



Luxembourg, 18 October 2002

PRESS RELEASE 08/02

Judgment in Case E-7/01

Hegelstad Eiendomsselskap Arvid B. Hegelstad and Others v Hydro Texaco AS

Service Station Agreements under EEA Competition Law

In a judgment (advisory opinion) delivered today, the EFTA Court ruled on the issue of whether and under which circumstances a long-term contract entered into between a motor-fuel supplier and an operator of a service station is incompatible with EEA competition law.

In 1992, the parties to the main proceedings pending before Gulating lagmannsrett (Gulating Court of Appeal) concluded a cooperation agreement according to which the service station operator was bound to purchase motor fuels and lubricants exclusively from the supplier. The contract runs for ten years and is automatically renewed for an additional five years, unless terminated by the supplier. The service station operator has no right to terminate the contract and is therefore bound for a period of 15 years. Gulating lagmannsrett requested the guidance of the EFTA Court on whether this type of exclusive purchasing agreement is valid under EEA competition law.

The two main questions answered by the EFTA Court are whether the agreement was caught by the prohibition of Article 53 (1) of the EEA Agreement and whether it was exempted from this prohibition by way of a then existing block exemption for exclusive purchasing agreements.

The block exemption on exclusive purchasing agreements contains special rules for service station agreements. However, as the exemption applies only to agreements of up to ten years, the Court found that the type of agreement at issue falls outside the regulation and cannot benefit from the block exemption.

With regard to the applicability of the prohibition laid down in Article 53(1) EEA, the Court held that the prohibition does not apply to an exclusive purchasing agreement entered into between a supplier of motor fuels and lubricants and an independent service station operator for a fixed period of 15 years, where that type of agreement makes only an insignificant contribution to the cumulative closing-off effect produced by the totality of agreements on the market.

Moreover, with regard to the legal effects of an infringement of Article 53(1) EEA, the Court held that the nullity provided for in Article 53(2) EEA applies only to those parts of the agreement affected by the prohibition in Article 53(1) EEA. It is for the national court to determine, in accordance with the relevant national law, whether the nullity affects the validity of other parts of the agreement.

The full text of the judgment may be found on the Internet at <http://www.efta.int>.

The EFTA Court is composed of the Judges Thór Vilhjálmsson (President), Carl Baudenbacher and Per Tresselt.

This press release is not an official document. Please note that the Court may not comment on the case.