

Euromines Public Consultation Response:

Review of the EU State Aid Guidelines for Climate Environment protection and Energy (CEEAG)

August 2021

As the recognized representative of the European mineral raw materials industry covering more than 42 minerals and metals and employing 350.000 people directly and about four times as many indirectly, **Euromines welcomes a European Green Deal** fostering a new growth strategy that will transform the European Union into a modern, sustainable and competitive economy.

In this context, Euromines welcomes the opportunity to respond to the public consultation on the Review of the EU State Aid Guidelines for Climate Environment protection and Energy (CEEAG). Mining as a process is an energy-intensive process so that energy and system costs have an important impact on the competitiveness of our operations and installations. At the same time, European companies hold technologies for sustainable and climate-smart mining, the deployment of which will increase energy costs and investments. Apart from that, the demand for minerals will rise exponentially to ensure a raw materials base for green and sustainable technologies – a base that can only be sustainable if the mining of the underlying materials is sustainable.

Thus, competitive energy/electricity and system costs will be a key factor for the mining sector to continue the journey onwards to secure sustainably sourced minerals for EU raw materials needs enabling the transition towards a carbon neutral continent while staying competitive on global markets and undertaking the necessary investments to further reduce climate and environmental impacts of mining.

The CEEAG revision will be a crucial policy tool to ensure the availability of electricity at competitive costs and allow for further investments in our sector to bolster the sustainability frontrunner position of EU mining. It will also be key in encouraging industrial electrification and the uptake of low carbon technologies such as hydrogen, CCS, etc.

Given the enabling nature of the products mined for the green transition, and the enabling role of the sector itself through its technological leadership in sustainable mining and the role of mines in grids, such as users of long-term power purchasing agreements or the use of mines for grid balancing purposes, the mining industry needs continued support under CEEAG. While the sector is ready to contribute to the costs of the transition, Euromines asks in this document improve the framework by:

- maintaining positive aspects of the current CEEAG recognizing the need that electricity and system costs need to be proportionate
- improving the guidelines to cover indirect costs as well
- improving the methodology of applying the guidelines
- identifying salt as a sector at risk of relocation

1) Maintain positive aspects of the current system

Competitive energy costs are crucial to ensure sustainable minerals supply for Europe. The Commission recognized that access to abundant energy at competitive prices is the most important framework conditions for industry to decarbonize in both the 'Industrial Transformation Masterplan' and 'Metals for a Climate neutral Europe'. The ongoing transformation of industry and society towards a decarbonized continent with ever increasing penetration of variable renewable electricity, the CEEAG will have a crucial role to play to ensure electricity remains available in sufficient volumes and at globally competitive rates.

As the Commission acknowledges in the explanatory note accompanying the proposed CEEAG revision, Member States will likely continue to finance the transition towards carbon neutrality through levies. These levies will likely remain high or increase in the coming years, as the National Energy and Climate Plans (NECPs) have confirmed the intention of Member States to ramp up renewables' generation in the run up to 2030, while many existing support schemes will remain in place for the coming decade. These levies will therefore remain an important cost for the energy intensive industry.

Keeping the possibility of aid for reduction of greenhouse gases as it is existing for now has proven necessary to ensure the competitiveness of the industry. Any reduction would be counter intuitive as it would reduce competitiveness and hamper the agility of the mining sector to undertake the necessary innovations and investments to further decarbonize given that policies introduced by the European Green Deal and the 'Fit for 55' package increase the deployment of RES while in parallel, the price of CO₂ will also rise.

Maintaining the aid possibility is therefore key and constitutes a very positive and essential development given that the possibility for such aid is a key enabling condition for industrial decarbonisation. This should be maintained in the final Guidelines since it could play an important role in reducing direct emissions from mining activities.

To ensure the effectiveness of the scheme, Euromines asks to consider the following points:

- While we welcome the continued possibility for Member States to limit the costs of levies to a percentage of gross value added (GVA), the increase from 0.5% of GVA for most exposed sectors to 1.5% seems only reasonable if this applies to the combined sum of all environmental fees and levies.
- The proposed increase of the minimum level of own contribution from 15% to 25% of the eligible levies does not seem justified as it could expose the energy intensive industry with its recently approved national schemes to higher cost and reduce regulatory certainty.
- Reductions of Public Service Obligations regarding the funding of social tariffs should be maintained in order to prevent electricity consumers from relocating or shutting down operations.
- The recognition of high-efficiency cogeneration as efficient energy production and reduction of carbon emissions and thus as eligible for reductions to secure financing for such support schemes as approved in different Member States should also be maintained.

2) Improve guidelines regarding indirect costs

Certain costs that come along with financing the transition do not constitute RES surcharges, but are still undermining the global competitiveness of the energy intensive industry. Facilitating investments in industrial decarbonization by covering additional costs of implementing low-carbon technologies will be a crucial dimension for the CEEAG. The additional possibilities to allow reduction from charges should include:

- Reductions from charges financing capacity mechanisms given their necessity to increase the level of RES and their shifting role towards financing an energy policy objective.
- Aid for reductions of indirect emissions to facilitate the decarbonization and uptake of electrification in energy-intensive sectors and to ensure a level playing field between industrial sectors, direct and indirect emissions reduction.
- Facilitating PPAs of low carbon electricity by providing the possibility of aid to create „Green Pool“ aggregators that aggregate green electricity and provide PPA partners with the electricity they need, the cost of which should be compensated via a CEEAG compatible scheme.

3) Improving the methodology of applying the guidelines

For Euromines, certain points in the application foreseen in the guidelines require improvements in order to ensure their full effectiveness. These pertain to:

- **Minimum cumulative level of levies**

We believe that the introduction of a minimum cumulative level of levies per MWh is not appropriate. The cost of these levies varies significantly across Member States and the introduction of a single minimum threshold would therefore be arbitrary. The introduction of a minimum level would also represent a competitive disadvantage for European energy intensive industries.

- **Conditionality**

The draft CEEAG propose that to benefit from reductions granted under Section 4.11, the beneficiaries must be subject to energy efficiency audits and one out of three other conditionality requirements. Given the energy intensity of mining processes, the industry has a natural interest to become as energy efficient as possible. In this context, we believe that past efforts should be considered when assessing compliance with new conditionality requirements, to make sure that conditionality measures do not penalize companies that have already invested in the best available technologies.

One of the three options for the additional conditionality requirements is the implementation of the recommendations of the energy audit report. In this regard, we believe that an independent body or instrument should be established to allow for an appeal process in case of non-conformity with the audit recommendations as otherwise auditors will have tremendous powers over the investment decisions of a company to decarbonize, an issue that pertains basic freedom of entrepreneurship. Auditors may not always have an adequate understanding of complex industrial processes, so where the installation disagrees with the audit results, it should have the possibility to appeal to an independent body.

- **Reference to the EU Taxonomy regulation**

The proposed guidelines note that the Commission will pay particular attention to Art. 3 of the EU Taxonomy Regulation, i.e. substantial contribution criteria and ‘do not significant harm’ principle, when weighting the positive effects of the aid against the negative effects on competition and trade. We believe it is premature to include this reference to the EU Taxonomy, given that the Taxonomy framework is still under development and it is currently not clear how the framework will work in practice.

- **Definition of ‘demonstration project’ (paragraph 24)**

The proposed definition of ‘demonstration project’ as *“a project demonstrating a technology as a first of its kind in the Union [...]”* is of concern, given that a strict interpretation of the term “first of its kind” would mean that only one project per technology could be recognized as a demonstration project. We suggest amending this to *“a project demonstrating a technology as a first of its kind in a Member State, provided that projects using the same technology are developed in no more than five Member States in total [...]”*

4) Salt as a sector at risk of relocation

The new reduced list does not protect some levies reductions for a highly important mining activity, namely salt, due to an analysis based on a NACE-Code that does not adequately cover the sector.

Given that salt is an important sector contributing to the EU’s energy transition, Euromines call for its inclusion in the list of sectors eligible for certain aid in form of reductions from electricity levies, to ensure its continued contribution to the decarbonization of EU industry and to avoid a loss in production and jobs.

- **Revise assessment methodology**

The NACE code level assessment lumps together three different production methods that differ heavily in their energetic processes and the quality and purity of the salt they yield depending on use. It therefore does not consider the energy-intensive subsector of vacuum salt production, which yields highly purified salt for special uses in chemical, medical and pharmaceutical industry. Producing this kind of salt is the most energy intensive part in the salt value chain and therefore would contribute substantially to the EU’s Green Deal targets and climate neutrality by being on the list of the CEEAG.

Euromines asks to recognize that:

- The NACE-code assessment cannot reflect this reality – and there is no disaggregated PRODCOM level analysis. Therefore, a qualitative assessment is required to adequately reflect the energy intensity and the risk of relocation of vacuum salt production to avoid a misrepresentation in the list of sectors eligible to benefit from CEEAG.
- In addition, the criteria/thresholds should be more flexible to allow sectors that are obviously at a significant competitive disadvantage and risk of relocation inside and outside the EU like the salt sector, to be eligible. Such an assessment also requires updated, more recent data reflecting the latest policy, economic, technological, and social development, including a change in the data period being assessed to 2017 – 2019 – and shall not only be based on historical data as they do not evaluate future trends in

decarbonisation ambitions and the increased carbon price, which will lead to the electrification of many industrial production processes and hence drive-up electricity consumption in the future.

- Apart from that, the removal of a whole eligibility category (above 4% trade intensity and above 20% electricity intensity) seems not to be justified as such as certain industries – including salt – will be deprived of the financial flexibility needed to successfully manage the transition to low-carbon technologies.
- Rethinking trade-exposure will be necessary in order to ensure continued EU production of salt. The levels of imports and exports alone do not determine the exposure of a sector to international competition. Even a low import level combined with an overcapacity on the international market can have a critical effect on a sector's profitability when companies are forced to lower prices. Furthermore, the competition on the EU market between sectors that produce substitutes needs to be carefully considered to avoid distortions of competition.
- For several sectors, the assessment at NACE 4 - level is not appropriate. Even though those sectors meet the requirements for state aid when assessed individually at PRODCOM level or via qualitative assessment, they are still not on the list of eligible sectors because the average electricity and trade intensities of their corresponding NACE 4 codes are too low. Often it is due to the wide heterogeneity of the sector found under the NACE code.
- **Ensure salt NACE 08.93 to be eligible under CEEAG**

5 Euromines believes a qualitative and/or disaggregated level assessment is warranted as published draft CEEAG does not include further explanations, assessments, data and methodological justifications. Apart from that, there is an established corpus of legislation recognizing salt at risk of relocation:

- the salt sector is included in the EU ETS carbon leakage list, the German EEAG sector list and the German national carbon leakage list, among others and is granted a reduction from additional electricity levies in different Member States.
- The Commission recognized the risk of relocation of vacuum salt production in practice during the ETS carbon leakage list by allowing salt to provide a separate assessment to adequately cover vacuum salt production.

In the long run, it will be of utmost necessity to include salt as eligible for CEEAG to achieve the climate objectives in conjunction with other legislation while ensuring the international competitiveness of the salt industry:

- The electro-intensity and the demand for electricity for salt production will significantly increase in the future due to the further electrification of processes and due to the electrification of the underground vehicles and machineries in salt mining which is necessary to comply with newly introduced occupational exposure limits for diesel (particular DEE) and nitrogen (NOx) in the context of the EU carcinogens and EU chemical agents' directives.
- The required further electrification is only possible if cost-efficiency and competitiveness of the concerned salt installations are ensured. Therefore, the reduction of additional costs, like levies on the electricity price to finance renewable energy, is absolutely necessary. Moreover, if the profitability of

European salt mines is at risk and production would decrease, salt imports would increase with a worse ecological and climate footprint due to transport emissions.

- Additional energy related costs will be felt by the salt industry's downstream users and hinder the international competitiveness of the European salt industry and its downstream users. Profit margins in salt production are low and higher costs cannot be transferred. Although the economic value of the salt sector to its European downstream users is great, at the same time, it is also under grave competitive constraints due to energy costs. The salt sector finds itself in an impossibility to maintain a competitive economic activity without deducting decarbonisation efforts from the price of the final good. European salt enables a rapid distribution to its end users due to proximity which limits transport costs and the negative environmental impacts these have. Transport costs are higher than the price of the final good, therefore without this proximity aspect, the price of salt would skyrocket, which would be damaging for downstream users, particularly the chemical industry. With no substitute products available, if salt becomes too expensive, downstream producers may shutdown their chemical plants, as they experience escalating energy costs and green taxes, and import finished goods.

In addition there is a considerable risk without the CEEAG, that other regions will increase salt exports to the EU. In recent years, international trade in salt has increased, helped by historically low dry bulk shipping costs and putting local European producers under pressure. Imports for salt are robust and it is easy to access large volumes of non-European substitutes for vacuum salt from outside the EU. High-quality salt requirements from the chemical industry will remain. Thus, increasing the emissions and negative environmental impact due to an increased use of delivery routes. In today's world, where the international trading system and multilateralism are at risk, we cannot risk depending on others for such a vital and necessary good to our industries and our population and thus undermining the EU's industrial and strategic autonomy.