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EFTA SURVEILLANCE
AUTHORITY

Ministry of Petroleum and Energy
Einar Gerhardsens plass 1
0033 Oslo
Norway

Dear Sir/Madam,

Subject: Foreign Trade License (Section 4-2 of the Energy Act)

According to Section 4-2 of the Energy Act¹, “*no one but the State may export or import electrical energy without a licence*” (hereafter “the Foreign Trade License”).

In order to allow the Authority to assess the compatibility of this provision with the EEA Agreement, Norway is kindly requested to respond to the questions set out below and to include any relevant reference to Norwegian law underpinning the responses.

1. Which economic operators and which operations are covered by the requirement to obtain a Foreign Trade License? In other words, does the requirement apply to operators and owners of cross-border interconnectors? Does it apply to energy traders or users purchasing electricity produced in Norway to export it to the EEA, or Norwegian traders or users importing electricity into Norway? Would it apply to any other operators or operations? Moreover, are companies fully owned by the Norwegian State subject to the licence, as, for example, Statnett?
2. What procedure applies to the delivery of a Foreign Trade License, and where is that procedure set out? Does an applicant for a Foreign Trade Licence incur any fees in the application process?
3. What criteria are taken into account in the review of an application for a Foreign Trade Licence? Where are such criteria set out?
4. More generally, what is the purpose of the licensing requirement?
5. Articles 11 and 12 of the EEA Agreement prohibit any quantitative restrictions on imports and exports, and all measures having equivalent effect. Moreover, Directive 2003/54/EC concerning common rules for the internal market in electricity and Directive 2005/89/EC concerning measures to safeguard security of electricity supply and infrastructure investment and Regulation 1228/2003 on condition for access to the network for cross-border exchanges in electricity establish a comprehensive framework for the internal market in electricity and the

¹ Act no 50 of 29 June 1990: Act relating to the generation, conversion, transmission, trading, distribution and use of energy, ect. (The Energy Act).

safeguarding of security of supply. What are Norway's views on the compatibility of Section 4-2 of the Energy Act with those provisions?

The Norwegian Government is invited to submit the above information, as well as any other information it deems relevant to the case, so that it reaches the Authority by *15 February 2010*. Please enclose copies of relevant national legislation, including English translations if available.

Yours faithfully,



Tuula Nieminen
Deputy Director
Internal Market Affairs Directorate