesta.
2. GIF2, sem tekur til fjárfestinga í tengslum við stækkun, og leggur fé í sérhæfða áhættufjármagnssjóði sem eiga að leggja nýskapandi litlum og meðalstórum fyrirtækjum, sem eru að hefja stækkun og eiga mikil vaxtarfæri, til víkjandi fjármagn eða hlutafé til þess að þau geti forðast útkaup, eða fjármagn til að bæta upp eignarýrnun.

Milligöngufjárfestar, sem hafa hug á að nýta sér þessar leiðir, geta fengið ítarlegar upplýsingar um Vaxtar- og nýsköpunarsjóðinn hjá:

European Investment Fund
43, avenue J. F. Kennedy
L-2968 Luxembourg
Netfang: cip.venturecapital@eif.org

eða á vefsetri Fjárfestingasjóðs Evrópu: www.eif.org

Skrá um alla sjóði, sem Fjárfestingasjóður Evrópu hefur gert samning við, verður birt á vefsetrinu.

Tillögur um fjárfestingar á vegum Evrópusambandsins gegnum GIF verða teknar til athugunar hjá Fjárfestingasjóði Evrópu um leið og þær berast og eftir því sem fjárveitingar af fjárlögum bandalagsins leyfa. Fjárfestingasjóður Evrópu mun leitast við að dreifa sem jafnast milli landa fjármagni sem úthlutað er úr fjármögnunarsjóðum samkvæmt rammaáætlun um samkeppnishæfni og nýsköpun.

2007/ES/61/37

Yfirlit um bandalagsákvæðanir um markaðsleyfi fyrir lyfjum sem teknar voru frá 1. ágúst 2007 til 31. ágúst 2007

(Birt í samræmi við 13. eða 38. gr. reglugerðar Evrópuþingsins og ráðsins (EB) nr. 726/2004 (1))

Útgefin markaðsleyfi (13. gr. reglugerðar (EBE) nr. 726/2004): Samþykkt

Dagsetning ákvæðunar	Heiti lyfs	Alþjóðlegt samheiti	Markaðsleyfishafi	Númer í Lyfjaskrá bandalagsins	Lyfjaform	Númer í AIC-kerfinu	Dagsetning tilkynningar
3.8.2007	INCRELEX	Mecasermin	Tercica Europe Limited 2 Harbourmaster Place Dublin 1 Ireland	EU/1/07/402/001	Stungulyf, lausn	H01AC03	7.8.2007
22.8.2007	Enviage	Aliskiren	Novartis Europharm Limited Wimblehurst Road Horsham West Sussex RH12 5AB United Kingdom	EU/1/07/406/001-020	Himnuhúðaðar töflur	C09XA02	24.8.2007
22.8.2007	Riprazo	Aliskiren	Novartis Europharm Limited Wimblehurst Road Horsham West Sussex RH12 5AB United Kingdom	EU/1/07/409/001-020	Himnuhúðaðar töflur	C09XA02	24.8.2007
22.8.2007	Sprimeo	Aliskiren	Novartis Europharm Limited Wimblehurst Road Horsham West Sussex RH12 5AB United Kingdom	EU/1/07/407/001-020	Himnuhúðaðar töflur	C09XA02	24.8.2007
22.8.2007	Rasilez	Aliskiren	Novartis Europharm Limited Wimblehurst Road Horsham West Sussex RH12 5AB United Kingdom	EU/1/07/405/001-020	Himnuhúðaðar töflur	C09XA02	24.8.2007
22.8.2007	Tekturna	Aliskiren	Novartis Europharm Limited Wimblehurst Road Horsham West Sussex RH12 5AB United Kingdom	EU/1/07/408/001-020	Himnuhúðaðar töflur	C09XA02	24.8.2007

(1) Stjórn. ESB L 136, 30.4.2004, bls. 1.

Dagsetning ákvörðunar	Heiti lyfs	Alþjóðlegt samheiti	Markaðsleyfishafi	Númer í Lyfjaskrá bandalagsins	Lyfjaform	Númer í ATC-kerfinu	Dagsetning tilkynningar
22.8.2007	Atriance	Nelarabine	Glaxo Group Limited Berkeley Avenue Greenford Middlesex UB6 0NN United Kingdom	EU/1/07/403/001	Innrennislýf, lausn	L01BB07	24.8.2007
23.8.2007	Flebogammadif	Human normal immunoglobulin	Instituto Grifols S.A. Can Guasch 2 – Parets del Vallès E-08150 Barcelona	EU/1/07/404/001-005	Innrennislýf, lausn	J06BA02	27.8.2007
28.8.2007	Abseamed	Epoetin alfa	Medice Arzneimittel Pütter GmbH & Co KG Kuhloweg 37 D-58638 Iserlohn	EU/1/07/412/001-016	Stungulyf í áfylltri sprautu	B03XA01	31.8.2007
28.8.2007	Binocrit	Epoetin alfa	Sandoz GmbH Biochemiestrasse 10 A-6250 Kundl	EU/1/07/410/001-016	Stungulyf í áfylltri sprautu	B03XA01	31.8.2007
28.8.2007	Epoetin alfa hexal	Epoetin alfa	HEXAL Biotech Forschungs GmbH Industriestrasse 25	EU/1/07/411/001-016	Stungulyf í áfylltri sprautu	B03XA01	3.9.2007

Dagsetning ákvörðunar	Heiti lyfs	Markaðsleyfishafi	Númer í Lyfjaskrá bandalagsins	Dagsetning tilkynningar
1.8.2007	Keppra	UCB S.A. Allée de la Recherche, 60 B-1070 Bruxelles Researchdreef, 60 B-1070 Brussel UCB Pharma SA. Allée de la Recherche 60 B-1070 Bruxelles Researchdreef, 60 B-1070 Brussel	EU/1/00/146/001-030	3.8.2007
3.8.2007	TachoSil	Nycomed Austria GMBH St.-Peter-Straße 25 A-4020 Linz	EU/1/04/277/001-004	7.8.2007
7.8.2007	BeneFIX	Wyeth Europa Ltd Huntercombe Lane South Taplow Maidenhead Berkshire SL6 0PH United Kingdom	EU/1/97/047/001-007	9.8.2007
10.8.2007	Norvir	Abbott Laboratories Ltd Queenborough Kent ME11 5EL United Kingdom	EU/1/96/016/001 EU/1/96/016/003-004	14.8.2007
10.8.2007	Fasturtec	Sanofi-Aventis 174, avenue de France F-75013 Paris	EU/1/00/170/001-002	14.8.2007
10.8.2007	Ceprotrin	Baxter AG Industriestraße 67 A-1220 Vienna	EU/1/01/190/001-002	14.8.2007
10.8.2007	Cellcept	Roche Registration Limited 6 Falcon Way Shire Park Welwyn Garden City AL7 1TW United Kingdom	EU/1/96/005/001-006	14.8.2007
10.8.2007	Rebif	Serono Europe Limited 56, Marsh Wall London E14 9TP United Kingdom	EU/1/98/063/001-007	14.8.2007
10.8.2007	Tritanrix HepB	GlaxoSmithKline Biologicals S.A. rue de l'Institut, 89 B-1330 Rixensart	EU/1/96/014/001-003	14.8.2007
10.8.2007	Cialis	Lilly ICOS Limited St Bride's House 10 Salisbury Square London EC4Y 8EH United Kingdom	EU/1/02/237/001-008	22.8.2007
20.8.2007	Actos	Takeda Global Research and Development Centre (Europe) Ltd Arundel Great Court 2 Arundel Street London WC2R 3DA United Kingdom	EU/1/00/150/001-024	22.8.2007
20.8.2007	Glustin	Takeda Global Research and Development Centre (Europe) Ltd Arundel Great Court 2 Arundel Street London WC2R 3DA United Kingdom	EU/1/00/151/001-022	22.8.2007

Dagsetning ákvörðunar	Heiti lyfs	Markaðsleyfishafi	Númer í Lyfjaskrá bandalagsins	Dagsetning tilkynningar
20.8.2007	Competact	Takeda Global Research and Development Centre (Europe) Ltd Arundel Great Court 2 Arundel Street London WC2R 3DA United Kingdom	EU/1/06/354/001-009	22.8.2007
21.8.2007	Forsteo	Eli Lilly Nederland B.V. Grootslag 1-5 3991 RA Houten Nederland	EU/1/03/247/001-002	23.8.2007
21.8.2007	Nexavar	Bayer HealthCare AG D-51368 Leverkusen	EU/1/06/342/001	23.8.2007
21.8.2007	Opatanol	Alcon Laboratories (UK) Ltd Pentagon Park Boundary Way Hemel Hempstead Herts HP2 7UD United Kingdom	EU/1/02/217/001-002	23.8.2007
21.8.2007	NeuroBloc	Solstice Neurosciences Ltd Fitzwilton House Wilton Place Dublin 2 Ireland	EU/1/00/166/001-003	23.8.2007
21.8.2007	Avastin	Roche Registration Limited 6 Falcon Way Shire Park Welwyn Garden City AL7 1TW United Kingdom	EU/1/04/300/001-002	23.8.2007
21.8.2007	Kiovig	Baxter AG Industriestraße 67 A-1220 Vienna	EU/1/05/329/001-005	23.8.2007
22.8.2007	Sprycel	Bristol-Myers Squibb Pharma EEIG Uxbridge Business Park Sanderson Road Uxbridge UD8 1DH United Kingdom	EU/1/06/363/001-009	24.8.2007
22.8.2007	Luminity	Bristol-Myers Squibb Pharma Belgium Sprl Chaussée de la Hulpe, 185 B-1170 Brussel	EU/1/06/361/001-002	24.8.2007
22.8.2007	Emtriva	Gilead Sciences International Limited Cambridge CB21 6GT United Kingdom	EU/1/03/261/001-003	24.8.2007
22.8.2007	Baraclude	Bristol-Myers Squibb Pharma EEIG Uxbridge Business Park Sanderson Road Uxbridge UD8 1DH United Kingdom	EU/1/06/343/001-005	24.8.2007
23.8.2007	Inovelon	Eisai Limited 3 Shortlands London W6 8EE United Kingdom	EU/1/06/378/001-016	28.8.2007

Dagsetning ákvörðunar	Heiti lyfs	Markaðsleyfishafi	Númer í Lyfjaskrá bandalagsins	Dagsetning tilkynningar
23.8.2007	Stocrin	Merck Sharp & Dohme Ltd Hertford Road Hoddesdon Hertfordshire EN11 9BU United Kingdom	EU/1/99/111/001-011	28.8.2007
23.8.2007	Sustiva	Bristol-Myers Squibb Pharma EEIG Uxbridge Business Park Sanderson Road Uxbridge UD8 1DH United Kingdom	EU/1/99/110/001-009	28.8.2007
23.8.2007	Orfadin	Swedish Orphan International AB Drottninggatan 98 S-111 60 Stockholm	EU/1/04/303/001-003	27.8.2007
27.8.2007	Kivexa	Glaxo Group Ltd Greenford Middlesex UB6 0NN United Kingdom	EU/1/04/298/001-002	29.8.2007
27.8.2007	Ziagen	Glaxo Group Ltd Greenford Middlesex UB6 0NN United Kingdom	EU/1/99/112/001-002	29.8.2007
27.8.2007	Rapamune	Wyeth Europa Limited Huntercombe Lane South Taplow Maidenhead Berkshire SL6 0PH United Kingdom	EU/1/01/171/001 EU/1/01/171/007-012	29.8.2007
27.8.2007	Prezista	Janssen-Cilag International NV Turnhoutseweg, 30 B-2340 Beerse	EU/1/06/380/001	29.8.2007
27.8.2007	NovoMix	Novo Nordisk A/S Novo Allé DK-2880 Bagsværd	EU/1/00/142/004-005 EU/1/00/142/009-022	29.8.2007
27.8.2007	Invanz	Merck Sharp & Dohme Ltd Hertford Road Hoddesdon Hertfordshire EN11 9BU United Kingdom	EU/1/02/216/001-002	29.8.2007
27.8.2007	Tandemact	Takeda Global Research and Development Centre (Europe) Ltd Arundel Great Court 2 Arundel Street London WC2R 3DA United Kingdom	EU/1/06/366/001-004	29.8.2007
27.8.2007	Ebixa	H. Lundbeck A/S Ottiliavej 9 DK-2500 Valby	EU/1/02/219/001-015	29.8.2007
29.8.2007	Enbrel	Wyeth Europa Limited Huntercombe Lane South Taplow Maidenhead Berkshire SL6 0PH United Kingdom	EU/1/99/126/001-018	31.8.2007

Dagsetning ákvörðunar	Heiti lyfs	Markaðsleyfishafi	Númer í Lyfjaskrá bandalagsins	Dagsetning tilkynningar
28.8.2007	Cymbalta	Eli Lilly Nederland B.V. Grootslag 1-5 3991 RA Houten Nederland	EU/1/04/296/001-009	31.8.2007
28.8.2007	Xeristar	Boehringer Ingelheim International GmbH Binger Straße 173 D-55216 Ingelheim am Rhein	EU/1/04/297/001-008	31.8.2007
28.8.2007	YENTREVE	Eli Lilly Nederland B.V. Grootslag 1-5 3991 RA Houten Nederland	EU/1/04/280/001-008	31.8.2007
28.8.2007	Ariclaim	Eli Lilly Nederland B.V. Grootslag 1-5 3991 RA Houten Nederland	EU/1/04/283/001-007	31.8.2007
29.8.2007	Stalevo	Orion Corporation Orionintie 1 FIN-02200 Espoo	EU/1/03/260/001-018	31.8.2007
29.8.2007	Exubera	Pfizer Ltd Ramsgate Road Sandwich Kent CT 13 9NJ United Kingdom	EU/1/05/327/001-018	31.8.2007
29.8.2007	Vistide	Pfizer Enterprises SARM 51, Avenue Kennedy Rond Point du Kirchberg L-1855 Luxembourg	EU/1/97/037/001	31.8.2007
29.8.2007	Evoltra	Bioenvision Limited Bassett House 5 Southwell Park Road Canberley Surrey GU15 3PU United Kingdom	EU/1/06/334/001-004	31.8.2007
29.8.2007	Xelevia	Merck Sharp & Dohme Ltd Hertford Road Hoddesdon Hertfordshire EN11 9BU United Kingdom	EU/1/07/382/001-018	31.8.2007
29.8.2007	Januvia	Merck Sharp & Dohme Ltd Hertford Road Hoddesdon Hertfordshire EN11 9BU United Kingdom	EU/1/07/383/001-018	31.8.2007
29.8.2007	Quixidar	Glaxo Group Ltd Greenford Middlesex UB6 0NN United Kingdom	EU/1/02/207/001-004	31.8.2007
29.8.2007	Arixtra	Glaxo Group Ltd Greenford Road Greenford Middlesex UB6 0NN United Kingdom	EU/1/02/206/001-004	31.8.2007

Dagsetning ákvörðunar	Heiti lyfs	Markaðsleyfishafi	Númer í Lyfjaskrá bandalagsins	Dagsetning tilkynningar
30.8.2007	Fuzeon	Roche Registration Limited 6 Falcon Way Shire Park Welwyn Garden City AL7 1TW United Kingdom	EU/1/03/252/001-003	5.9.2007
30.8.2007	BYETTA	Eli Lilly Nederland B.V. Grootslag 1-5 3991 RA Houten Nederland	EU/1/06/362/001-004	5.9.2007
30.8.2007	Agenerase	Glaxo Group Limited Berkeley Avenue Greenford Middlesex UB6 0NN United Kingdom	EU/1/00/148/001-004	5.9.2007
30.8.2007	Aranesp	Amgen Europe B.V. Minervum 7061 4817 ZK Breda Nederland	EU/1/01/185/001-073	5.9.2007
30.8.2007	NovoRapid	Novo Nordisk A/S Novo Allé DK-2880 Bagsværd	EU/1/99/119/001 EU/1/99/119/003 EU/1/99/119/005-014	5.9.2007
30.8.2007	Nespo	Dompé Biotec S.p.A. Via San Martino 12 I-20122 Milano	EU/1/01/184/001-073	5.9.2007
30.8.2007	Zyprexa	Eli Lilly Nederland B.V. Grootslag 1-5 3991 RA Houten Nederland	EU/1/96/022/002 EU/1/96/022/004 EU/1/96/022/006 EU/1/96/022/008-012 EU/1/96/022/014 EU/1/96/022/016-017 EU/1/96/022/019-034	5.9.2007
30.8.2007	Zyprexa Velotab	Eli Lilly Nederland B.V. Grootslag 1-5 3991 RA Houten Nederland	EU/1/99/125/001-016	5.9.2007
30.8.2007	InductOs	Wyeth Europa Ltd Huntercombe Lane South Taplow Maidenhead Berkshire SL6 0PH United Kingdom	EU/1/02/226/001	5.9.2007
30.8.2007	Aldara	Laboratoires 3M Santé Boulevard de l'Oise F-95029 Cergy Pontoise Cedex Meda AB Pipers väg 2A S-170 73 Solna	EU/1/98/080/001	5.9.2007 5.9.2007
31.8.2007	Karvea	Bristol-Myers Squibb Pharma EEIG Uxbridge Business Park Sanderson Road Uxbridge UD8 1DH United Kingdom	EU/1/97/049/001-039	6.9.2007

Dagsetning ákvörðunar	Heiti lyfs	Markaðsleyfishafi	Númer í Lyfjaskrá bandalagsins	Dagsetning tilkynningar
31.8.2007	Aprovel	Sanofi Pharma Bristol-Myers Squibb SNC 174 avenue de France F-75013 Paris	EU/1/97/046/001-039	5.9.2007
31.8.2007	CUBICIN	Novartis Europharm Limited Wimblehurst Road Horsham West Sussex RH12 5AB United Kingdom	EU/1/05/328/001-002	5.9.2007
31.8.2007	Glustin	Takeda Global Research and Development Centre (Europe) Ltd Arundel Great Court 2 Arundel Street London WC2R 3DA United Kingdom	EU/1/00/151/001-024	5.9.2007
31.8.2007	Mimpara	Amgen Europe B.V. Minervum 7061 4817 ZK Breda Nederland	EU/1/04/292/001-012	6.9.2007
31.8.2007	Parareg	Dompé Biotec S.p.A. Via San Martino 12 I-20122 Milano	EU/1/04/293/001-012	6.9.2007
31.8.2007	Epivir	Glaxo Group Ltd Greenford Road Greenford Middlesex UB6 0NN United Kingdom	EU/1/96/015/001-005	6.9.2007
31.8.2007	Zimulti	Sanofi-Aventis 174, avenue de France F-75013 Paris	EU/1/06/345/001-011	6.9.2007
31.8.2007	ACOMPLIA	Sanofi-Aventis 174, avenue de France F-75013 Paris	EU/1/06/344/001-011	6.9.2007
31.8.2007	Prevenar	Wyeth-Lederle Vaccines S.A. Rue du Bosquet 15 B-1348 Louvain-La-Neuve	EU/1/00/167/001-007	6.9.2007
2.8.2007	Dexdomitor	Orion Corporation Orionintie 1 FIN-02200 Espoo	EU/2/02/033/001	6.8.2007
13.8.2007	Advocate	Bayer HealthCare AG D-51368 Leverkusen	EU/2/03/039/001-030	15.8.2007
23.8.2007	PRAC-TIC	Novartis Sanidad Animal S.L. Calle de la Marina, 206 E-08013 Barcelona	EU/2/06/066/001-012	27.8.2007
27.8.2007	Yarvitan	Janssen Animal Health B.V.B.A. Turnhoutseweg, 30 B-2340 Beerse Janssen Pharmaceutica N.V. Turnhoutseweg, 30 B-2340 Beerse	EU/2/06/063/001-003	29.8.2007 29.8.2007

Þeim er vildu kynna sér opinbera matsskýrslu um ofangreind lyf og tengdar ákvarðanir er bent á eftirgreinda stofnun:

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