



ROYAL NORWEGIAN
MINISTRY OF AGRICULTURE AND FOOD

EFTA Surveillance Authority
35 Rue Belliard
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Your ref
CNo 79170 DNo 801541

Our ref
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Subject: Compatibility with provisions of the EEA Agreement

Reference is made to the Authority's letter dated 13 May 2016 and correspondence about extension of the deadline for an answer from the Norwegian Government. The deadline has been set to 20 June 2016, and the answer will be given by the Norwegian Ministry of Agriculture and Food.

The Norwegian Competition Law - The exemption regulation regarding cooperation within the agricultural and fishing sector ("the Regulation")

The Regulation covers both the Norwegian agricultural and fishing sector. In what follows below we will only comment on the agricultural sector.

The Regulation is an exemption from the Norwegian competition law ("the Law") both for the farmers and the co-operatives in the agricultural sector. In the letter 13 May 2016 the Authority mention agricultural products falling under heading No 0403 of the Harmonized Commodity Description and Coding System. The heading No 0403 covers mainly different products of yoghurt, and the Ministry will therefore below base our answer on the dairy sector.

Many farmers in the dairy sector are owners of the co-operative Tine, and they are at the same time independent enterprises which supply milk as raw material to Tine. To enable this situation where the farmers both are owners and suppliers to Tine, it is necessary to have an exemption from the Norwegian competition law.

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The Regulation also includes an exemption from the Law for co-operatives in the agriculture sector. Before 2002 Tine consisted of several independent regional dairy co-operatives. There was a need of this exemption to enable Tine's regional dairy units to co-ordinate their operations regarding production and sales-activity.

In 2002 these regional dairy co-operatives merged into one Tine-enterprise, and because of this Tine does not any longer fall within the scope of the exemption.

Assessment of the compatibility between the Regulation and the EEA Agreement

According to article 8 (3) in the EEA Agreement the provisions of the Agreement shall only apply to:

- (a) *"products falling within Chapters 25-97 of the Harmonized Commodity Description and Coding System, excluding the products listed in Protocol 2:*
- (b) *products specified in Protocol 3 subject to the specific arrangements set out in that Protocol."*

As mentioned above the exemption from the Law is necessary for the milk farmers because they are both owners and suppliers for Tine. We will underline that the product they deliver to Tine is raw milk, which is not falling within the scope of the Agreement.

Production of yoghurt with flavouring, which is covered by the Agreement, are produced by Tine. But the dairy co-operative is no longer within the scope for the exemption from the Law since they became one corporation in 2002.

The Ministry will further underline that also for the common agriculture market schemes in the EU, there has been made exemptions from provisions in the Unions competition law. In this context we would like to point out that a large part of the import of dairy products to Norway is produced by the EU dairy co-operative Arla, which is owned by milk-farmers that sell their production to Arla. The import of Arla-products include products that are specified in Protocol 3.

Based on the discussion above the Ministry of Agriculture and Food will uphold that there is no inconsistency between the provisions in respectively the Regulation and the EEA Agreement.

Yours sincerely,

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Deputy Director General

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This document has been signed electronically and therefore it is not signed by hand