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EFTA SURVEILLANCE AUTHORITY DECISION No 064/2026/COL

of 8 April 2026

concerning an exemption from the CO_2 tax on LPG and natural gas for undertakings covered by the EU ETS (Norway) [2026/1748]

THE EFTA SURVEILLANCE AUTHORITY (‘ESA’),

Having regard to the Agreement on the European Economic Area (‘the EEA Agreement’), in particular to Articles 61 and 62,

Having regard to Protocol 26 to the EEA Agreement,

Having regard to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice (‘the Surveillance and Court Agreement’), in particular to Article 24,

Having regard to Protocol 3 to the Surveillance and Court Agreement (‘Protocol 3 SCA’), in particular to Article 1(2) of Part I and Article 8(2) of Part II,

Whereas:

I. **FACTS**

1 **Procedure**

(1) On 29 February 2024, the Norwegian authorities notified i) an exemption from the excise duty on waste incineration for undertakings subject to the EU Emissions Trading System (‘Measure 1’) and ii) an exemption from the CO_2 tax for liquefied petroleum gas (‘LPG’) and natural gas for the processing industry for undertakings subject to the EU Emissions Trading System (‘Measure 2’), pursuant to Article 1(3) of Part I of Protocol 3 SCA ([1]) (‘the notification’).

(2) By Decision No 039/24/COL of 27 March 2024 (‘the Opening Decision’) ([2]), ESA initiated the formal investigation procedure. On 30 April 2024 ([3]), the Norwegian authorities submitted their observations on the Opening Decision.

(3) The Opening Decision was published in the Official Journal of the European Union and in the EEA Supplement to it ([4]). ESA received comments from interested parties regarding Measure 1 ([5]). On 14 June 2024 ([6]), ESA forwarded these to the Norwegian authorities. On 21 June 2024 ([7]), the Norwegian authorities submitted their observations on the comments from the interested parties.

([1]) Document Nos 1439561, 1439563 and 1439565.

([2]) ESA Decision No 039/24/COL, *opening a formal investigation into the exemptions from excise duty on waste incineration and CO2 tax on LPG and natural gas for undertakings covered by the ETS*.

([3]) Document Nos 1453310, 1453306, 1453308 and 1453304.

([4]) Decision No 039/24/COL of 27 March 2024 to open a formal investigation into exemptions from the excise duty on waste incineration and the CO_2 tax on LPG and natural gas for undertakings covered by the ETS – Invitation to submit comments on state aid issues pursuant to Articles 4(4) in Part II and 1(2) in Part I of Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice concerning the abovementioned measures (OJ C, C/2024/3127, 8.5.2024, ELI: http://data.europa.eu/eli/C/2024/3127/oj, and EEA Supplement No 38, 8.5.2024, p. 1).

([5]) Document No 1509369.

([6]) Document No 1463157.

([7]) Document Nos 1465942 and 1465940.

(4) On 18 February 2025 [8], ESA requested additional information from the Norwegian authorities. On 27 February 2025, a meeting was held between ESA and the Norwegian authorities. On 18 March 2025 [9], the Norwegian authorities replied to the information request of 18 February 2025. On 19 May 2025, another meeting was held between ESA and the Norwegian authorities, and on 28 May 2025 [10], ESA sent follow-up questions to the Norwegian authorities. The Norwegian authorities submitted answers to ESA's questions on 1 July 2025 [11]. Additional meetings between ESA and the Norwegian authorities were held on 25 August 2025 and 4 September 2025. By agreement between ESA and the Norwegian authorities and pursuant to Article 7(6) of Part II of Protocol 3 SCA, the time limit to adopt a decision following the formal investigation was extended to 31 December 2025. Further meetings between ESA and the Norwegian authorities were held on 10 October 2025, 14 November 2025 and 21 November 2025.

(5) By Decision No 202/25/COL, ESA closed the formal investigation with respect to Measure 1, finding that Measure 1 did not constitute State aid within the meaning of Article 61(1) of the EEA Agreement [12].

(6) By agreement between ESA and the Norwegian authorities and pursuant to Article 7(6) of Part II of Protocol 3 SCA, the time limit to adopt a decision with respect to Measure 2 following the formal investigation was further extended to 8 July 2026.

(7) By letter dated 1 March 2026, the Norwegian authorities withdrew the notification with respect to Measure 2.

2 Description of the measure

(8) According to the withdrawn notification, in its budget proposal of 12 October 2021, the Norwegian Government proposed to introduce a CO_2 tax on natural gas and LPG used in chemical reduction or electrolysis, metallurgical and mineralogical processes ('the CO_2 tax on the processing industry').

(9) The Norwegian Climate Quota Act ('the Climate Quota Act') [13] was introduced to implement Norway's obligations pursuant to the EU Emissions Trading System Directive ('ETS Directive') [14]. Within its scope of application, the Climate Quota Act imposes an obligation on undertakings to surrender emission allowances as specified in the Climate Quota Act.

(10) According to the withdrawn notification, to avoid that undertakings are both subject to the CO_2 tax on the processing industry and the obligation to surrender emission allowances pursuant to the Climate Quota Act, the Norwegian authorities planned to introduce Measure 2. If approved by ESA, Measure 2 would have completely exempted emissions that are covered by the Climate Quota Act from the CO_2 tax on the processing industry [15].

3 Assessment

(11) In view of the withdrawal of the notification by Norway with respect to Measure 2, the formal investigation procedure initiated in respect of Measure 2 has become without object.

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(8) Document No 1509413.
(9) Document Nos 1525019 and 1525021.
(10) Document No 1539541.
(11) Document Nos 1552680 and 1552681.
(12) ESA Decision No 202/25/COL, *closing the formal investigation concerning exemptions from the excise duty on waste incineration for undertakings covered by the EU ETS*.
(13) LOV-2004-12-17-9.
(14) Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (OJ L 275, 25.10.2003, p. 32, ELI: http://data.europa.eu/eli/dir/2003/87/oj), act referred to at point 21al of Annex XX to the EEA Agreement, as amended.
(15) Prop. 1 LS (2021-2022), Skatter, avgifter og toll 2022, Proposal for Parliamentary decision p. 333.

4 Conclusion

(12) The procedure laid down in Article 1(2) of Part I of Protocol 3 SCA has become without object due to the withdrawal of the notification by Norway with respect to Measure 2 and shall be closed.

HAS ADOPTED THIS DECISION:

Article 1

Due to the withdrawal of the notification by Norway, the formal investigation procedure under Article 1(2) of Part I of Protocol 3 SCA initiated on 27 March 2024 in respect of the notified exemption from the CO_2 tax on the processing industry, i.e. Measure 2, has become without object and is hereby closed in accordance with Article 8(2) of Part II of Protocol 3 SCA.

Article 2

This decision is addressed to the Kingdom of Norway.

Article 3

Only the English language version of this decision is authentic.

Done in Brussels, 8 April 2026.

For the EFTA Surveillance Authority

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President
Responsible College Member

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