

**ESA**

EFTA  
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# **CEEAG 2022: Adoption, Adaptation and Application by ESA**

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*The views expressed in this presentation are solely those of the presenter and not necessarily those of the EFTA Surveillance Authority*

## **Agenda:**

I Setting the scene

II ESA CEEAG adoption and adaptations: the “new” approach

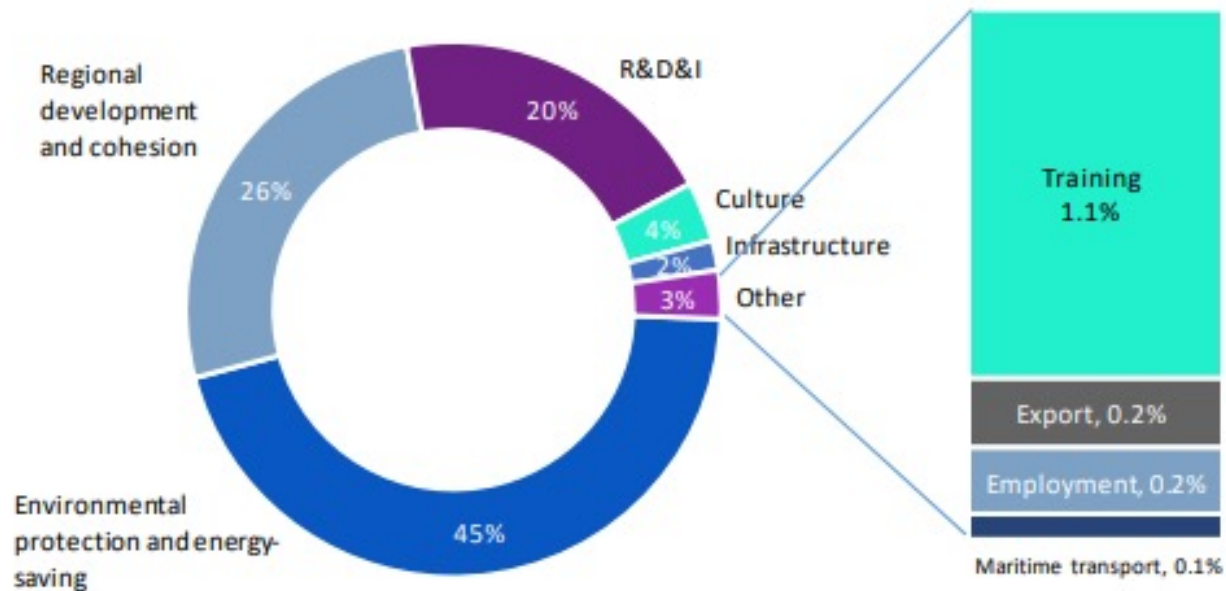
III The ESA CEEAG: some reflections on practical implications

# I Setting the scene

- Energy & Environment is an important part of ESA's state aid work
- ESA's Guidelines on State aid for environmental protection and energy 2014-2021 ("the EEAG")
  - Case 84744: the Hywind Tampen Project (floating offshore wind farm)
  - Case 85378: the Full-Scale CCS Project (carbon capture, transport and storage)
  - Case 87748: Topeka Natrutten (zero emission vessels for cargo and liquid H2)
- Direct application of the EEA Agreement (art 61(3)(c))
  - Case 86666: dedicated alternative fuels infrastructure 2021–2025
  - Case 85245: tax incentives in favor of emission friendly vehicles until the end of 2023

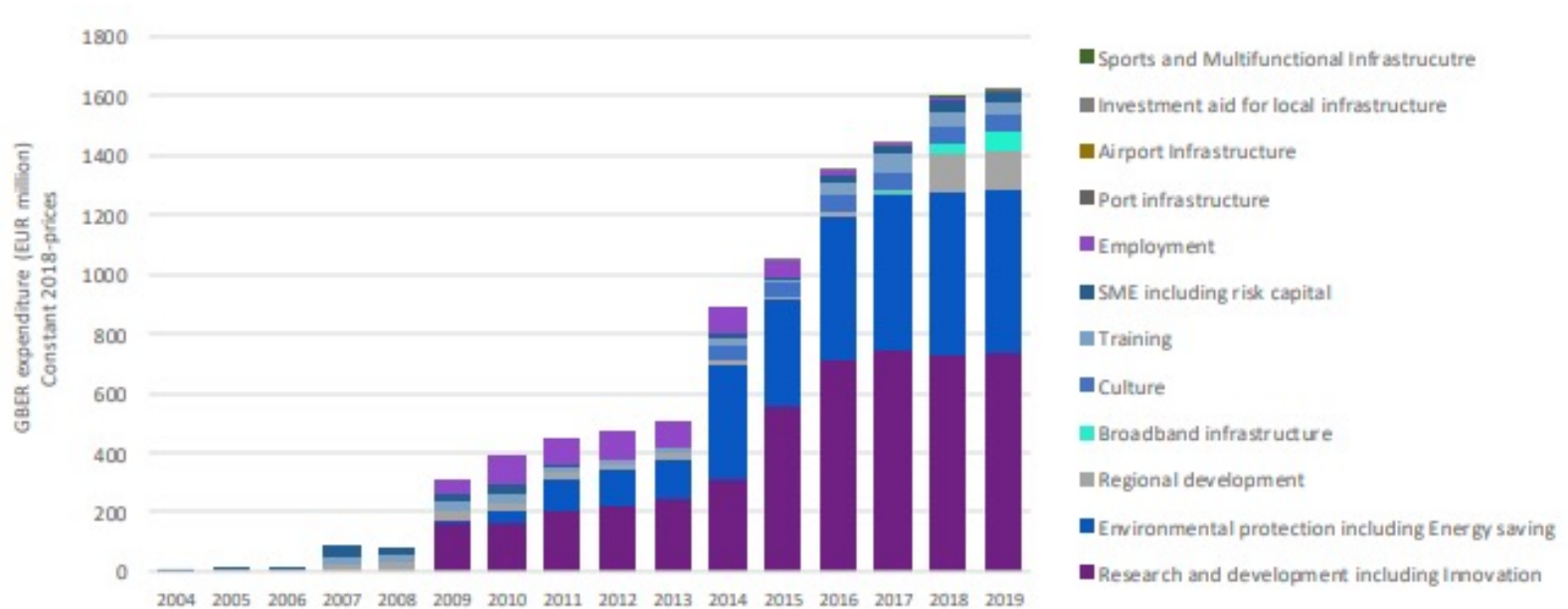
## ESA State Aid Scoreboard 2020

**Figure 4:** State aid expenditure by main objective in the EFTA States in 2019



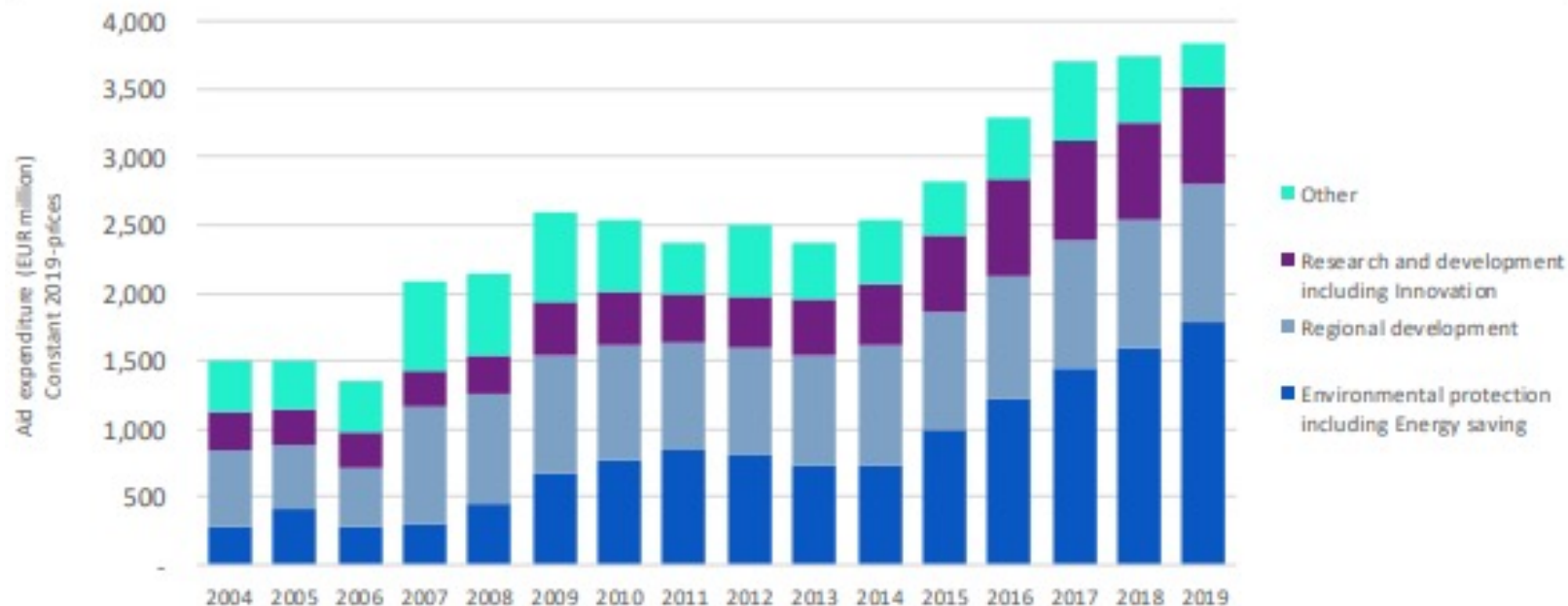
# EEA EFTA States spending in 2019 (the **General Block Exemption Regulation**)

**Figure 8:** GBER expenditure in the EFTA States during 2004–2019



## Total aid expenditure, Norway 2004-2019

**Figure 5:** Total aid expenditure by main objective in Norway during 2004–2019<sup>20</sup>



- The 2030 policy targets require *EUR 390 billion in additional annual investment* (COM estimate, CEEAG, point 3)
  - no net emissions of greenhouse gases in 2050
  - reduction of net greenhouse gas emissions by at least 55% by 2030 compared to 1990 levels
- Cost-effective mobilisation of public and private funds
- Achieving ambitious policy targets vs (undue) distortion of competition
- The CEEAG: a tool in finding a balance

## II ESA CEEAG adoption and adaptations: the “new” approach

- The “old” approach

ESA adoption decision and guidelines text adapted by ESA

E.g., ESA decision 301/14/COL and [ESA's EEAG 2014-2020](#)

- In December 2021, the “new approach”

- ESA adoption decision, including the necessary adaptations *in that decision only*
- Publication of ESA decision and Guidelines *as adopted by COM*

*The “new approach” examples:*

ESA Decisions No 280/21/COL (IPCEI Communication); 293/21/COL (STEC Communication); and 292/21/COL (Risk Finance Guidelines)



## CEEAG adoption by ESA & main adaptations

- The CEEAG adoption by ESA

ESA Decision No [029/22/COL](#) of 9 February 2022 adopting [the CEEAG](#) and its [Annexes](#)

- EU law and policy references in the CEEAG, Decision preamble

“The 2022 Guidelines may refer to certain European Union policy instruments and to certain European Union legal acts that have not been incorporated into the EEA Agreement. With a view to ensuring uniform application of State aid provisions and equal conditions of competition throughout the EEA, ESA will generally apply the same points of reference as the Commission when assessing the compatibility of aid with the functioning of the EEA Agreement”

- The EEA Agreement scope, Decision article 2(l)

“if the Guidelines set out that they will be applied to ‘all sectors of economic activity’, ESA applies them to ‘all sectors of economic activity or parts of sectors of economic activity falling within the scope of the EEA Agreement’ ”

- CEEAG date of application, Decision article 1(1)

“ESA applies these guidelines to assess the compatibility of all notifiable aid for climate, environmental protection and energy awarded or intended to be awarded from 9 February 2022. Unlawful aid will be assessed in accordance with the rules applicable at the date on which the aid was awarded.”

**Nb!** COM CEEAG: from 27 January 2022

- Appropriate measures, Decision article 3

“ESA proposes the following appropriate measures to the EFTA States under Article 1(1) of Part I of Protocol 3 of the Surveillance and Court Agreement:

- (a) The EFTA States amend, where necessary, existing environmental protection and energy aid schemes in order to bring them into line with these guidelines no later than 31 December 2023;
- (b) The EFTA States are invited to give their explicit unconditional agreement to the proposed measures by 11 April 2022. In the absence of any reply, ESA will assume that the EFTA State in question does not agree with the proposed measures.”

### III The CEEAG: some reflections on practical implications

- **More internal coordination at ESA?**

- Art 61(3)(c) compatibility assessment: not just state aid rules

The Hinkley Point case-law

E.g., Case 85245 Tax incentives in favor of emission friendly vehicles, para 113:

“ESA has no indications that the measures, the conditions attached to them or the activities they finance, are incompatible with relevant EEA law”

- CEEAG, point 33:

*“If the supported activity, or the aid measure or the conditions attached to it, including its financing method when it forms an integral part of the measure, entail a violation of relevant Union law, the aid cannot be declared compatible with the internal market”*

- EEA relevance of EU legislation references in the CEEAG? Part of the EEA legal order?

# College

## Internal Market

General

## ENFIP

(*Environment, Energy,  
Financial Services and  
Public Procurement*)

## Transport

See ESA's organisational [chart](#)

## Competition & State aid

State aid team

Chief Economist team

## Legal

## ■ More flexible max aid rules

### *The EEAG & individually notifiable aid*

- Counterfactual analysis based on profitability in the absence of aid (NPV, IRR)

**Net Extra Costs** or (full) **Funding Gap** estimate in the absence of counterfactual

- Investment aid intensities (EEAG Annex 1)

Eg RES energy, large enterprises: 45% (100% if competitive bidding)

### *The CEEAG:*

- More flexibility for reduction and removal of GHG emissions, incl RES energy
- Up to 100% of the **NEC**; (full) **FG** (if no counterfactual)
- **NEC/FG** detailed assessment not required if competitive bidding process

**Nb!** More focus on competitive bidding process, and exemptions from it

## ■ **Less cases?**

Individual notification thresholds for individual aid under aid schemes

*The EEAG examples:*

RES investment aid: aid amount exceeds MEUR 15 million for one undertaking

energy infrastructure investment aid: aid amount exceeds MEUR 50 for one undertaking, per investment project

*The CEEAG:*

No individual notification threshold for aid under approved schemes

**Nb!** if no *competitive bidding process*, individual notification requirement is a factor in the balancing test for projects of *certain size or characteristics*;

## The **General Block Exemption Regulation** (“**GBER**”) impact?

Some examples:

*investment aid for environmental protection: MEUR 15 undertaking/investment*

Special rules for energy efficiency; publicly accessible recharging or refuelling infrastructure for zero or low emission vehicles; remediation of contaminated sites, district heating or cooling distribution network

*investment aid for energy infrastructure: MEUR 50 undertaking/investment*

**Nb!** the pending “Green Deal” GBER amendments

# Thank you!

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