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HT.5594 Consultation on the Prolongation of the State aid Regulations and Guidelines reformed under the State aid modernisation (SAM) package and expiring by the end of 2020

Sweden welcomes the opportunity to comment on the European Commission's proposed prolongation, of the validity of the current state aid Guidelines and Regulations covered by the fitness check of the SAM package, from the end of 2020 to the end of 2022. The proposed prolongation will provide general predictability and legal certainty to Member States and stakeholders while the State aid rules are being revised.

However, unfortunately the proposed prolongation will not be providing predictability and legal certainty for all. Due to the uncertainty regarding how relevant state aid rules will be amended the proposed prolongation of state aid rules is for example expected to bring uncertainty and to complicate work regarding the coming programming period 2021-2027 for cohesion policy.

Sweden would also like to emphasize that the restrictions on state aid to food-based biofuels laid down in the EEAG are based on restrictions which were never adopted in the final ILUC Directive. If the EEAG is prolonged without postponing the deadline in p. 113 and 121 of the EEAG from the end of 2020 to the end of 2022 to enable a sufficient evaluation of the ban on state aid to food-based biofuels the market for such fuels in Sweden will likely decrease substantially or possibly disappear altogether. Sustainable food-based biofuels are at the same time expected to play a crucial role for both EU as well as individual Member States to comply with the commitments under the 2015 Paris Agreement on Climate Change.

Sweden has the following detailed comments and suggestions regarding the proposed prolongation of the state aid rules:

Aid to food-based biofuels, bioliquids and biogas

There are climate targets on both Member State and EU-levels. Sweden's climate target, decided by the Swedish Parliament in 2017, is to have no net emissions of greenhouse gases by 2045. The Commission has called for a climate-neutral Europe by 2050 and the EU has set a binding target to cut emissions by at least 40 % below 1990 levels by 2030.

Sustainable food-based biofuels are expected to play a crucial role for both individual Member States and the EU as a whole to comply with the commitments under the 2015 Paris Agreement on Climate Change. High blend biofuels are important for decarbonization because the blend walls in the Fuel Quality Directive is not applicable. The blend walls put a cap on how much ethanol and fame can be blended into petrol and diesel respectively which is also why petrol and diesel can only contribute to decarbonization to a limited degree. High blended biofuels are generally more expensive to produce than petrol and diesel. Without the possibility to support sustainable food-based high blended biofuels, the market for such fuels in Sweden will likely decrease substantially or possibly disappear altogether.

The Swedish Government note that the proposed draft guidelines does not contain an amendment regarding the deadline for granting operational aid to food-based biofuels. Sweden would like to take this opportunity to again emphasize the need for the European Commission to ensure that the deadline in p. 113 and 121 of the EEAG is postponed from the end of 2020 to the end of 2022. The role of food-based biofuels is an issue which merits special considerations in the future evaluation. It is essential to ensure legal certainty and stability during the period 2020-2022.

Furthermore, it seems it would be inconsistent to have the State aid guidelines banning state aid to food-based biofuels while the RED II legislation open up for support to food and feed crop-based biofuels. The EEAG was adopted in 2014, intending to respect the principles set out in the 2030 framework to reduce greenhouse gas emissions in line with the 2050 roadmap. The restrictions regarding food-based biofuels laid down in

p. 113 and 121 of the EEAG were based on elements in a draft of what would later become the ILUC directive. However, the ILUC directive had not yet been adopted when the EEAG was adopted. The strict deadline for granting aid to food-based biofuels had, however, been omitted when the ILUC Directive was finally adopted in 2015. The restrictions on state aid to food-based biofuels laid down in the EEAG are thus based on restrictions which were never adopted in the final ILUC Directive.

Adding to that, the RED II does not contain a general limitation for support to food-based biofuels, nor does any other directive. In Article 26 of the RED II there is a limit for the maximum share of biofuels produced from food and feed crops consumed in transport. The limit in Article 26 RED II is relevant for the calculation of a Member State's gross final consumption of energy from renewable sources. The RED II only stipulates specific sustainability and greenhouse gas emissions saving criteria for eligibility for financial support for the consumption of biofuels, bioliquids and biomass fuels (see Article 29.1.c of the RED II).

In addition to the above, the introduction of the concept “high ILUC-risk biofuels” has brought a clear distinction between such fuels and for example ethanol from wheat that can have very low LCA-emissions even if provisional ILUC-emissions from Annex VIII in RED II is included.

Summing up, food-based biofuels are expected to play a crucial role for both individual Member States and the EU as a whole to reach climate targets and the deadline in p. 113 and 121 of the EEAG is therefore an issue which merits special considerations. Sweden would therefore propose to postpone the deadline in p. 113 and 121 of the EEAG from the end of 2020 to the end of 2022 in order to enable a sufficient evaluation of the ban on state aid to food-based biofuels. Such an amendment would be essential to ensure legal certainty and stability during the period 2020-2022.

Draft regulation

Article 2 (1). The definition of “assisted area” is proposed to apply from the date of publication of the Regulation in the Official Journal of the European Union. There is a risk that the Commission have not yet approved new maps by that time. Consequently, there is a risk there will not be any new maps corresponding to the proposed definition when the amendment enters into

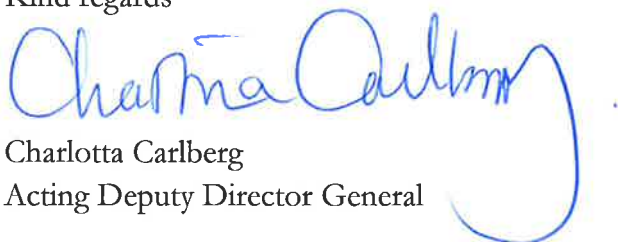
force. The definition should be amended and instead refer to the approved regional aid map for the period 1.7.2014 - 31.12.2020 until a new map has been approved. The definition of “assisted area” in paragraph 19 (46) of the EEAG also needs to be amended in a similar way.

Draft guidelines

In paragraph 108 EEAG the following change is proposed “*These Guidelines ~~apply to the period up to~~ will be applied until the 31st December 2022[...]*”.

In the Swedish language version of the draft guidelines the following correction is proposed regarding the amendment of the Guidelines on regional State aid for 2014-2020: ”178¹ Mot bakgrund av att giltighetstiden för de nationella regionalstödskartorna löper ut den 31 december 2020 uppmanar kommissionen medlemsstaterna att till ~~den~~ kommissionen anmäla sin avsikt att förlänga giltigheten av sina nationella regionalstödskartor.”

Kind regards



Charlotta Carlberg
Acting Deputy Director General