LE GOUVERNEMENT
DU GRAND-DUCHÉ DE LUXEMBOURG
Ministère de l'Économie

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European Commission
DG Competition
Markets and Cases I: Energy & Environment
Ms Anna COLUCCI

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Object: HT.852 Proposal for the revision of the Emission Trading System Guidelines – Feedback from Luxembourg.

Following the Multilateral Meeting with Member States on the draft ETS guidelines for greenhouse gas emission allowance trading post 2021, which took place in Brussels, February 11th 2020, Luxembourg would like to share the following questions and comments with the Commission:

1. List of eligible sectors

The draft guidelines indicate in Annex I, sectors deemed to be exposed to a genuine risk of carbon leakage due to indirect emission costs, and therefore eligible for the future State aid in the context of the system for greenhouse gas emission allowance trading post 2021.

The methodology used to establish the list of eligible sectors is still perceived as not very clear. Explanations were certainly offered during the meeting (and in the draft documents) based on technical aspects, like indirect carbon leakage indicator and trade intensity, but the sectors excluded still feel concerned. Carbon leakage is an economical and climate risk as well as a social challenge, and the draft guidelines, the list of eligible sectors and the linked methodology should reflect this by offering a user-friendly insight.

The Commission should therefore offer Member States a comprehensible summary document indicating, in short, the reasoning behind the exclusion of certain sectors present in the 2012 version of the guidelines.

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2. Maximum regional CO2 emissions factors

In Annex III, the maximum regional CO2 emissions factors in different geographic areas in tCO2/MWh are indicated. An applicable CO2 emission factor for Luxembourg is still missing and the Commission explained that there is some ongoing work. Nonetheless, we would like to know who, Member State or Commission, will calculate the factors for the missing individual Member States (those that currently aren't regrouped in a geographic zone).

In the definitions of the draft guidelines, the *'CO2 emission factor', in tCO2/MWh, means the weighted average of the CO2 intensity of electricity produced from fossil fuels in different geographic areas. The weight shall reflect the production mix of the fossil fuels in the given geographic area.... Such regional differentiation reflects the significance of fossil fuel plants for the final price set on the wholesale market and their role as marginal plants in the merit order.* Luxembourg imports nearly all of its consumed electricity, meaning that the neighbor markets, producing said electricity, are more relevant for the emission factor than the Luxembourg market itself. Since the Luxembourg energy market is tightly interconnected with the ones of our neighbors, its regional factor should also be linked to the German, French and Belgian factors. Therefore, the regional emission factor used in the Communication from the Commission 2012/C 158/04 could be maintained, at least for Luxembourg:

Central-West Europe
(Austria, Belgium, France, Germany, Netherlands, Luxembourg): 0,76

3. Conditionality of the compensation of indirect ETS costs

The draft Guidelines propose to strengthen the conditionality of the compensation of indirect ETS costs by going beyond the obligations already set by the Energy Efficiency Directive 2012/27/EU. Member States need to monitor *that beneficiaries covered by the obligation to conduct an energy audit under Article 8(4) of the Energy Efficiency Directive will:*

(a) implement recommendations of the audit report, to the extent that the pay-back time for the relevant investments does not exceed [5] years and that the costs of their investments is proportionate; or alternatively

(b) reduce the carbon footprint of their electricity consumption, for example, through installing an on-site renewable energy generation facility (covering at least 50% of their electricity needs), through a carbon-free power purchase agreement; or alternatively

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(c) invest a significant share of at least 80% of the aid amount in projects that lead to substantial reductions of the installation's greenhouse gas emissions and well below the applicable benchmark used for free allocation in the EU Emissions Trading System.

While this is clearly a good approach with regard to energy efficiency and climate protection, we need to consider the main goal of the (current) ETS State aid, offering an efficient carbon leakage tool, as described by the Communication from the Commission 2012/C 158/04:

***1.1 Aid to undertakings in sectors and subsectors deemed to be exposed to a significant risk of carbon leakage** due to EU ETS allowance costs passed on in electricity prices (aid for indirect emission costs)*

*7. Under Article 10a(6) of the ETS Directive, Member States may grant **State aid in favour of sectors or subsectors deemed to be exposed to a significant risk of carbon leakage** due to costs relating to greenhouse gas emissions passed on in electricity prices (hereinafter referred to as 'indirect emission costs'), in order to compensate for those costs in accordance with State aid rules. For the purposes of these Guidelines, 'carbon leakage' describes the prospect of an increase in global greenhouse gas emissions when companies shift production outside the Union because they cannot pass on the cost increases induced by the EU ETS to their customers without significant loss of market share.*

*8. **Addressing the risk of carbon leakage serves an environmental objective,** since the aid aims to **avoid an increase in global greenhouse gas emissions** due to shifts of production outside the Union, in the absence of a binding international agreement on reduction of greenhouse gas emissions.*

Therefore, and with the introduction of a useful carbon leakage tool in mind, Luxembourg believes that the new conditionality requirements indicated in the current draft guidelines should not be retained.

Finally, on a more technical level, would the investments realized under the proposed conditionality context also be eligible themselves for further specific State aid measures (Environmental Chapter of GBER)? Luxembourg believes that this should be the case, again in order to propose an efficient carbon leakage package to our industries.

4. 'Green' electricity

During the meeting, the Commission mentioned that the consumption of 'green' electricity will now also be eligible under the new ETS state aid guidelines. This was not the case, as far as we understood it, under the Communication from the Commission 2012/C 158/04:

11. The maximum aid amount that Member States can grant must be calculated according to a formula that takes into account the installation's baseline production levels or the installation's baseline electricity consumption levels as defined in these Guidelines, as well as the CO 2 emission factor for electricity supplied by combustion plants in different geographic areas. ***In case of electricity supply contracts that do not include any CO 2 costs, no State aid will be granted****. The formula ensures that the aid is proportionate and that it maintains the incentives for electricity efficiency and the transition from 'grey' to 'green' electricity, in accordance with the recital 27 of Directive 2009/29/EC.*

Could the Commission confirm the eligibility of electricity supply contracts that do not include any CO2 costs? And if so, explain, in more detail, the reasoning and justification behind this step. In general, Luxembourg doesn't see the need to include 'green' electricity in the current scheme, since it logically lacks CO2 costs.

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