

WWF European Policy Office response to the consultation on the draft revised Climate, Energy and Environmental Aid Guidelines (CEEAG) - hydropower (August 2021)

WWF EPO welcomes the opportunity to provide feedback on the revised Climate, Energy and Environmental Aid Guidelines (CEEAG), as a follow up of the [fitness check evaluation of the State aid modernisation package](#) concluded in 2020. This feedback focuses on state aid to hydropower, while the guidelines have a much broader scope.

Although we urgently need to transition to a fully renewable energy system, the contribution which new hydropower can make is trivial but its environmental impacts are massive. According to the EEB/CAN Europe [Paris Agreement Compatible Energy scenario](#), the absolute electricity generation from hydropower will start decreasing from 2020 onwards, and the share of hydropower in Europe's electricity generation will decrease from the current 10% to reach 6% in 2035, partly as a result of the impacts of climate change, partly because of the obligations imposed by the environmental legislation.¹

Hydropower plants have dramatic impacts on freshwater biodiversity as they hamper fish migration and breeding, disturb ecological flow, damage habitats, and alter sediment transport. Measures to mitigate the negative impacts of hydropower plants on biodiversity only have limited efficiency, so investing in this type of measures can only marginally reduce adverse impacts on ecosystems.

Still, most EU Member States, with the exception of Cyprus, Malta, Lithuania and Finland, give state aid to hydropower, either to new plants (see the [Petit-Tabuc case-study](#) in France for instance) or because of contracts signed several years ago (see [Unkelmühle case-study](#) in Germany). Every year, around 40 TWh of electricity produced from hydropower in Europe receives support (CEER, 2021). In 2016-2017, 4.3 billion euros of state aid went to hydropower in the EU and Norway, under the form of feed-in tariffs, feed-in premiums, green certificates and investment grants (CEER, 2018). More than 150 NGOs have signed [a manifesto](#) calling on the EU institutions to phase out all public finance for new hydropower development projects.

WWF welcomes that the revised CEEAG aim at ensuring alignment and coherence with relevant EU legislation in the environmental and energy fields, as well as the new requirements for public consultations to be held (which we believe should be extended to schemes of all sizes, not only when fossil fuel aid is planned, or when aid exceeds EUR 150 million). However we believe that alignment with the environmental legislation requires going beyond the draft provisions in four key aspects:

- 1. New hydropower facilities should not be eligible to state aid.** Building new hydropower plants runs directly counter to the commitments expressed in the EU Biodiversity Strategy's proposal to restore at least 25,000 km of free-flowing rivers, and is incompatible with the achievement of a good status of water bodies by 2027 as required under the Water Framework Directive (WFD).

¹ EEB, CAN Europe, [Paris Agreement Compatible Energy scenario](#), pages 33-34.

2. **State aid to existing hydropower facilities should be limited either to their refurbishment** if plants have a capacity above 10 MW and are already in line with the minimum ecological requirements imposed by the environmental legislation, **or to their dismantling, when it is demonstrated that the refurbishment or dismantling contribute to the achievement of a good water status, and only if state aid complements the contribution of an identified operator, in line with the polluter-pays principle.**
3. **There should be no feed-in tariffs for existing micro-hydropower plants.** The continuous development of many small hydropower plants has been facilitated among other things by the derogations applicable to installations below 0.5 MW, exempted from the obligation to receive aid as a market premium.
4. **Environmental legislation and nature protection should be more streamlined into the CEEAG.** As shown by a recent IPBES [report](#), biodiversity loss & climate change won't "be successfully resolved unless both are tackled together", so the nature protection dimension should be on the same footing as climate mitigation in the CEEAG.

Explanation

1. New hydropower facilities should not be eligible to state aid.

With freshwater migratory fish populations having collapsed by 93% since 1970 in Europe², and river barriers being one of the main drivers, building new hydropower plants is not compatible with the principle of environmental protection defined in the CEEAG. Building new hydropower plants runs counter to the commitments expressed in the EU Biodiversity Strategy's proposal to restore at least 25,000 km of free-flowing rivers, and to the achievement of the WFD target of good status of water bodies by 2027 (hydromorphological pressures being one of the main reasons why WFD objectives are not achieved).

The reference to the Water Framework Directive (WFD) in the 2014-2020 EEAG (paragraph 117) has not been sufficient to ensure that hydropower installations do not induce deterioration of the water status, and do not jeopardise existing river restoration efforts. In many cases, efforts of plant operators to comply with the WFD are limited to the installation of basic fish passes that have extremely limited efficiency and do not significantly reduce fish mortality, let alone limit the destruction of habitats, sediment and ecological flows. Cases of hydropower plants receiving tariffs or premiums without an evaluation being conducted to assess whether the project will lead to a deterioration of the water status, as required under Art 4.7 of the WFD, have been reported (see [Celles case-study](#) on the Alagnon river, in France). In other cases, the construction of hydropower plants contradicts existing policies and actions in place for the

² Deinet, S., Scott-Gatty, K., Rotton, H. et. al., (2020) [The Living Planet Index \(LPI\) for migratory freshwater fish](#) – Technical Report. World Fish Migration Foundation, The Netherlands.

conservation of freshwater species and habitats (see [Desges](#) and [Vichy](#) case-studies, in France).

In addition to environmental impacts, the contribution that new hydropower can make to climate protection is negligible. Most of the hydropower plants currently built are small hydropower plants of a capacity below 10 MW, or even less. Very small hydropower plants of a capacity below 1 MW only contribute for a 0.5% share to the national electricity production in Germany³, and for a 3.1% share in Romania.⁴ In addition, recent research shows that hydropower plants with reservoirs located in Europe emit greenhouse gases and in particular methane (whose effect on global warming is much greater than carbon dioxide) in quantities that are comparable to emissions reported in tropical latitudes, due to reservoir nutrient loading and associated eutrophication^{5,6}. Reservoirs in the river Saar (Germany) are actually found to release 80 times more methane than free-flowing river stretches⁶.

Despite the expectation that state aid to established renewable energy sources would become grid competitive⁷, and the [fitness check evaluation of the State aid modernisation package](#)'s general conclusion that the 2014-2020 EEAG have been effective for the deployment of renewable energy sources at lower costs in Europe, mean awarded prices for hydropower have increased between 2015 and 2019, contrary to solar and wind.⁸ Therefore supporting the development of hydropower with state aid while it is an already mature technology does not appear as cost-effective.

³ IGB Policy Brief, Schutz und Nutzung von Binnengewässern in Deutschland – Status Quo, Konflikte und politische Handlungsoptionen, 2017.

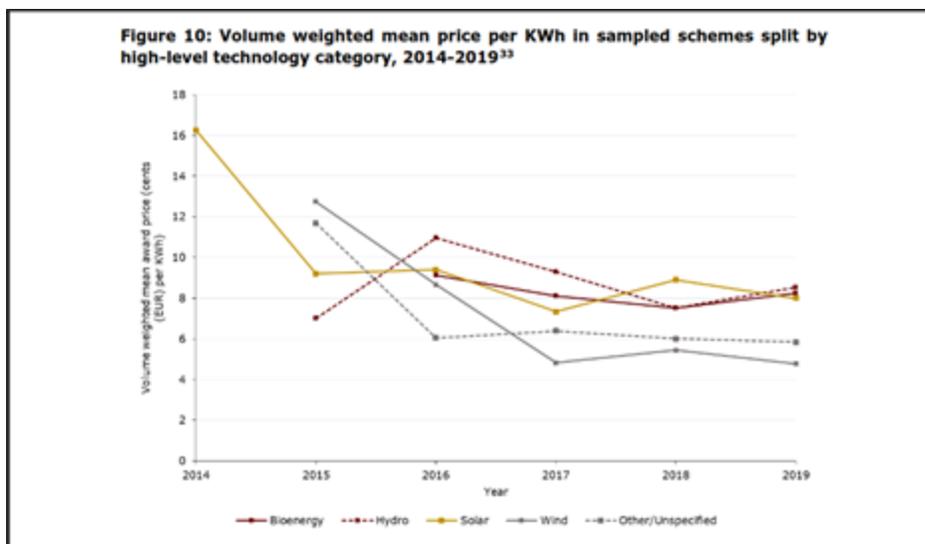
⁴ Gabriela Costea, Martin T.Pusch, Doru Bănăduc, Diana Cosmoiu, [A review of hydropower plants in Romania: Distribution, current knowledge, and their effects on fish in headwater streams](#), Renewable and Sustainable Energy Reviews, Volume 145, July 2021

⁵ Bridget R. Deemer, John A. Harrison, Siyue Li et. al., [Greenhouse Gas Emissions from Reservoir Water Surfaces: A New Global Synthesis](#), *BioScience*, Volume 66, Issue 11, 1 November 2016, Pages 949–964,

⁶ Andreas Lorke, “[Methane production in large and small reservoirs in Bavaria and Rhineland-Palatinate](#)”, presentation given at Dam Removal Goes Alps seminar, 4 May 2021, Institute for Environmental Sciences, University of Koblenz-Landau Landau, Germany.

⁷ EEAG, paragraph 108.

⁸ European Commission, Commission Staff Working Document Fitness Check of the 2012 State aid modernisation package, railways guidelines and short-term export credit insurance, part 3/4, SWD(2020) 257 final (October 2020).



Recommendation: WWF recommends adding to the CEEAG two new paragraphs 71(a) and 110(a), aimed at making sure that support to new hydropower plants is excluded⁹ as a result of the balancing exercise conducted by the Commission to weigh the positive effects of the aid against the negative effects on competition and trade (described in section 3.3) (see detail in annex).

- 2. State aid to existing hydropower facilities should be limited either to their refurbishment** if plants have a capacity above 10 MW and are already in line with the minimum ecological requirements imposed by the environmental legislation, **or to their dismantling, when it is demonstrated that the refurbishment or dismantling contribute to the achievement of a good water status, and only if state aid complements the contribution of an identified operator, in line with the polluter-pays principle.**

This is to ensure that the aid has a sufficient incentive effect and encourages operators to adopt substantial measures aimed at mitigating environmental impact while minimising market distortions. In line with the cost-recovery and polluter pays principles, the responsibility to mitigate any deterioration to the water body should be borne primarily by hydropower companies, and state aid should be limited to complementing the efforts required from the operator to achieve the environmental goals.

Indeed, from the hydropower plants in Germany that started to receive state aid ("EEG-Förderung") between August 2014 and January 2019 due to repowering (for plants built before 2009, repowering is a necessary condition to be eligible for state aid), 53 % are not passable for fish, 6 % are insufficiently passable, 20 % are restrictedly passable and 20 % are freely passable. Even though measures to comply with WFD objectives need to be implemented when

⁹ According to paragraph 70, "the Commission will consider an aid measure compatible with the internal market only where the positive effects outweigh the negative effects".

repowering the plant, only in 6 cases out of 1217 the description of measures contains "passability".¹⁰

Even when measures to mitigate the negative impacts of hydropower plants on biodiversity are implemented, they often have limited efficiency so investing in this type of measures only marginally reduces adverse impacts on ecosystems (see [Unkelmühle](#) case-study in Germany). Mitigation measures are also costly, and their cost should be weighted against their benefits in terms of renewable energy production. For the smallest hydropower plants, this balance is usually negative and such a trade off might rather be in favour of dismantling at the end of the investment cycle¹¹. Dismantling might also be the best option to consider for plants located in protected areas. 18% of existing hydropower plants in the EU are located in protected areas.¹²

Recommendation: WWF recommends adding to the CEEAG a new paragraph 76(a) stating conditions at which support for hydropower facilities built before the entry into force of those guidelines can be approved.

3. There should be no feed-in tariffs for existing micro-hydropower plants.

The continuous development of many small hydropower plants has been facilitated among other things by the derogations applicable to installations below 0.5 MW in the 2014-2020 EEAG, exempted from the obligation to receive aid as a market premium. This derogation is maintained under the CEEAG, although it is restricted to hydropower plants with an installed electricity capacity of less than 400 kW or, for facilities commissioned from 1 January 2026, with an installed electricity capacity of less than 200 kW.

In Italy, 2000 plants of capacity <1MW have been built between 2009 and today, resulting in increasing fragmentation of rivers and habitat loss.¹³ "Small hydropower plants in particular are ecologically problematic"¹⁴ and provide a negligible contribution to electricity generation ; therefore they should not benefit from any derogation allowing them to benefit from more lenient support schemes.

Recommendation: WWF recommends amending CEEAG paragraph 104, footnote 62 to remove the derogation allowing small hydropower plants of a capacity below 0.2 or 0.4 MW to benefit from direct price support.

¹⁰ German Federal Grid Agency, [EEG system master data](#). Also in Bavaria, a study of the passability (measured by the presence of barriers within a 200m buffer zone around the plant) of the 776 hydropower plants that receive state aid showed that 196 weirs were detected within the 200 m buffer, from which 39 are freely passable, 40 are restrictedly passable, 13 are insufficiently passable and 104 are not passable (data provided by the Federal Environmental Agency of Bavaria to WWF Germany, 2018).

¹¹ Leibniz Institute of Freshwater Ecology and Inland Fisheries, [Hydropower: the mortality risk for fish at turbines](#) (2020).

¹² WWF, RiverWatch, EuroNatur, GEOTA, Hydropower pressure on European rivers: the story in numbers (November 2019).

¹³ They increased from 1270 in 2009 to 3123 in 2018. Source: Free Rivers Italy.

¹⁴ Leibniz Institute of Freshwater Ecology and Inland Fisheries, November 2020 [study](#).

4. Environmental legislation and nature protection should be more streamlined into the CEEAG.

Although WWF welcomes that the draft CEEAG reflect on the European Green Deal, environmental issues need to be given a much more prominent role in the draft. As shown by a recent IPBES [report](#), biodiversity loss & climate change won't "be successfully resolved unless both are tackled together", so the nature protection dimension should be on the same footing as climate mitigation in the CEEAG.

Overall, the draft CEEAG document refers much more to the objective of climate protection than to the objective of biodiversity protection, but these twin emergencies need to be tackled together and should be equally important in the CEEAG. In particular, the use of renewable energy is not by itself qualifying as environmental protection, or contributing to more efficient use of natural resources.

The reference to the DNSH principle in the CEEAG should be avoided as this principle, which stems from the EU Taxonomy regulation, suggests that complying with EU legislation is sufficient to prevent harmful impacts to environmental objectives, although this might not be the case.

Recommendations: WWF supports amending paragraphs 1 and 3 (references to the European Green Deal), paragraph 7 (content of the guidelines), paragraph 18 (definitions), paragraph 24 (relevance of economic activities for specific policies of the Union), paragraph 32 (violation of Union law), and paragraph 69 (DNSH principle).

ANNEX: SPECIFIC SUGGESTIONS FOR AMENDMENTS TO THE TEXT

1. New hydropower facilities should not be eligible to state aid.

Proposed draft CEEAG text	Proposed amendment
-	71(a) <i>(NEW)</i> “Measures that involve support to new hydropower facilities built after the entry into force of those guidelines do not create positive effects on nature and biodiversity, have limited climate mitigation effects, and often have important negative effects because they do not lead to the selection of the most cost-effective renewable energy solution available on the market. This will render a positive balancing for such measures impossible.”
<p><u>Justification:</u> The construction of new hydropower plants causes high damages to freshwater ecosystems that can be to some extent mitigated but not prevented. In comparison, the contribution (especially of small hydropower facilities) to climate mitigation is limited: 91% of hydropower is small (less than 10 MW) and generates only 13% of all hydropower electricity (European Commission, Guidance on the requirements for hydropower in relation to EU nature legislation (C/2018/2619)).</p>	

Proposed draft CEEAG text	Proposed amendment
-	76.(a) <i>(NEW)</i> Support for hydropower facilities cannot be approved for new hydropower facilities built after the entry into force of those guidelines in order to be in line with the EU Biodiversity Strategy commitment to restore free-flowing rivers and reinforce the protection of ecosystems.
<p><u>Justification:</u> No state aid should be given to new hydropower facilities, as this would impede the achievement of the EU Biodiversity commitment on free-flowing river restoration, and as hydromorphological pressures are the first pressure preventing the achievement of the Water Framework Directive’s objectives.</p>	

Proposed draft CEEAG text	Proposed amendment
-	110(a) <i>(NEW)</i> “Similarly, measures that incentivise investments in new hydropower facilities built after the entry into force of those guidelines (including existing river barriers retrofitted into hydropower plants) aggravate

	<p><i>negative environmental externalities in the longer term as they add to the already dramatic fragmentation of rivers, compared to alternative investments. They will not be considered to have any positive environmental effects apart from their limited contribution to climate mitigation, given the incompatibility of these with the EU Biodiversity Strategy commitment to restore free-flowing rivers and reinforce the protection of ecosystems.</i></p>
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Justification: The impact of hydropower on nature is highly relevant and should therefore be fully integrated into the guidelines. Paragraph 117 EEAG used to acknowledge that despite hydropower’s contribution to decarbonisation, “it might also have a negative impact on water systems and biodiversity”, and this consideration needs to remain in the CEEAG.

- 2. State aid to existing hydropower facilities should be limited either to their refurbishment** if plants have a capacity above 10 MW and are already in line with the minimum ecological requirements imposed by the environmental legislation, **or to their dismantling, when it is demonstrated that the refurbishment or dismantling contribute to the achievement of a good water status, and only if state aid complements the contribution of an identified operator, in line with the polluter-pays principle.**

Proposed draft CEEAG text	Proposed amendment
-	<p><i>76.(b) (NEW) Support for hydropower facilities built before the entry into force of those guidelines can only be approved to the extent that</i></p> <ul style="list-style-type: none"> <i>i) aid supports either the environmental refurbishment or the dismantling (especially in protected areas) of the facility, which contributes to the achievement of a good water status;</i> <i>ii) aid complements the contribution of an identified operator, in line with the polluter-pays principle, and;</i> <i>iii) in the case of refurbishment, that the aided facilities are compliant with EU environmental legislation in particular with Directive 2000/60/EC and Article 4(7) thereof, and have a capacity below 10 MW.</i>

Justification: Aid directed to the refurbishment of medium and large hydropower plants, or to their dismantling, can support operator’s efforts to mitigate the environmental impacts of hydropower plants. In line with the cost-recovery and polluter pays principles, the

responsibility to mitigate any deterioration to the water body should be borne primarily by hydropower companies, and state aid should be limited to complementing the efforts required from the operator to achieve the environmental goals.

3. There should be no feed-in tariffs for existing micro-hydropower plants.

Proposed draft CEEAG text	Proposed amendment
<p>104. The aid must be designed to prevent any undue distortion to the efficient functioning of markets and, in particular, preserve efficient operating incentives and price signals. For instance, beneficiaries should remain exposed to price variation and market risk, unless this undermines the attainment of the objective of the aid. In particular, beneficiaries should not be incentivised to offer their output below their marginal costs and must not receive aid for production in any periods in which the market value of that production is negative⁶².</p> <p>⁶² Small scale renewable electricity installations may benefit from direct price support that covers the full costs of operation and does not require them to sell their electricity on the market, in line with the exemption in Art 4.3 of Directive (EU) 2018/2001. Installations shall be considered as small scale if their capacity is below the applicable threshold in Article 5 of the Regulation (EU) 2019/943.</p>	<p>104. The aid must be designed to prevent any undue distortion to the efficient functioning of markets and, in particular, preserve efficient operating incentives and price signals. For instance, beneficiaries should remain exposed to price variation and market risk, unless this undermines the attainment of the objective of the aid. In particular, beneficiaries should not be incentivised to offer their output below their marginal costs and must not receive aid for production in any periods in which the market value of that production is negative⁶².</p> <p>⁶² Small scale renewable electricity installations, with the exception of hydropower facilities, may benefit from direct price support that covers the full costs of operation and does not require them to sell their electricity on the market, in line with the exemption in Art 4.3 of Directive (EU) 2018/2001. Installations shall be considered as small scale if their capacity is below the applicable threshold in Article 5 of the Regulation (EU) 2019/943.</p>

Justification: Feed-in tariffs have facilitated the continuous development of many small and micro hydropower plants since the derogation is applicable to installations below 0.5MW in the 2014-2020 EEAG. Installations of a capacity below 0.5 MW are harmful to freshwater ecosystems and provide a very negligible contribution to electricity generation.

4. Environmental legislation and nature protection should be more streamlined into the CEEAG.

Proposed draft CEEAG text	Proposed amendment
<p>1. The Commission has made the European Green Deal a top political priority, with the aim</p>	<p>1. The Commission has made the European Green Deal a top political priority, with the</p>

<p>of transforming the Union into a fair and prosperous society with a modern, resource-efficient and competitive economy, while leaving none behind. The climate ambitions of the Commission were reinforced in 2019 with the Green Deal Communication, setting an objective of no net emissions of greenhouse gases by 2050. In order to set the Union on a balanced, realistic and prudent path to becoming climate neutral by 2050, the Commission has also proposed to reduce greenhouse gas emissions by at least 55 % by 2030 compared to 1990 levels². Those ambitious targets have been enshrined in the European Climate Law³.</p>	<p>aim of transforming the Union into a fair and prosperous society with a modern, resource-efficient and competitive economy, while leaving none behind. The climate ambitions of the Commission were reinforced in 2019 with the Green Deal Communication, setting an objectives of no net emissions of greenhouse gases by 2050 as well as protecting, conserving and enhancing the EU's natural capital. In order to set the Union on a balanced, realistic and prudent path to becoming climate neutral by 2050, the Commission has also proposed to reduce greenhouse gas emissions by at least 55 % by 2030 compared to 1990 levels². Those ambitious targets have been enshrined in the European Climate Law³. Additionally, the Biodiversity Strategy 2030 is a core part of the European Green Deal, setting ambitious targets and requirements to legally protect at least 30% of EU's land and 30% of EU's sea areas (with 10% of strictly protected areas), and to restore degraded ecosystems by 2030.</p>
<p><u>Justification:</u> The Biodiversity Strategy 2030 has been adopted by the Council and the European Parliament as a key component of the European Green Deal. The climate objectives should always be set out together with the biodiversity objectives. Based on the IPBES report[1], biodiversity loss and climate change won't be "successfully resolved unless both are tackled together". The current draft might rather lead to limited progress on the climate crisis at the cost of biodiversity.</p> <p>[1] https://www.ipbes.net/sites/default/files/2021-06/20210606%20Media%20Release%20EMBARGO%203pm%20CEST%2010%20June.pdf</p>	

Proposed draft CEEAG text	Proposed amendment
<p>3. Delivering on the objectives of climate neutrality, climate change adaptation, resource and in particular energy efficiency, circularity, zero pollution and recovery of biodiversity and accompanying this green transition will require significant efforts and adequate support. [...] This will affect all sectors and therefore the Union economy as a whole.</p>	<p>3. Delivering on the objectives of climate neutrality, climate change adaptation, resource and in particular energy efficiency, circularity, zero pollution and recovery of biodiversity and accompanying this green transition will require significant efforts and adequate support. [...] This will affect all sectors and therefore the Union economy as a whole. In order to achieve the climate objectives, biodiversity restoration and</p>

	<p><i>protection needs to be considered as our best ally and core action (cf. IPBES report[1]).</i></p> <p>[1] https://www.ipbes.net/sites/default/files/2021-06/20210606%20Media%20Release%20EMBARGO%203pm%20CEST%2010%20June.pdf</p>
<p>Justification: Investing and biodiversity conservation and restoration will benefit the whole European Union delivering health, welfare and economic benefit. Nature needs to be considered as the strongest ally when defining the tools and solutions to tackle the climate crisis. According to the IPBES report , “changes in biodiversity, in turn, affect climate, especially through impacts on nitrogen, carbon and water cycles”. Any action that leads to biodiversity loss is making the fight against climate change less effective.</p>	

Proposed draft CEEAG text	Proposed amendment
<p><i>7. These guidelines provide guidance on how the Commission will assess the compatibility of environmental protection including climate protection, and energy aid measures subject to the notification requirement under Article 107(3), point (c), of the Treaty. Any reference to ‘environmental protection’ in these guidelines should be understood as a reference to environmental protection, including climate protection.</i></p>	<p><i>7. These guidelines provide guidance on how the Commission will assess the compatibility of environmental protection, including climate and biodiversity protection, and energy aid measures subject to the notification requirement under Article 107(3), point (c), of the Treaty. Any reference to ‘environmental protection’ in these guidelines should be understood as a reference to environmental protection, including climate protection.</i></p>
<p>Justification: Biodiversity and climate protection are twin emergencies and need to be tackled together to achieve environmental protection.</p>	

Proposed draft CEEAG text	Proposed amendment
<p><i>18. (38) ‘environmental protection’ means any action designed to remedy or prevent pollution or other damage to physical surroundings, ecosystems or natural resources by human activities, including to mitigate climate change, to reduce the risk of such damage, to protect and restore biodiversity or to lead to more efficient use of natural resources, including energy-saving measures and the use of renewable sources of energy and other techniques to reduce greenhouse gas emissions and other pollutants, as well as to shift to circular economy models to reduce the use of primary</i></p>	<p><i>18. (38) ‘environmental protection’ means any action designed to remedy or prevent pollution or other damage to physical surroundings, ecosystems or natural resources by human activities, including to mitigate climate change, to substantially reduce the risk of such damage, to protect and or to restore biodiversity, ecosystems or natural resources or to lead to more efficient use of natural resources, including energy-saving measures and the use of renewable sources of energy and other techniques to reduce greenhouse gas emissions and other pollutants, as well as to shift to circular</i></p>

<p><i>materials and increase efficiencies. It also covers actions that reinforce adaptive capacity and minimise vulnerability to climate impacts;</i></p>	<p><i>economy models to reduce the use of primary materials and increase efficiencies. It may also cover actions that reinforce adaptive capacity and minimise vulnerability to climate impacts;</i></p> <p><i>(38)(a) (NEW) ‘climate protection’ means climate mitigation including the use of renewable sources of energy and other techniques to reduce greenhouse gas emissions. It also covers actions that reinforce adaptive capacity and minimise vulnerability to climate impacts;</i></p>
<p><u>Justification:</u> Biodiversity and climate protection are twin emergencies and need to be tackled together to achieve environmental protection. The use of renewable energy is not by itself qualifying as environmental protection, or contributing to more efficient use of natural resources.</p>	

Proposed draft CEEAG text	Proposed amendment
<p><i>24. Member States must also describe if and how the aid will contribute to the achievement of objectives of Union climate policy, environmental policy and energy policy and more specifically, the expected benefits of the aid in terms of its material contribution to environmental protection, including climate change mitigation, or the efficient functioning of the internal energy market.</i></p>	<p><i>24. Member States must also describe if and how the aid will contribute to the achievement of objectives of Union climate policy, environmental policy and energy policy and more specifically, the expected benefits of the aid in terms of its material contribution to environmental protection, including climate change mitigation, and, if applicable, the efficient functioning of the internal energy market. The European Commission should ensure that aid which contributes to one policy but is in conflict with another shall not be granted.</i></p>
<p><u>Justification:</u> Justifying the measure’s contribution to climate, environmental and energy policy should be mandatory, and cannot be substituted by a justification of how the project contributes to the efficient functioning of the internal energy market. A sentence should be added, clarifying that aid which contributes to one policy but is in conflict with another shall not be granted, and making clear that this will be checked with the relevant DG. For example, a hydropower plant increases the amount of renewable electricity being generated, but in most cases inhibits the possibility of a river reaching good status under the Water Framework Directive.</p>	

Proposed draft CEEAG text	Proposed amendment
<p>32. <i>If the supported activity or 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. This may be the case, for instance, where the aid is subject to clauses conditioning it directly or indirectly on the origin of products or equipment, such as requirements for the beneficiary to purchase domestically produced products.</i></p>	<p>32. <i>If the supported activity or 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 any relevant Union law including environmental law, the aid cannot be declared compatible with the internal market. This may be the case, for instance, where the aid is subject to clauses conditioning it directly or indirectly on the origin of products or equipment, such as requirements for the beneficiary to purchase domestically produced products.</i> <i>The Commission will systematically control, in particular, compliance of the activities supported and aid measures notified under these guidelines with Union environmental law and principles.</i></p>
<p><u>Justification:</u> The word “relevant” in paragraph 32 suggests that the Commission or the Member States may be selective in their control. We believe the Commission must systematically verify and ensure compliance of activities with environmental law and principles.</p>	

Proposed draft CEEAG text	Proposed amendment
<p>69. <i>In that balancing exercise, the Commission will pay particular attention to Article 3 of Regulation (EU) 2020/852 of the European Parliament and of the Council, including the ‘do no significant harm’ principle, or other comparable methodologies. [...]</i></p>	<p>69. <i>In that balancing exercise, the Commission will pay particular attention to Article 3 of Regulation (EU) 2020/852 of the European Parliament and of the Council, including the ‘do no significant harm’ principle, or other comparable methodologies. [...]</i></p>
<p><u>Justification:</u> The reference to the DNSH principle in the CEEAG should be avoided as this principle, which stems from the EU Taxonomy regulation, suggests that complying with EU legislation is sufficient to prevent harmful impacts to environmental objectives, although this might not be the case.</p>	