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Case No: 81341
Document No: 877360
Decision No 228/17/COL

Ministry of Trade, Industries and Fisheries
PO BOX 8090 Dep
0032 Oslo
Norway

Subject: Tax reductions on zero emission vehicles

1 Summary

- (1) The EFTA Surveillance Authority (“the Authority”) informs the Norwegian authorities that, having assessed the notified tax measures in favour of zero emission vehicles (“the measures”), it considers that the measures constitute state aid, and decides not to raise objections¹ to the measures, as they are compatible with the functioning of the EEA Agreement, pursuant to its Article 61(3)(c).
- (2) The notified measures are (i) a prolongation of the zero VAT rating for the supply and import of zero emission vehicles; (ii) a prolongation of the zero VAT rating for the leasing of zero emission vehicles; (iii) a prolongation of the zero VAT rating for the supply and import of batteries for zero emission vehicles; (iv) a new full exemption for zero emission vehicles from annual tax/insurance tax; (v) a new exemption for zero emission vehicles from re-registration tax; and (vi) a new more favourable depreciation rate for electric cargo vans.
- (3) The term “zero emission vehicles” comprises battery electric vehicles (“BEV”), fuel cell electric vehicles (“FCV”) and battery electric vans. BEVs are propelled by one or more electric motors powered by rechargeable battery packs. FCVs are zero emission vehicles that use a fuel cell instead of a battery, or in combination with a battery or super capacitor, to power its on-board electric motor. In the following, the term “zero emission vehicles” will be used for all types unless otherwise specified.
- (4) The Authority has based its decision on the following considerations.

2 Procedure

- (5) The Norwegian authorities notified the measures by letter of 6 November 2017.

3 The notified measures

3.1 Background: General overview of the taxation of vehicles in Norway

3.1.1 Overview of the Norwegian VAT system

- (6) Value Added Tax (“VAT”) was introduced in Norway with effect from 1 January 1970. The tax is levied on the final consumption of goods and services and is in nature a fiscal tax to secure the State’s income.

⁽¹⁾ Reference is made to Article 4(3) of the Part II of Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.

- (7) VAT is collected on the supply of goods and services falling within the scope of the VAT Act. The importation and self-supply of goods and services are also considered taxable events.
- (8) Persons engaged in trade or business, whose taxable supplies exceed a threshold of NOK 50 000 over a period of 12 months, must be registered in the VAT register and are liable to pay the tax.
- (9) The general VAT rate is 25% of the net price (taxable base). The VAT rate on foodstuff is 15%. Certain services are subject to a reduced rate of 8%, for example passenger transport, admission fees to cinemas and museums or hotel accommodation.
- (10) Certain supplies, including health care and social services, are exempted from VAT. Exemption means that on the supply of the exempted goods/services no output VAT shall be charged, and suppliers are not entitled to deduct input VAT.
- (11) Some goods and services, however, are levied output VAT, but at a zero rate. Suppliers of such goods and services are entitled to credit for input VAT.
- (12) There are only a few domestic supply situations which are subject to the zero VAT rating. Most of them have existed since the introduction of the VAT in Norway (1970), e.g. the zero rating on newspapers, books, periodicals, and electricity for domestic use in northern parts of Norway.
- (13) The first zero VAT rating that was introduced into the Norwegian VAT legislation after the entry into force of the EEA Agreement was the zero rating for zero emission vehicles, whose prolongation is at issue in the present decision.²

3.1.2 Overview of the re-registration tax

- (14) The re-registration tax was introduced in 1956, and is a fiscal tax originally meant to substitute VAT on used motor vehicles. Sales of motor vehicles previously registered in the Norwegian Central Motor Registry are exempted from VAT. Instead, previously registered vehicles are subject to the re-registration tax when the vehicle is registered on a new owner. The system is meant to approximate the tax level that would apply if the sale of used vehicles were subject to VAT.
- (15) The vehicles are divided into four groups, and the tax rates vary according to the vehicle's age and weight. The heaviest and newest vehicles are levied the highest rate. Under the new tax regime, zero emission vehicles will be exempted from the re-registration tax.

3.1.3 Overview of the traffic insurance tax

- (16) The reduced annual tax for electric vehicles was introduced on 1 January 1996 to stimulate the development and use of vehicles that are less polluting than conventional vehicles.³ The traffic insurance tax will be introduced as of 1 January 2018, replacing the annual tax on vehicles.⁴ Liable insurance companies will be subject to the traffic insurance tax. The tax levied on the insurance companies will be allocated in the individual insurance premiums on consumers.

²) The Authority first approved this zero VAT rating in its Decision No 150/15/COL, OJ C 232, 16.7.2015, p. 13. The Authority approved a zero VAT rating for electronic news services in Decision No 023/16/COL, OJ C 396, 27.10.2016, p. 6.

³) Budsjett-innst. S. nr. 13 Tillegg nr. 1 (1995-96) point 2.7.2 (annex 2)

⁴) The Authority approved the reduced annual tax in Decision 150/15/COL.

- (17) The traffic insurance tax will be levied on vehicles with a weight below 7 500 kg.⁵ The tax rate varies for different types of vehicles. Petrol and new diesel passenger vehicles are levied an annual tax of NOK 2 820 in 2017. Older diesel vehicles, without a factory-fitted particle filter, are levied an annual tax of NOK 3 290. The differentiation is meant to reflect the increased environmental costs due to higher emissions of particles.
- (18) Zero emission vehicles were levied an annual tax of NOK 455 in 2017. Under the new scheme, zero emission vehicles will not be levied traffic insurance tax.

3.1.4 Overview of depreciation rules

- (19) All vans are currently depreciated with an annual depreciation of 24%.⁶ Under the Norwegian system for depreciation for tax purposes, the depreciation rates reflect the expected economic lifetime of the operating assets. The notified measure will give electric vans more favourable depreciation rules with a depreciation rate of 30%.

3.2 Previously approved measures

- (20) The Authority approved the following measures in its Decision No 150/15/COL⁷ as compatible state aid within the meaning of Article 61(3)(c) of the EEA Agreement:
- zero VAT rating for the supply and import of zero emission vehicles;
 - zero VAT rating for the leasing of zero emission vehicles;
 - zero VAT rating for the supply and import of batteries for zero emission vehicles;
 - reduced annual vehicle tax for zero emission vehicles;
 - exemption from road tolls for zero emission vehicles;
 - free boarding on classified national road ferries; and
 - favourable income tax calculation for employees benefitting from private use of zero emission company vehicles.
- (21) The Authority found that these measures constituted state aid in favour of the indirect beneficiaries, i.e. the manufacturers and dealers of zero emission vehicles and batteries. The first three measures were approved until 31 December 2017. The approval of the remaining measures was not limited in time.
- (22) In the same decision, the Authority found that the following measures in favour of zero emission vehicles constituted existing aid measures, as they had been in place before the EEA Agreement entered into force in Norway on 1 January 1994:⁸
- exemption from registration tax;
 - free charging at public charging stations; and
 - free parking in public parking.

3.3 The notified measures

- (23) The notification refers to six particular tax measures in favour of zero emission vehicles: (i) prolongation of the zero VAT rating for the supply and import of zero emission vehicles; (ii) prolongation of the zero VAT rating for the leasing of zero emission

⁽⁵⁾ Vehicles with a weight above 7 500 kg are levied a weight annual tax.

⁽⁶⁾ The Norwegian Tax Act, Section 14-43(1) litra c.

⁽⁷⁾ OJ C 232, 16.7.2015, p. 13.

⁽⁸⁾ According to Article 1(b)(i) of Part II of Protocol 3 of the Surveillance and Court Agreement, “existing aid” means: “all aid which existed prior to the entry into force of the EEA Agreement in the respective EFTA States, that is to say, aid schemes and individual aid which were put into effect before, and are still applicable after, the entry into force of the EEA Agreement”.

vehicles; (iii) prolongation of the zero VAT rating for the supply and import of batteries for zero emission vehicles;⁹ (iv) new full exemption for zero emission vehicles from annual tax/insurance tax; (v) new exemption for zero emission vehicles from re-registration tax; and (vi) new more favourable depreciation rate for electric cargo vans.

3.4 Objective

- (24) The measures have an environmental purpose. The aim is to reduce national CO₂ emissions from the transport sector through an increased share of zero emission vehicles in the Norwegian vehicle fleet. The Norwegian authorities are committed to reducing their CO₂ emissions by at least 40% by 2030, compared to 1990 levels. Most of the emission reductions are expected to be achieved in the non-ETS sectors (transport, agriculture, buildings and waste).
- (25) Decarbonising the transport sector is an important step towards reaching these targets and reducing Norway's emissions. The transport sector accounted for 31% of Norwegian emissions in 2015 (16.7 million tonnes CO₂). Passenger cars emitted 5.6 million tonnes in 2015, while trucks and vans emitted 4.6 million tonnes in 2015.
- (26) In 2012, the Parliament set a goal that average CO₂ emissions from new cars should be less than 85 g/km in 2020.¹⁰
- (27) In its White Paper on the National Transport Plan for 2018-2029,¹¹ adopted in June 2017, the Norwegian authorities established the following targets:
- In 2025, 100% of new private cars and light vans should be zero-emission vehicles. All new city buses should be zero-emission vehicles or use biogas.
 - By 2023, all new heavy vans, 75% of new long-distance buses, and 50% of new trucks should be zero-emission vehicles.
 - By 2030, the distribution of goods in major city areas should be more or less emission free.
- (28) In its White Paper on climate policies,¹² the Norwegian Government also set a working target to cut 35-40% in emissions from the transport sector by 2030, compared with 2005 levels.
- (29) In order to reach these targets, the notified measures seek to stimulate the demand for and use of zero emission vehicles. The prices of zero emission vehicles are currently higher than the prices of conventional fuel vehicles without the notified measures. In addition, there are other perceived inconveniences due to limited range of batteries, limited access to quick charging stations, and the time needed to charge. The Norwegian authorities therefore consider that the notified measures are needed to encourage the use of zero emission vehicles.
- (30) Furthermore, in the VAT system, undertakings can deduct input VAT and as a consequence the zero VAT rating does not result in an economic benefit for vans (which is normally purchased by undertakings), unlike for passenger cars. This has contributed to

⁽⁹⁾ According to the Regulation concerning Value Added Tax of 15 December 2009 No. 1540 section 6-7-2, the zero VAT rating only applies for batteries that are to be installed in a vehicle that uses electricity as a mean of propulsion.

⁽¹⁰⁾ https://www.regjeringen.no/contentassets/aa70cfe177d2433192570893d72b117a/en-gb/pdfs/stm201120120021000en_pdfs.pdf

⁽¹¹⁾ <https://www.regjeringen.no/en/dokumenter/meld.-st.-33-20162017/id2546287/>

⁽¹²⁾ <https://www.regjeringen.no/en/dokumenter/meld.-st.-33-20162017/id2546287/>

electric vans only representing 1.8% of the total sales of new vans in 2016. The Norwegian authorities have therefore notified a favourable depreciation rule to stimulate the demand for electric vans.

3.5 National legal basis

3.5.1 Zero VAT

- (31) The VAT provisions are laid down in the Act on Value Added Tax of 19 June 2009 No 58 (“VAT Act”¹³) and the Regulation concerning Value Added Tax of 15 December 2009 No 1540.
- (32) The Norwegian authorities have explained that the VAT rates are adopted annually by the Parliament. Exemptions and zero rates are laid down in the VAT Act and are not adopted annually. However, since exemptions and zero rates have economic effects, their adoption and repeal form part of the annual budget process.

3.5.2 Traffic insurance tax

- (33) The tax objects, tax rates and tax exemptions for the traffic tax follow from the Parliament’s decision concerning excise duties.
- (34) The traffic insurance tax is (from 2018) regulated in Act 19 May 1933 No 11 concerning excise duties and Regulation 11 December 2001 No 1451 concerning excise duties.

3.5.3 Re-registration tax

- (35) The tax objects, tax rates and tax exemptions for the re-registration tax follow from the Parliament’s decision concerning excise duties. Further regulations can be found in Regulation of 4 July 1986 No 1430 on the re-registration tax.

3.5.4 Depreciation rules

- (36) The depreciation rules for electric vans are (from 2018) set out in the Norwegian Tax Act of 27 March 1999 No 14 Section 14-43(4).

3.6 Aid granting authority

- (37) The granting authority for the tax measures is the Norwegian Ministry of Finance.

3.7 Beneficiaries

- (38) The Norwegian authorities consider that the direct beneficiaries of the notified zero VAT rating are the consumers, i.e. the final users, since VAT is a tax on consumption. However, the authorities acknowledge that (i) manufacturers and dealers¹⁴ of zero emission vehicles and batteries, (ii) as well as undertakings buying, importing or leasing zero emission vehicles to use as, or acquiring or importing batteries to use in, company cars, may obtain an indirect advantage.
- (39) The Norwegian authorities have explained that because of the right to deduct input VAT for undertakings, VAT is in principle not an expense for undertakings registered in the Norwegian VAT system. However, the right to deduct VAT does not comprise VAT on passenger cars. This rule applies in order to prevent evasion of the tax in cases where

¹³(An English version of the Act relating to Value Added Tax (VAT) is available at: <http://www.skatteetaten.no/upload/taxnorway/MVAL.eng.oversettelse.juni2011.pdf>

¹⁴) For the purpose of this decision, the term “dealer” includes undertakings that sell vehicles, or buy or import vehicles for resale.

vehicles are used for both business and private purpose. As a consequence, without the zero VAT rate, VAT would be a cost for undertakings acquiring zero emission vehicles, the same way that VAT is a cost for undertakings acquiring conventional fuel cars. Consequently, undertakings established in Norway benefit from these measures.

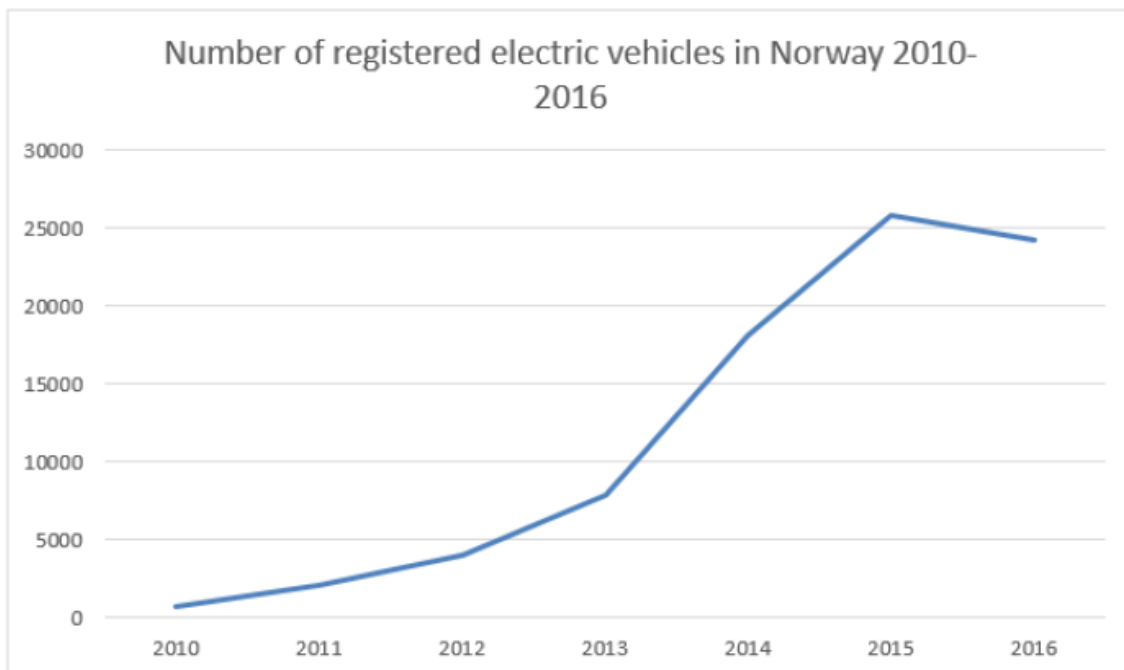
- (40) The beneficiaries of the exemptions from the annual tax and re-registration tax will be both private individuals and undertakings. The beneficial depreciation rules will only benefit undertakings directly.

3.8 Aid instrument, intensity and eligible costs

- (41) The notified aid measures to stimulate the use of zero emission vehicles are financed by means of tax exemptions or preferential tax treatment. According to the Norwegian authorities, the measures do not discriminate between car manufacturers since all models and types of zero emission vehicles are eligible for the exemptions or preferential treatment. No zero emission vehicles are manufactured in Norway.
- (42) All final consumers – individuals or undertakings – are able to purchase, lease or import the zero emission vehicles for own use. They are also able to purchase or import batteries. Consequently, all consumers are eligible for the tax exemption.
- (43) The aid measures will cover part of the expenditure incurred for the purchase, lease, import or use of a zero emission vehicle or purchasing or import of batteries for zero emission vehicles. The exemption from annual tax and re-registration tax will compensate for some expenditures related to ownership and re-sale. The favourable depreciation rule will lead to higher annual depreciation of investments in electric vans compared to the current depreciation rules, and thereby increase the present value of these taxable deductions.
- (44) The objective of the measures is to reduce the purchasing price of zero emission vehicles to a price level that is comparable to that of conventional cars, and to compensate for other disadvantages and costs of owning a zero emission vehicle.
- (45) The Norwegian authorities have provided information regarding the current market status and availability of BEVs. The cost of a BEV is currently higher than conventional cars, mainly due to high battery costs. However, a continued strong reduction in battery costs is expected to make BEVs competitive in both the small and large car segments during the 2020s.¹⁵
- (46) By December 2016, 100 000 BEVs had been registered in Norway, and the share of new BEVs registered in Norway as a percentage of all new cars has been relatively stable during the last years, at between 15 and 18%. However, the total number of BEVs is still small compared to the number of conventional fossil fuel vehicles (3.7% in 2016).¹⁶ The figure below shows the number of newly registered BEVs in Norway 2010-2016:

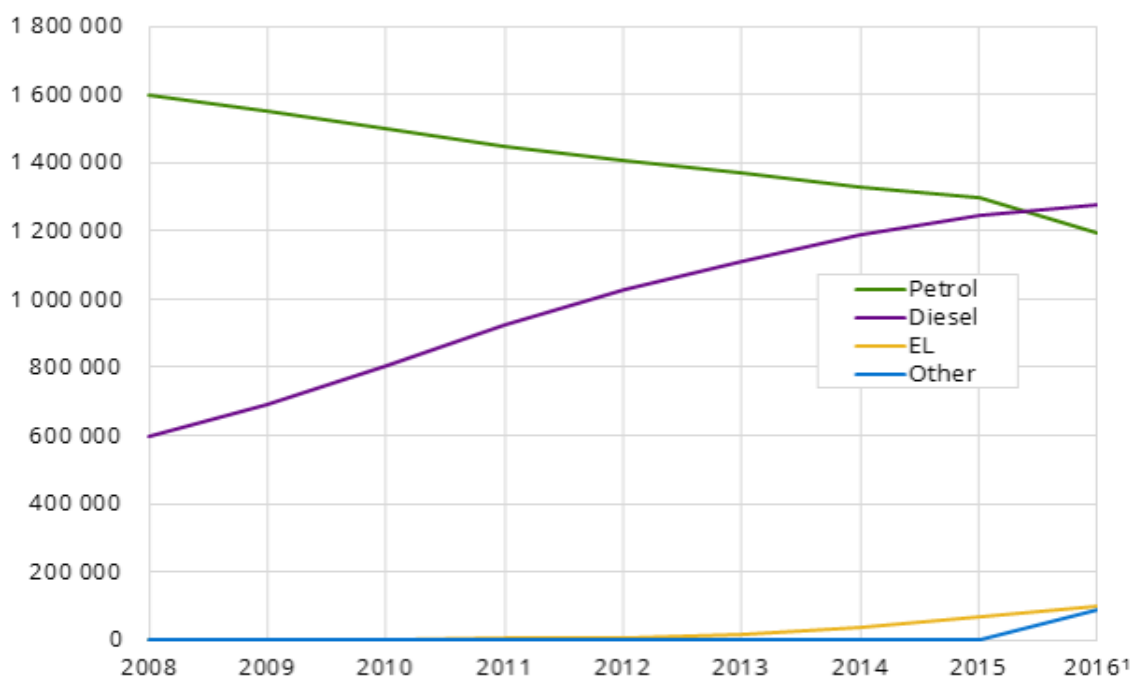
⁽¹⁵⁾ This is according to the Norwegian consultancy THEMA Consulting Group and the international consultancy Bloomberg New Energy Finance.

⁽¹⁶⁾ <https://www.ssb.no/transport-og-reiseliv/statistikker/bilreg/aar/2017-03-28>.



(47) The market for FCVs is limited.¹⁷ According to the Norwegian authorities, a total of 64 FCVs have been sold in Norway. 9 new FCVs were registered in Norway in 2015,¹⁸ and 23 in 2016.¹⁹ In the first half of 2017, 19 new FCVs were registered. This was equivalent to 0.02% of the total sales of new personal vehicles in the same period.

(48) The figure below shows the registered passenger cars in Norway based on fuel type.



¹ As from 2016, petrol-hybrid passenger cars are separated from the fuel group petrol and placed under Other fuel (about 88 000 in 2016, nearly 50 000 in 2015)

Source: Central Vehicle Register, Directorate of Roads.

⁽¹⁷⁾ «Potensiale for null- og lavutslippskjøretøy i den norske kjøretøyparken – På oppdrag frå Samferdselsdepartementet – november, 2016», a report by THEMA Consulting Group.

⁽¹⁸⁾ <http://www.ofvas.no/bilsalget-i-2015/category679.html>

⁽¹⁹⁾ <http://www.ofvas.no/bilsalget-i-2016/category706.html>

3.9 Overlap with other schemes

- (49) As mentioned in the Authority's Decision No 150/15/COL, there is a number of aid measures in place in favour of zero emission vehicles. For an overview of the measures in place, see the previous decision Section I.1.5.

3.10 Duration and budget

- (50) All the measures for all zero emission vehicles are notified for a period of six years from 1 January 2018 until 31 December 2023, except for the zero VAT rate measures in favour of BEVs, which are notified for a period of three years from 1 January 2018 until 31 December 2020.
- (51) The Norwegian authorities have provided the Authority an estimated annual revenue loss expected in the notified period. Estimates for the value of advantages already in place are provided below; the numbers are based on estimates for 2017:
- Zero VAT rating for zero emission vehicles, including the leasing of zero emission vehicles and supply and import of batteries for zero emission vehicles: around NOK 3.2 billion;
 - exemption from registration tax: around NOK 700 million;
 - reduced annual vehicle tax: around NOK 300 million;
 - favourable income tax calculation for employees using corporate zero emission vehicles: around NOK 155 million;
 - revenue loss from road tolls: around NOK 700-800 million; and
 - free boarding on classified national ferries: around NOK 20.9 million.
- (52) Estimates for the value of the additional advantages for zero emission vehicles that are to be introduced are presented below. The numbers are annual value of each advantage based on estimates for 2017:
- full exemption for zero emission vehicles from traffic insurance tax: around NOK 60 million;
 - exemption for zero emission vehicles from re-registration tax: around NOK 60 million; and
 - increased depreciation rate for electric vans: NOK 3 million.

4 Presence of state aid

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

“[...] 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 [...] in so far as it affects trade between Contracting Parties [...]”

- (54) The qualification of a measure as aid within the meaning of this provision therefore requires the following cumulative conditions to be met: (i) the measure must be granted by the state or through State resources; (ii) it must confer an advantage on an undertaking; (iii) favour certain undertakings (selectivity); and (iv) threaten to distort competition and affect trade.

4.1 Presence of state resources

- (55) The measure must be granted by the State or through state resources.
- (56) The notified measures entail a loss of State revenues, as the measures constitute foregone tax revenues for the state. The measures therefore meet the first criterion of the definition of state aid.
- (57) Those measures are also clearly granted by the State since they are adopted by legislative acts.

4.2 Conferral of an advantage on an undertaking

- (58) The measure must confer an advantage on the beneficiaries that relieve them of charges that are normally borne from their budget.
- (59) The definition of aid is more general than that of a subsidy, because it includes not only positive benefits, such as subsidies themselves, but also State measures which, in various forms, mitigate charges that are normally included in the budget of an undertaking and which thus, without being subsidies in the strict sense of the word, are similar in character and have the same effect.²⁰ A tax/fee exemption can confer an advantage, as well as a loss of State resource, although not involving a transfer of State resources.²¹ The measure must be assessed in relation to their effects not to their form, aim or causes.²² As a consequence, neither the fiscal nature of the measures, nor their environmental aim is sufficient to place them outside the scope of the State aid rules.
- (60) It follows that a measure, by which the public authorities grant to certain undertakings a tax or a fee exemption that places the entity to whom the exemption applies in a more favourable financial situation than other entities, constitutes an advantage within the meaning of Article 61(1) of the EEA Agreement.²³
- (61) In light of the case law referred to above, the Authority believes that the measures within the scope of this decision will confer on the purchasers or importers of zero emission vehicles or batteries an economic advantage, which they would not have obtained under normal market conditions. The Authority concurs with the Norwegian authorities in finding that the buyers/importers/lessors of the zero emission vehicles and the buyers/importers of batteries are the direct beneficiaries of the measures.
- (62) However, the private buyers of zero emission vehicles are not subject to the state aid rules, which are only applicable to undertakings, as private persons are not engaged in economic activities.
- (63) On the other hand, the direct beneficiaries, i.e. the undertakings purchasing, importing or leasing zero emission vehicles or acquiring or importing batteries for their cars might obtain an economic advantage, since the tax reductions/exemptions reduce both the acquisition and operating costs of their vehicles which they otherwise would have to bear.

⁽²⁰⁾ See, in particular, judgment of the EFTA Court in *Liechtenstein v ESA*, E-17/10 and E-6/11, EFTA Ct. Rep [2012] p. 114, paragraph 50; judgments in *Adria-Wien Pipeline and Wietersdorfer & Peggauer Zementwerke*, C-143/99, EU:C:2001:598, paragraph 38; *Spain v Commission*, C-501/00, EU:C:2004:438, paragraph 90; and *Italy v Commission*, C-66/02, EU:C:2005:768, paragraph 77.

⁽²¹⁾ Judgment in *Liechtenstein v ESA*, E-17/10 and E-6/11, cited above, paragraph 51.

⁽²²⁾ Judgment in *Italy v Commission*, 173/73, EU:C:1974:71, paragraph 27.

⁽²³⁾ See judgments in *Banco Exterior de España*, C-387/92, EU:C:1994:100; paragraph 14, and *Cassa di Risparmio di Firenze and Others*, C-222/04, EU:C:2006:8, paragraph 132.

- (64) Moreover, irrespectively of whether the direct beneficiaries of the aid qualify as undertakings,²⁴ the measures can also stimulate the demand for zero emission vehicles and batteries for zero emission vehicles compared to a reference situation in which no such aid would be granted. It follows that the measures may also indirectly²⁵ favour manufacturers and dealers of zero emission vehicles or batteries for zero emission vehicles²⁶ (those indirect beneficiaries are also referred hereinafter as “the manufacturing sector”).
- (65) In conclusion, the Authority identifies, in the notified measures, an advantage in favour of the direct and indirect beneficiaries of the measures (as defined above). This is in line the Authority’s Decision No 155/15/COL.

4.3 Selectivity

- (66) The measure must be selective in that it favours “certain undertakings or the production of certain goods”.
- (67) The selectivity criterion allows one to distinguish between state aid measures and general measures of tax or economic policy.²⁷ Advantages resulting from a general measure applicable without distinction to all economic operators do not constitute state aid within the meaning of Article 61(1) of the EEA Agreement.²⁸
- (68) According to the case law,²⁹ “[a]s regards the assessment of the condition of selectivity, which is a constituent factor in the concept of State aid, it is clear from settled case-law that Article 87(1) EC [equivalent to Article 61(1) EEA] requires assessment of whether, under a particular statutory scheme, a State measure is such as to ‘favour certain undertakings or the production of certain goods’ in comparison with other undertakings which are in a legal and factual situation that is comparable in the light of the objective pursued by the system in question.”³⁰
- (69) The Authority considers that the measures are not selective for the direct beneficiaries, i.e. the undertakings purchasing, importing or leasing zero emission vehicles or acquiring or importing batteries for these vehicles. The advantages are open to all sectors of the economy, all kinds of companies and all kinds of production. The Authority understands that it is common ground that the advantages concerned apply to all economic operators, and thus the measures are not selective regarding the direct beneficiaries.
- (70) In Decision No 150/15/COL, the Authority found that the measures were selective in favour of the manufacturing sector of zero emission vehicles and batteries for zero

⁽²⁴⁾ According to settled case law, undertakings are entities engaged in an economic activity. See judgments in *Höfner and Elser v Macroton*, C-41/90, EU:C:1991:161, paragraphs 21-23; *Pavlov and Others*, C-180/98 to C-184/98, EU:C:2000:428, paragraph 74; and *E-5/07 Private Barnehagers Landsforbund v EFTA Surveillance Authority* [2008] EFTA Ct. Rep. p. 61, paragraph 78.

⁽²⁵⁾ The case law has already clarified that the state aid rules prohibit aid granted in any form whatsoever, without drawing a distinction as to whether the aid-related advantages are granted directly or indirectly. The case law has thus acknowledged that an advantage granted directly to certain natural or legal persons who are not necessarily undertakings may constitute an *indirect advantage*, hence state aid, for other natural or legal persons who are undertakings. See judgments in *Mediaset*, T-177/07, EU:T:2010:233, paragraph 75, and *Italy v Commission*, T-424/05, EU:T:2009:49, paragraph 108.

⁽²⁶⁾ The same line of reasoning can be found in the Commission decision of 8.3.2011. State aid No 386/2010. Denmark, OJ C 149, 20.5.2011 p 3. Pilot scheme for purchase of electric vehicles. Points 29-30.

⁽²⁷⁾ Judgment in *Air Liquide Industries and others*, C-393/04 and C-41/05, EU:C:2006:403, para. 32.

⁽²⁸⁾ Judgment in *Liechtenstein v ESA*, joined cases E-17/10 and E-6/11, cited above, paragraph 53 and the case law cited.

⁽²⁹⁾ See, to that effect, the judgments in *GIL Insurance*, C-308/01, EU:C:2004:252, paragraph 68; *Heiser*, C-172/03, EU:C:2005:130, paragraph 40; *Portugal v Commission*, C-88/03, EU:C:2006:511, paragraph 54.

⁽³⁰⁾ See, to that effect, judgment in *Portugal v Commission*, EU:C:2006:51, paragraph 54.

emission vehicles, compared to the manufacturing sector for non-zero emission vehicles (the indirect beneficiaries). There is nothing in the present case to alter this conclusion, as the Norwegian authorities have notified a prolongation of all the measures approved in the decision.

- (71) The Norwegian authorities have notified a favourable depreciation rule for electric vans. This measure was not subject to the previous decision. There is however nothing in the present notification to alter the conclusion from Decision No 150/15/COL. The favourable depreciation rule is merely another measure in favour of the manufacturing sector.
- (72) Hence, the notified measures are selective.

4.4 Effect on trade and distortion of competition

- (73) The measure must be liable to distort competition and to affect trade between the Contracting Parties to the EEA Agreement.
- (74) According to settled case law, the mere fact that a measure strengthens the position of an undertaking compared to other undertakings competing in intra-EEA trade is considered to be sufficient in order to conclude that the measure is liable to distort competition between undertakings established in other EEA States.³¹ For the purpose of categorising a national measure as state aid, it is not necessary that the aid has a real effect on trade between the Contracting Parties and that competition is actually being distorted, but only to examine whether the aid is liable to affect such trade and distort competition.³² On this issue, the Authority recalls that undertakings in the manufacturing sector (as defined at paragraph (64) above) based in Norway are or can be active in markets that are open to competition within the EEA. The selective economic advantage conferred by the measures at hand is thus liable to distort or threaten to distort competition on the markets on which the indirect beneficiaries of the measures are active.
- (75) The competitive position of zero emission vehicles manufacturers is reinforced in comparison to conventional fuel car producers. The same is true regarding the producers of batteries for zero emission vehicles.
- (76) Effect on trade can be presumed when the aid strengthens the position of an undertaking compared to other companies competing in EEA-trade.³³ When an aid granted by one of the EEA States strengthens the position of an undertaking compared with other undertakings competing in intra-EEA trade, the latter must be regarded as affected by the aid.³⁴
- (77) According to the case law, it is not necessary that the beneficiary undertakings are themselves involved in intra-EEA trade, for this condition to be met.³⁵ It is sufficient to find that zero emission vehicles are traded within the EEA. In fact, there are no zero emission vehicle producers in Norway. However, this does not entail that EEA trade is not liable to be affected. The measures may have the consequence that the opportunities for undertakings established in other EEA States to offer their services in the EEA are reduced. Manufacturers of conventional cars may find themselves able to trade less

⁽³¹⁾ Judgments in *The Government of Norway v EFTA Surveillance Authority*, E-6/98, [1999] EFTA Court Report, p. 76, paragraph 59; and *Philip Morris v Commission*, 730/79, EU:C:1980:209, paragraph 11.

⁽³²⁾ Judgment in *Eventech*, C-518/13, EU:C:2015:9, paragraph 65 and the case law cited.

⁽³³⁾ Judgment in *Regione Friuli Venezia Giulia v Commission*, T-288/97, EU:T:2001:115, paragraph 41.

⁽³⁴⁾ Judgment in *Eventech*, C-518/13, EU:C:2015:9, paragraph 66 and the case law cited.

⁽³⁵⁾ Judgment in *Eventech*, C-518/13, EU:C:2015:9, paragraph 67 and the case law cited.

vehicles in Norway, with the entry into force of some of the measures. Consequently, the measures are liable to affect trade within the EEA.

- (78) The above also goes for the manufacturers and dealers of batteries for zero emission vehicles. This, too, is a dynamic market open to competition within the EEA.
- (79) On this basis, the notified measures are liable to distort competition and affect trade between the Contracting Parties.

4.5 Conclusion

- (80) The notified measures constitute state aid within the meaning of Article 61(1) of the EEA Agreement.

5 Procedural requirements

- (81) Pursuant to Article 1(3) of Part I of Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice (“Protocol 3”): *“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.”*
- (82) The Norwegian authorities have submitted a notification of the aid measures, and have not let the measures enter into force yet. They have therefore complied with the obligations under Article 1(3) of Part I of Protocol 3.

6 Compatibility of the aid measure

- (83) The Authority can declare state aid compatible with the functioning of the EEA Agreement under its Article 61(3)(c) provided that certain compatibility conditions are fulfilled.
- (84) For most cases, these conditions are outlined in the Authority’s state aid guidelines. However, in this case there are no state aid guidelines applicable to the measure at hand. The Guidelines on State aid for environmental protection and energy 2014-2020 (“the EEAG”)³⁶ in Section 1.1 paragraph (10) state that the EEAG do not apply to *“the design and manufacture of environmentally friendly products, machines or means of transport with a view to operating with fewer natural resources [...]”*. The Authority will therefore assess the measures directly under Article 61(3)(c) of the EEA Agreement.
- (85) The Authority’s assessment is based on the following common assessment principles:
- contribution to a well-defined objective of common interest;
 - need for state intervention;
 - appropriateness of state aid as a policy instrument;
 - existence of an incentive effect;
 - proportionality of the aid amount (aid limited to minimum necessary);
 - avoidance of undue negative effects on competition and trade; and

⁽³⁶⁾ OJ C 200, 28.6.2014, p. 1.

- transparency.

6.1 Objective of common interest

- (86) State aid must aim at a well-defined objective of common interest that has been recognised by the Contracting Parties.
- (87) The objective of the measures is to increase the number of zero emission vehicles in order to reduce CO₂ emissions from the transport sector. Already in 2001, the greenhouse gas emissions and pollution caused by transport was considered one of the main obstacles to sustainable development.³⁷ The Norwegian Government has set as a target to reduce by 2030 its emissions by 40% compared to 1990-levels. Further, the Norwegian authorities have set ambitious targets for zero emission vehicles, see paragraphs (26) to (28).
- (88) The Authority acknowledges that protecting the environment by reducing CO₂ emission is an objective of common interest.
- (89) The determination to protect the environment is already established in the EEA Agreement, when the Contracting Parties declared themselves “determined to preserve, protect and improve the quality of the environment”. This determination is reflected in Chapter 3 of Part V the EEA Agreement dedicated to the Environment policy (Articles 73 to 75). In particular, Article 73 of the EEA Agreement states that “*action by the Contracting Parties relating to the environment shall have the following objectives: (a) to preserve, protect and improve the quality of the environment*”. Consequently, the Authority has already declared that environmental policy objectives should be taken into account when assessing the compatibility of state aid.³⁸
- (90) The Authority considers that reducing CO₂ emissions from vehicles remains one of the objectives of the EEA environmental policy.³⁹ The measures under the scope of this decision are also in line with the Europe 2020 strategy⁴⁰ which sets targets and objectives for sustainable growth to support the shift towards a resource-efficient, competitive low-carbon economy. Similarly, the Conclusions of the 42nd meeting of the EEA Council, dated 19 November 2014,⁴¹ note in point 18 the importance of continued close cooperation between the EU and the EEA EFTA States in environment, energy and climate change policies, particularly in light of the 2030 Framework for Climate and Energy.
- (91) The Norwegian authorities decided already in 1989 to reduce Norway’s CO₂ emissions. The measures falling within the scope of the present decision aim at decreasing the emissions of greenhouse gases from the Norwegian vehicle fleet by increasing the number of zero emission vehicles.
- (92) Increased uptake of zero emission vehicles will contribute to reduced emissions from new passenger cars. Based on the considerations above, the Authority concludes that the aid aims at an objective of common interest.

⁽³⁷⁾ See the EU Commission Communication of 15 May 2001 “A sustainable Europe for a better world: A European Union Strategy for Sustainable Development”. The document is available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2001:0264:FIN:EN:PDF>

⁽³⁸⁾ See EEAG, paragraph 2.

⁽³⁹⁾ See also the Commission decision of 8.3.2011. State aid No 386/2010. Denmark Pilot scheme for purchase of electric vehicles, paragraph 57.

⁽⁴⁰⁾ See http://ec.europa.eu/europe2020/index_en.htm. Norway participates in several of the 2020 strategy initiatives and the Kyoto emissions targets.

⁽⁴¹⁾ Conclusions adopted by the EEA Council at its 42nd meeting of 19 November 2014. Brussels. EEE 1607/2/14. Press document EEE 1610/14.

6.2 Need for state intervention

- (93) In order to assess whether state aid is effective to achieve the identified objective of common interest, it is necessary first to identify the problem that needs to be addressed. State aid should be targeted towards situations where aid can bring a material improvement that the market alone cannot deliver, for example by remedying a market failure or addressing an equity or cohesion concern.
- (94) Environmentally harmful CO₂ (and other) emissions represent a negative externality that economic agents may disregard when taking the decision to buy a new vehicle. Economic theory suggest that these agents may not be willing to pay for the extra costs linked to environmental protection, if those costs are not compulsory or subsidised; in other words, consumers will have little incentive to acquire (more costly) goods (in this case zero emission vehicles) that limit environmental pollution, since consumers will typically consider only their own private costs and benefits, without taking into account the environmental effect of their choices. Negative environmental externalities therefore represent a market failure⁴² (i.e. a situation that the market will not resolve on its own), which justifies state intervention in the market.
- (95) There are also uncertainties in the future development in the zero emission vehicles market regarding the expected lifetime of batteries for zero emission vehicles and the second hand market for zero emission vehicles.
- (96) The Authority also recalls that the EEAG⁴³ accept that market failures can exist due to negative environmental externalities and that public intervention may be necessary to increase the level of environmental protection.
- (97) Accordingly, there is a need for state intervention in the case.

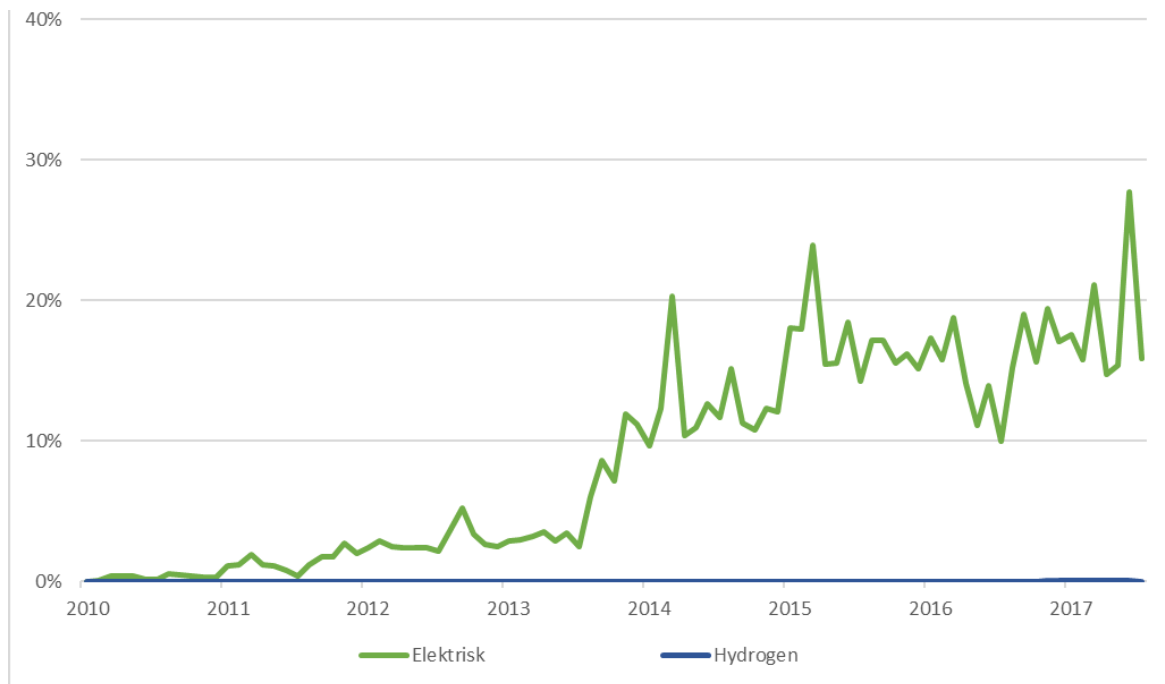
6.3 Appropriateness of state aid

- (98) State aid must be an appropriate instrument to address the identified market failure and help reach the identified objective of common interest. An aid measure is not compatible with the functioning of the EEA Agreement if the same positive contribution is achievable through other less distortive policy instruments, or other less distortive types of aid instruments.
- (99) Norway has in place a number of measures to promote the use of zero emission vehicles. Since the 1990s, zero emission vehicles have been exempted from registration tax, benefitted from free parking, exempted from tolls on toll roads, etc. Moreover, the zero VAT rate for supply and import of zero emission vehicles was adopted in 2001. Apart from the notified measures, there are also other important user benefits for owners of zero emission vehicles, such as lowered rates on ferries, access to bus lanes, and free public slow charging.
- (100) According to the Norwegian authorities, Norway has the highest penetration rate of zero emission vehicles in the world. Despite these measures and having the highest penetration rate, in 2016, the market share of zero emission vehicles of total new car sales in Norway, was still only approximately 15%. Furthermore, the market shares of new BEVs and FCVs

⁽⁴²⁾ On this subject see: “*Economic principles of state aid control*”. Available at: <http://ec.europa.eu/dgs/competition/economist/ibc.pdf>

⁽⁴³⁾ See paragraphs 29 and 30 of the EEAG.

remained relatively stable in 2016 and 2017 (see chart below),⁴⁴ despite the various support measures in place.

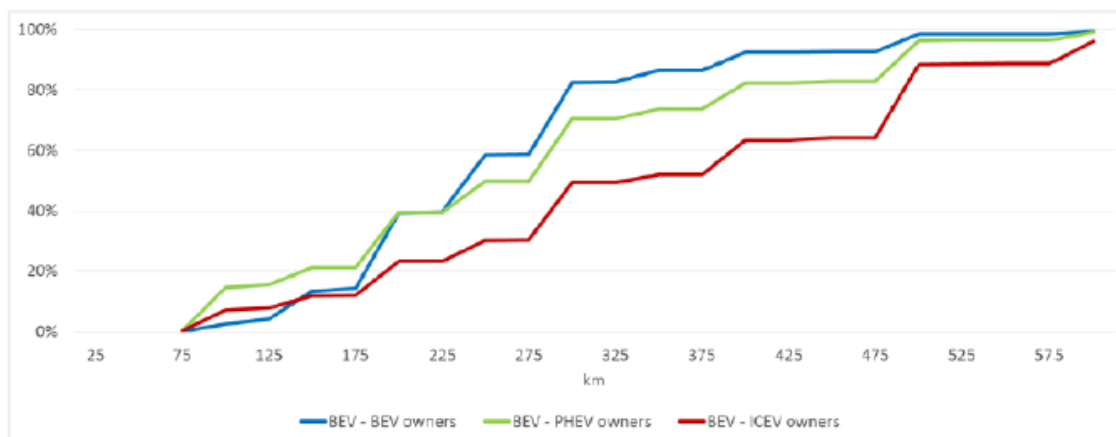


- (101) The price difference between zero emission vehicles and conventional fuel vehicles is, according to the Norwegian authorities, a significant limitation for zero emission vehicles in Norway. The price of BEVs, despite falling steadily, remains higher than the price of conventional fuel cars. Even though prices are decreasing, BEVs are not expected to be price competitive with conventional cars, without the VAT measures, for the duration of the notified period. As consumers are not ready to pay for the higher cost of zero emission vehicles out of environmental considerations, and there is a public incentive to promote environmental protection, public intervention is appropriate to correct the market failure and the associated negative externalities.
- (102) In addition to the price disadvantage related to zero emission vehicles, the Authority also notes that batteries are a major cost element of a zero emission vehicle, and limited information is currently available regarding both the costs and expected lifetime of batteries for zero emission vehicles. This may, according to the Norwegian authorities, further reduce consumers' incentives to buy zero emission vehicles. The zero VAT rating for batteries for zero emission vehicles will therefore reduce the expected costs related to owning a zero emission vehicle (and reduce the uncertainty for the purchaser of zero emission vehicles), with the objective of stimulating demand.
- (103) There are also other disadvantages connected with BEVs. Consumers are worried about their driving autonomy, i.e. how far they can travel in zero emission vehicles before their batteries need to be charged. Charging a BEV can sometimes be difficult due to limited availability of charging stations, and charging the battery of BEVs takes longer than refuelling a tank with petrol or diesel. With the fastest charging stations, which are still relatively scarce, it takes a minimum of 20 minutes to recharge a vehicle completely. More

⁽⁴⁴⁾ The chart is from the Norwegian Road Traffic Information Council. "Elektrisk" is Norwegian for "electric".

common chargers take between five and eight hours, leaving the vehicle out of service for several hours a week.⁴⁵

- (104) The fact that the current BEV models have limited range (in kilometres) is considered a major disadvantage for car owners. A report from the Norwegian Environment Agency shows the relationship between BEVs' range and the share of different customer groups that would purchase zero emission vehicles as the minimum range increases, based on a consumer survey conducted by TØI (Norwegian Center for Transport Research):



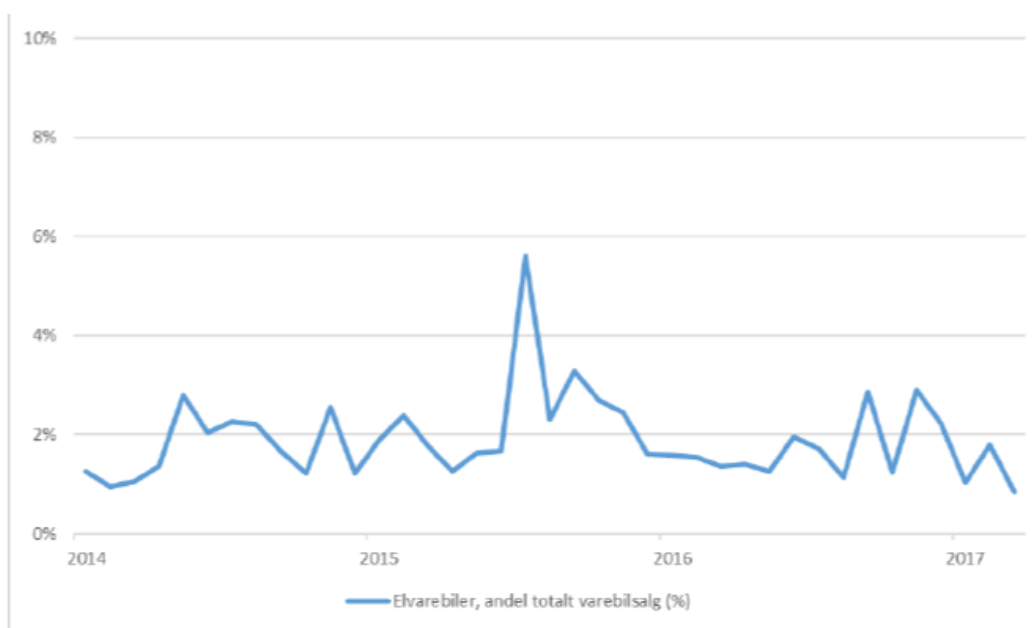
- (105) The survey shows for example that 50% of current owners of a conventional fossil fuel vehicle (ICEV owner – red line), require a zero emission vehicle with a range of minimum 300 km in winter conditions, in order to change to a zero emission vehicle. For 80% of the current ICEV owner to switch to a zero emission vehicle, they would require a range of approximately 500 km.
- (106) There is, according to the Norwegian authorities, also a high degree of uncertainty regarding the future development in the market, as well as the second hand market. Both real and perceived uncertainty regarding the expected costs and benefits make it more difficult for consumers to take fully into consideration the future costs and benefits of buying and owning a zero emission vehicle, and there is a risk that consumers focus more on cost and benefits today than costs and benefits in the future.⁴⁶ There might, for example, be uncertainty about the future maintenance costs for a zero emission vehicle or uncertainty about the lifetime of the battery. There may also be uncertainty for many purchasers as to whether the tax advantages and other policy measures towards zero emission vehicles will exist over the lifetime of the car at the time of purchase. BEVs represent a new and rapidly changing technology, and the lack of necessary information and uncertainty about future costs and benefits may therefore be substantial.
- (107) In order to correct consumers' inclination to disproportionately favour short term costs and benefits related to zero emission vehicles, offering incentives at the time of buying a vehicle may indeed be more effective than providing incentives over the lifetime of the vehicle (even if such measures may also be significant, see below). The zero VAT rating

⁴⁵ According to the Norwegian authorities, the main corridors of the northernmost regions of Norway do not have a fast charging network. The Norwegian authorities launched a tender for building fast charging infrastructure in Northern Troms and Finnmark, the northernmost counties in Norway. However, the tender attracted no bidders.

⁴⁶ The fact that for example lifetime fuel and maintenance costs are estimated to be lower for zero emission vehicles compared to conventional vehicles may not be fully considered.

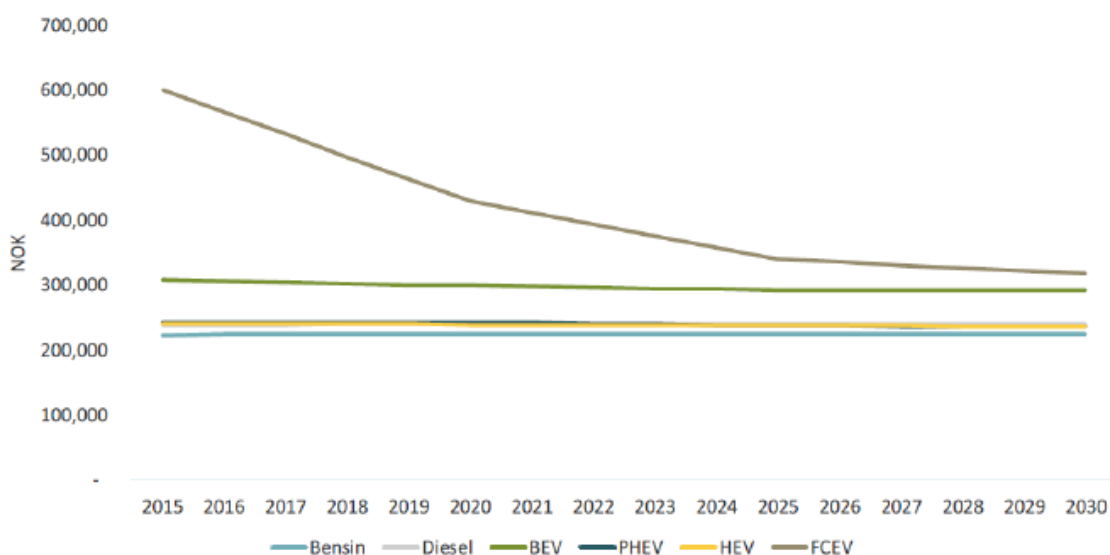
is therefore an appropriate instrument to lower the cost of purchasing at the time of buying a vehicle in favour of zero emission vehicles.

- (108) The zero VAT rating is also an instrument that is easy and intuitive for the consumers. While the other measures are smaller in economic terms, and may not be as effective as the zero VAT rating, they do add significant stimuli, in particular by reducing the cost of owning and operating a vehicle.
- (109) In addition to the cost disadvantages and battery range and charging stations limitations, there may also be other factors that prevent consumers from choosing BEVs. In particular, there is still a limited number of BEV models on the market (18 as of October 2017) and this may result in BEV owners not finding cars that fully match the characteristics they are looking for. Moreover, the Norwegian authorities have argued that there are perceived safety concerns, including issues of crashworthiness and post-impact vehicle safety, which may keep consumers from purchasing BEVs. These disadvantages are difficult to quantify, and they will differ between consumers, but in sum they contribute to reducing demand for BEVs.
- (110) Most of the limitations and disadvantages mentioned above for passenger cars are also valid for electric vans; the price for electric vans is higher than the price for conventional vans, driving autonomy is a major disadvantage and few models are available. Today, only four models of electric vans are available to consumers in Norway. End-users are not ready to pay the higher price solely based on environmental considerations. The measures will make electric van investments more profitable after tax, and are intended to incentivise investments in electric vans at the expense of fossil fuel vehicles.
- (111) As for electric vans, the sales numbers have been relatively low during the past years. The chart below shows the sales of electric vans as share of the total new sales of vans in Norway.⁴⁷



⁽⁴⁷⁾ The numbers are from The Norwegian Road Traffic Information Council. “*Elvarebiler, andel totalt varebilsalg*” means “Electric vans, share of total van sale”.

- (112) A recent report from the Norwegian Institute of Transport Economics (TØI)⁴⁸ analyses the use of electric vans among crafts and service workers in Norway. They find that currently the adoption of electric vans among the enterprises they examined is low, but there seems to be a strong interest for a wider use in the future. For the smaller craft enterprises, today's financial incentives are particularly important for their motivation to adopt zero emission vehicles, while for the somewhat larger service enterprises benefits related to environmental issues and greener company images are of greater importance.
- (113) As for FCVs, there is no large-scale production of this kind of vehicles. Today, only two models of FCVs are available to consumers in Norway. The price of FCVs is still higher than the price of conventional fuel vehicles. As with BEVs, consumers are not ready to pay a higher price for FCVs justified solely in environmental considerations. Even though the production costs are expected to fall before 2030, the costs are expected to remain considerably higher than the costs for conventional fuel vehicles. The chart below shows the expected development of the production costs of petrol cars (Bensin), diesel cars (Diesel), battery electric vehicles (BEV), plug-in hybrids (PHEV), hybrid cars (HEV) and fuel cell electric vehicles (FCEV):⁴⁹



- (114) There are only six stations offering hydrogen to FCVs, and five of them are located within 150 km of Oslo.⁵⁰ This means that FCVs are not available to the majority of the population.
- (115) Based on the above, the notified measures are appropriate to reduce the price difference between electric and conventional vehicles as well as reduce the cost of batteries, in order to respond to the identified market failure.⁵¹ They are appropriate measures to achieve the

⁽⁴⁸⁾ <https://www.toi.no/publications/pathways-to-sustainable-transport-among-norwegian-crafts-and-service-workers-article34019-29.html>

⁽⁴⁹⁾ <http://www.thema.no/store-utslippskutt-kjoretøyteknologi-bidra-norge/>

⁽⁵⁰⁾ The Authority approved an operating scheme which supports the roadside sale of hydrogen from hydrogen refueling stations in the County of Akershus in Decision No 145/17/COL, OJ C 377, 9.11.2017, p. 8.

⁽⁵¹⁾ The report “*Driving electrification. A global comparison of fiscal incentive policy for electric vehicles*”, edited by ICCT (The International Council on Clean Transportation), adopted in May 2014, provides for a worldwide overview of the public incentives in favour of electric cars. One of its main conclusions is that “national fiscal policy is a powerful mechanism to reduce the effective total cost of ownership and entice vehicle consumers to purchase electric vehicles. In particular it states that “[C]lear examples are Norway

general emission targets and the particular target on passenger cars emissions, and to tackle the non-price barriers.

6.4 Incentive effect

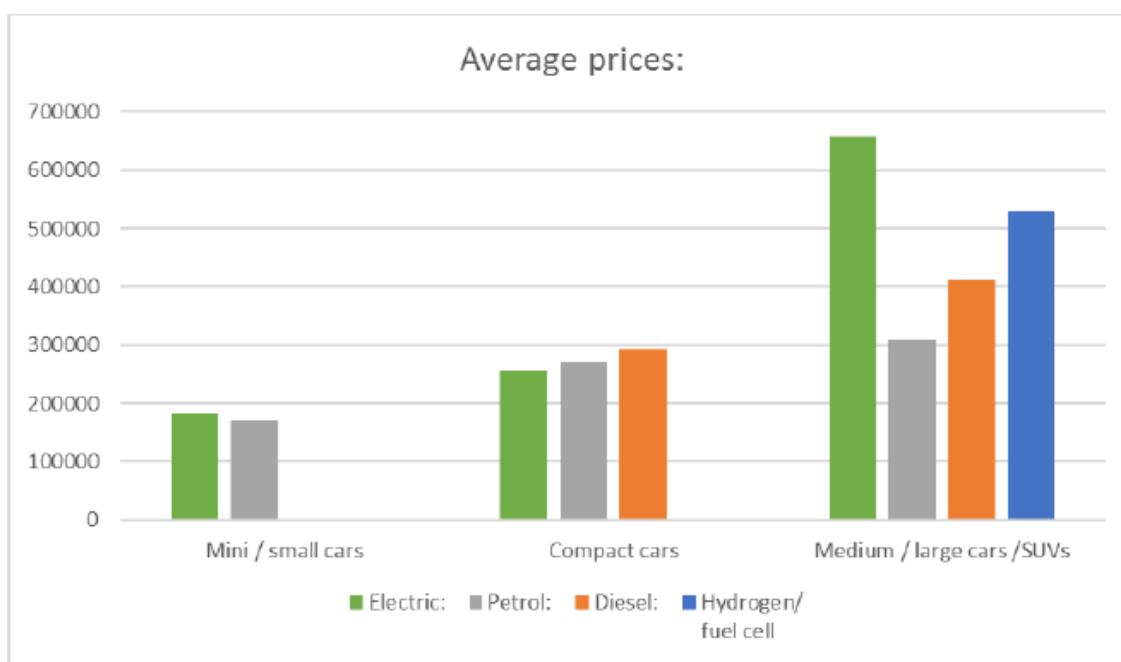
- (116) State aid is only compatible with the functioning of the EEA Agreement if it has an incentive effect. An incentive effect occurs when the aid induces the beneficiary to change its behaviour to further the identified objective of common interest, a change in behaviour which it would not undertake without the aid.
- (117) Based on available information, the Authority considers that the measures have an incentive effect. Without the measures, the number of zero emission vehicles purchases by consumers would not increase sufficiently to reach the targets set by the Norwegian government. Thus, without the incentives for the consumers, the manufacturing sector would not change its behaviour.
- (118) As regards the favourable depreciation rule, the purpose of the measure is to stimulate investments in electric cargo vans in Norway. Thus, the new depreciation rules will only be applicable for new investments. The Norwegian Government has decided that the new depreciation rules will only be applicable for electric vans bought on or after 20 December 2016. The proposal is part of the Government's proposed national budget for the year 2018.⁵² However, the measure was adopted in the Norwegian Parliament on 20 December 2016. It is stated in the preparatory works that the favourable depreciation rule is conditional upon the approval by the Authority.
- (119) Thus, the manufacturing sector has known that the rules, subject to the Authority's approval, would apply from 20 December 2016.
- (120) Based on this, the Authority considers that the favourable depreciation rules have an incentive effect.

6.5 Proportionality

- (121) State aid is proportionate if the aid amount is limited to the minimum needed to achieve the identified objective of common interest.
- (122) The aid measures have an overall objective of reducing the price difference between conventional and zero emission vehicles, and compensate for the disadvantages of using a zero emission vehicle for the consumers (such as limited range, longer charging time, limited number of models and uncertain second hand market).
- (123) Regarding the difference in the purchasing price between electric and conventional vehicles, the Norwegian authorities have provided evidence of the price differences, and how the tax exemptions affect the final price. The chart below gives a comparison of average sales prices for zero emission vehicles relative to conventional fuel vehicles in 2017, including taxes:

and the Netherlands, where high EV [electric vehicles] fiscal incentives result in a beneficial total cost of ownership for consumers, and this results in high EV market growth rate and market share", page 22.

(⁵²) Prop. 1 LS (2017–2018) chapter 6.2



- (124) The chart shows that the sale prices of zero emission vehicles in the segment of mini and small cars, as well as compact cars, are similar to the prices of similar petrol and diesel cars, including the measure in place. In the large car segment, the sales prices for zero emission vehicles are still significantly higher compared with petrol and diesel cars.
- (125) The Norwegian authorities have also provided information regarding specific car models which are offered in both electric and conventional form: Volkswagen Up!, Volkswagen Golf, Ford Focus and Mercedes Benz B-class. According to the Norwegian authorities, the Volkswagen Golf is especially instructive, as the electric, diesel and petrol versions are all the most popular new vehicles in their fuel segments among the compact cars. The table below shows the guiding sales prices and taxes on BEVs with comparable petrol and diesel models:

	Volkswagen e-up! (BEV)	Volkswagen up! (petrol)
Price incl. taxes	192 000	147 500
Registration tax	0	33 979
VAT	0	22 224
Scrap deposit	2 400	2 400
Before taxes	189 600	88 897
Taxes	2 400	58 603

	Volkswagen e-Golf (BEV)	Volkswagen Golf (petrol)	Volkswagen Golf (diesel)
Price incl. taxes	302 500	301 100	310 500
Registration tax	0	55 056	57 134
VAT	0	48 729	50 193
Scrap deposit	2 400	2 400	2 400
Before taxes	300 100	194 915	200 773
Taxes	2 400	106 185	109 727

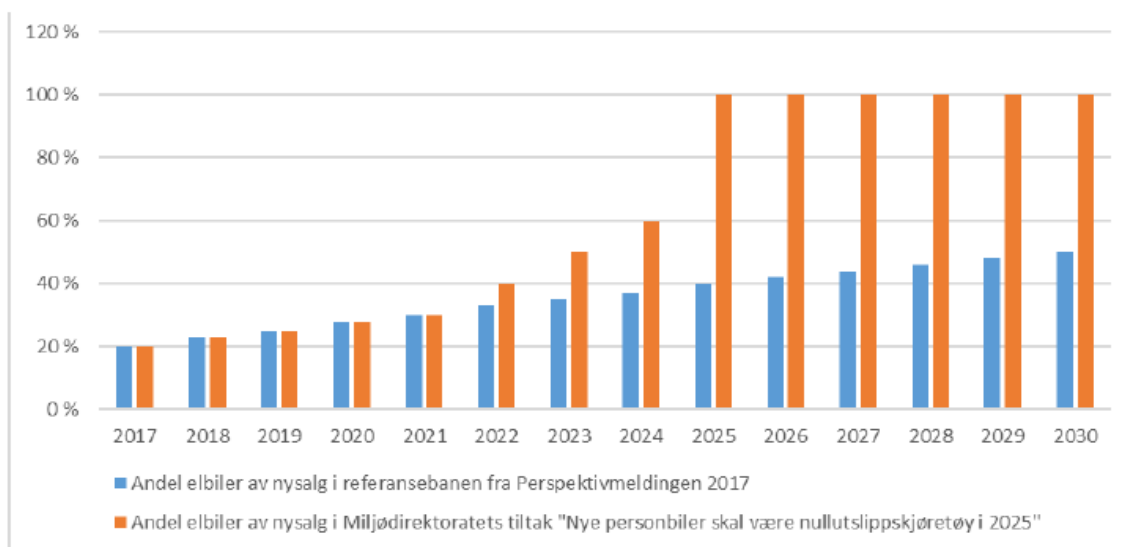
	Ford Focus (BEV)	Ford Focus (petrol)	Ford Focus (diesel)
Price incl. taxes	233 000	246 000	251 000
Registration tax	0	52 572	44 060
VAT	0	38 206	40 908
Scrap deposit	2 400	2 400	2 400
Before taxes	230 600	152 822	163 632
Taxes	2 400	93 178	87 368

	Mercedes Benz B-class (BEV)	Mercedes Benz B-class (petrol)	Mercedes Benz B-class (diesel)
Price incl. taxes	254 380	328 000	308 000
Registration tax	0	81 837	65 420
VAT	0	48 753	48 036
Scrap deposit	2 400	2 400	2 400
Before taxes	251 980	195 011	192 144
Taxes	2 400	132 989	115 856

- (126) As the data above shows, the guiding sales prices including taxes of BEVs are not too different from comparable cars within the small and compact car segment. In some isolated cases, the BEV is cheaper than its conventional vehicle counterpart. The state aid rules will in principle not allow the granting of aid exceeding 100% of the extra environmental costs.⁵³ Therefore, it could be argued that the total costs for zero emission vehicles (purchasing and operational costs) should not be reduced below the cost of conventional fuel vehicles.
- (127) However, the Authority notes that there are several reasons to find that overcompensation is excluded. First, the measures at hand only entail state aid for the indirect beneficiaries of such measures, i.e. the manufacturing sector. As a consequence, the state aid intensity received by those beneficiaries is significantly reduced; it is merely an indirect aid through a higher demand for their products. Second, it must also be recalled that despite the fast technological development, there are – for the time being – still significant differences between conventional and zero emission vehicles (limited range, limited number of models, longer charging time and uncertain second hand market). Therefore, at the current stage of technological development, the Authority concludes that the notified measures together are proportionate to the aim to be achieved, i.e. to stimulate the demand of zero emission vehicles without resulting in overcompensation.
- (128) The Government's targets for zero emission vehicles (see Section 3.4 above) requires a significant increase in the sale of these vehicles. In the "Perspectives on the Norwegian Economy 2017"⁵⁴, the Government has published official estimates for economic growth and environmental progress assuming that the existing measures are kept in place. The chart below shows the share of new sales of zero emission passenger cars that can be assumed with the existing measures (blue bars) compared to what is expected to be necessary to reach the target of all new passenger car sales to be zero emission vehicles in 2025 (red bars). The steep ramp up to reach the target of all new sales to be zero emission in 2025 also suggest a need for additional measures beyond what is currently in place:

⁽⁵³⁾ See the Authority's Decision 150/15/COL paragraph 158.

⁽⁵⁴⁾ <https://www.regjeringen.no/en/dokumenter/meld.-st.-29-20162017/id2546674/>



Share of zero emission vehicles, without existing measures (from White Paper Meld. St. 29 (2016–2017) Long-term Perspectives on the Norwegian Economy 2017) relative to assumed rate of introduction in the Norwegian Environment Agency analysis of 100% new passenger cars will be zero emission vehicles in 2025.⁵⁵

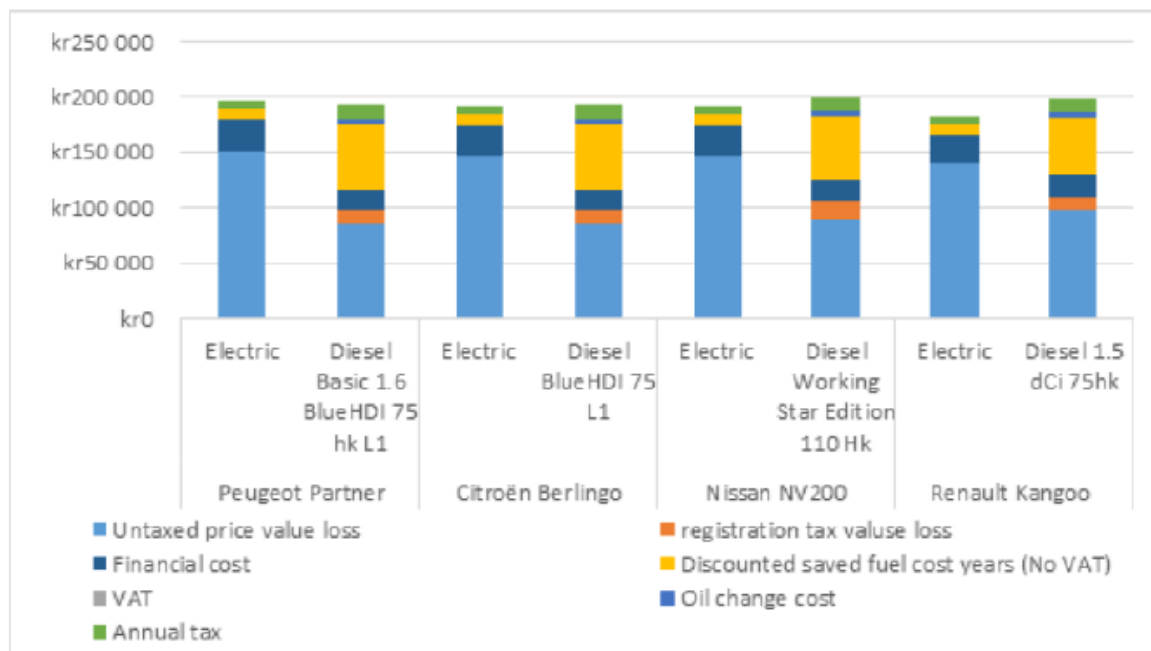
- (129) The Authority also notes that the lack of discrimination between manufacturers or dealers contributes to ensuring the proportionality of the measures.⁵⁶
- (130) Finally, the Authority notes that the zero VAT rating in favour of BEVs and batteries as notified is limited to three years (until the end 2020).
- (131) As regards the electric vans, 584 electric cargo vans under 3.5 tonnes (out of 33 844 cargo vans in total) were registered in Norway in 2016. According to the Norwegian authorities, the cost gap between electric and diesel vans is between NOK 45 000 and NOK 75 000 when registration tax is included and VAT excluded, and NOK 60 000 and NOK 85 000 when all taxes are excluded.⁵⁷ When all taxes in Norway are factored in, the difference is between NOK 0 and NOK 20 000, as diesel vehicles are heavily taxed. Moreover, when adding the annual tax, fuel/electricity cost, financial cost and an annual oil change on diesel vehicles, the total costs of ownership over five years are evened out when VAT is excluded from the calculation, as shown in the figure below.⁵⁸

⁽⁵⁵⁾ <http://miljødirektoratet.no/Documents/publikasjoner/M782/M782.pdf>

⁽⁵⁶⁾ The lack of discrimination between manufacturers has been identified by the Commission's practice as an element of its proportionality assessment in similar cases. See Commission decision of 8.3.2011. State aid No 386/2010 Denmark Pilot scheme for purchase of electric vehicles, paragraph 55, Commission decision of 26.4.2006, State aid N 142/2005 UK Low Carbon Car Grant Programme, title 3.2, and Commission decision of 19.11.2009, State aid N 457/2009 Germany Promote the purchase of hybrid buses in public transport. In the same line, the 1994 Environmental Guidelines refer to the lack of discrimination as to the origin of the products as a compatibility criteria while stating that "aid for purchase of environmentally friendly products will be assessed on their merits and may be authorized provided that they are granted without discrimination as to the origin of the products, do not exceed 100 % of the extra environmental costs and do not conflict with other provisions of the EEA Agreement or legislation made under it with particular reference to the free movement of goods", see point 15.4.4, underline added.

⁽⁵⁷⁾ <https://www.toi.no/publications/pathways-to-sustainable-transport-among-norwegian-crafts-and-service-workers-article34019-29.html>

⁽⁵⁸⁾ In their calculation, TØI assumes the length of ownership is 5 years, and the value loss of the vehicle is set to 70% over the 5 years. In reality, TØI argues, it is likely that battery electric vans will have a higher value loss, as this is new technology with uncertain residual value.



- (132) The notified depreciation rule implies that the beneficiaries will receive deductions in taxable income at an earlier point in time than what is the case under the currently applicable legislation. Faster depreciation increases the taxpayers' tax-deductible expenses in the first years of investments, which they can deduct from their income when calculating their taxes due. However, at a later point in time, tax-deductible expenses will be lower and income tax will be higher. In sum, the beneficiaries gain an increase in the present value of deductions. According to the Norwegian authorities, this incentive for vans should be evaluated in light of the fact that the zero VAT rating does not give any incentive for businesses subjected to VAT to purchase zero emission vehicles, since paid input VAT is recovered.
- (133) As regards the FCVs, the Authority notes that the production costs are still high, and is expected to remain higher than the costs of conventional vehicles in the near future, even after taking into account the notified measures.
- (134) Based on the above, the notified measures are proportionate.

6.6 Avoidance of undue negative effects on competition and trade

- (135) For state aid to be compatible with the functioning of the EEA Agreement, the negative effects of the aid measure in terms of distortions of competition and impact on trade between Contracting Parties must be limited and outweighed by the positive effects in terms of contribution to the objective of common interest.
- (136) The Authority underlines that the measures only grant state aid to the indirect beneficiaries of the measures, not to their direct beneficiaries. This implies in itself that the potential distortion of competition and trade is limited.
- (137) It is also relevant to recall that there is no discrimination between operators in the manufacturing sector.
- (138) Furthermore, the benefits obtained by those indirect beneficiaries, i.e. the increase of demand for zero emission vehicles, is necessary for achieving the objective pursued by the

scheme.⁵⁹ Therefore, the measures do not entail undue distortions of competition and trade and the overall balancing exercise has a positive outcome.

6.7 Transparency

- (139) According to the general transparency requirement, only aid granted in a transparent manner can be approved on the basis of Article 61(3)(c) of the EEA Agreement. The Norwegian authorities have committed to publish information about the aid granted in accordance with the general transparency requirement. The Norwegian authorities will publish the full text of the aid scheme and make the necessary disclosures on a central website.⁶⁰

7 Evaluation of measures

- (140) The Authority notes, and welcomes, that the Norwegian authorities have committed to perform a mid-term review of the notified measures. The review will use data from 1 January 2018 until 31 December 2019, and the review will be submitted to the Authority no later than 1 July 2020. The review will take into account the Commission working document “Common methodology for State aid evaluation”.⁶¹

8 Conclusion

- (141) On the basis of the foregoing assessment, the Authority considers that the measures constitute state aid within the meaning of Article 61(1) of the EEA Agreement. Since no doubts are raised as to their compatibility with the functioning of the EEA Agreement pursuant to its Article 61(3)(c), the Authority has no objections to their implementation.

For the EFTA Surveillance Authority, acting under Delegation Decision No 068/17/COL,

Yours faithfully,

Sven Erik Svedman
President

Carsten Zatschler
Director

This document has been electronically signed by Sven Erik Svedman, Carsten Zatschler.

⁽⁵⁹⁾ Along the same lines, see Commission Decision 20.11.2013. State aid SA. 34719 (2013/N), OJ C 69, 7.3.2014, p 1. The Netherlands. Electric transportation scheme in Amsterdam, paragraph 65.

⁽⁶⁰⁾ The information will be available on the following website: <https://data.brreg.no/rofs/>

⁽⁶¹⁾ http://ec.europa.eu/competition/state_aid/modernisation/state_aid_evaluation_methodology_en.pdf