ASOCIATIA MARILOR CONSUMATORI INDUSTRIALI DE ENERGIE

Inregistrata in Registrul Asociatiilor si Fundatiilor sub nr.57/28.06.2013,

cu sediul in Bucuresti, Splaiul Unirii nr. 64, etaj 1, sector 4

Bucharest, 29 July 2021

Subject: **ABIEC reply to public consultation on the revised Climate, Energy and Environmental Aid Guidelines (CEEAG) –** reference number HT.5371

Association of Big Industrial Energy Consumers (ABIEC) brings together representatives of the energy-intensive industry in Romania, such as: Alro Slatina, Tenaris Silcotub, Arcelor Mittal Romania, Liberty Steel, Saint Gobain Glass. ABIEC's main purpose is to promote and represent the interests of its members which are producers from various sectors of the industry qualifying as large consumers or energy under European law.

Aluminium and steel is made in Europe, recycled by Europeans and used by our citizens in their cars, bikes, window frames, beverage cans. More importantly, aluminium is also an essential element for the technologies delivering Europe's future carbon neutrality such as renewable energy, electricity or data transmission grids[1]. Our sector is facing considerable challenges now, with high electricity costs[2] and significant distortions in the global aluminium market, which depress global aluminium prices and threaten European producers, with a worsening perspective determined by the ongoing COVID-19 pandemic.

ABIEC **welcomes the revision of the EU State Aid Guidelines for Climate, Environment and Energy protection (CEEAG).** The European Green Deal and the transition to a climate neutral economy is both an opportunity and a challenge for Europe, the challenge being to ensure that climate neutrality can be achieved whilst at the same time maintaining an European industrial base. The revised CEEAG will thus have an essential role to play in ensuring that these two twin objectives can be achieved: 1) decarbonising power and 2) maintaining electro-intensive industries in Europe.

[1] See JRC Report "Raw materials demand for wind and solar PV technologies in the transition towards a decarbonised energy system", 2020
[2] See CEPS Study, commissioned by DG ENERGY, here "Composition and drivers of energy prices and costs in energy intensive industries", 14 January 2019

Tel: +40 374 570 006
Fax: +4021 408 35 89
contact@abiec.ro

ASOCIATIA MARILOR CONSUMATORI INDUSTRIALI DE ENERGIE

Inregistrata in Registrul Asociatiilor si Fundatiilor sub nr.57/28.06.2013,

cu sediul in Bucuresti, Splaiul Unirii nr. 64, etaj 1, sector 4

With the production of aluminum and steel being an unavoidably electro-intensive process, competitive electricity costs are key for our industry. Indeed, electricity represents 30% to 45% of the overall operational costs for many of aluminium smelters[3] and between 20% and 40% for steel producers, depending on the technology[4] thus, globally competitive electricity costs are one of the key localisation and investment factors in our sector. The challenge is to ensure that electricity - both the electricity costs themselves and the system costs incurred - remains competitive and available in the quantities demanded, throughout this transition. The revised CEEAG, alongside the revised ETS Guidelines, will thus be instrumental to ensure that this challenge can be overcome.

In this reply, we give our opinion on the draft Guidelines[5]. We outline 1) areas of the draft Guidelines that should remain, 2) areas not covered in the Guidelines that we consider could be extended, 3) areas where the Guidelines should be changes and 4) respond to the question posed in the consultation: what should be the cumulative level per MWh of the concerned levies that is necessary to allow reductions.

i. Areas of CEEAG that should remain

Limiting RES surcharge costs in Section 4.11

In the draft CEEAG, renewables support is dealt with in section 4.1, while **section 4.11** provides the possibility to grant reductions to energy-intensive industries particularly exposed to carbon leakage for their additional costs due to national renewable energy support schemes.

The possibility for targeted RES charge reductions (in section 3.7.2 of the EEAG and foreseen in section 4.11 in the new Draft CEEAG Guidelines) has played a crucial role in limiting relocation since 2014, given that aluminium is particularly sensitive to an increase in the costs of electricity[6].The different levels of minimum

[3] The production of non-ferrous metals such as aluminium, copper, zinc, nickel and silicon is extremely electro-intensive. To take the case of primary aluminium as an example, as indicated in the Commission's Energy Prices and Costs report 2018 (here), the average share of electricity costs in total production costs is approximately 38% (ranging from 30% to 45% depending on the power prices and the energy mix of the country/region where the smelter operates).

[4] World Steel Fact Sheet – Energy Use in the Steel industry 2021. Accesible here

[5] DG COMP June 2021. Draft CEEAG Guidelines. Accessible here

[6] To demonstrate this, we give the example of a smelter in Greece (based on public data). According to the European Commission's 2018 Energy & Prices report (CEPS), the average all-in electricity price paid by European smelters is 39.6 €/MWh. Paying the full RES surcharge in Greece would increase electricity costs by 16.7 €/MWh. This is an incredible 42% increase on the average electricity price paid by European smelters. Since electricity is 40% of the production cost for primary aluminium, paying the full RES surcharge would increase total production costs of a Greek smelter by 16.8%. This is far beyond the regulatory cost which a price taker sector facing the highest level of global competition can bear.

Tel: +40 374 570 006
Fax: +4021 408 35 89
contact@abiec.ro

contribution reflect the fact that RES charges burden different sectors and undertakings within sectors to varying degrees, depending on 1) their electro-intensiveness and 2) trade intensity/ability to pass on costs[7]. We are pleased that this has been maintained.

In the new draft Guidelines, undertakings pay at least 25% of the levies concerned, which is an increase compared with EEAG and we fail to understand the reason for this increase, considering that RES surcharges will be more numerous (and thus stronger impact on final electricity cost) given by the need to deploy more for the purpose of achieving decarbonisation goals.

This minimum level of contribution is higher compared to what companies are exposed to in the current guidelines. Furthermore, there is also a possibility to cap undertakings' own contribution to 1.5% of their GVA (par. 360). This is also an increase compared to EEAG, where there is a double cap of 0,5 % or 4 % GVA.

Ideally the cap foreseen in the new Guidelines should be limited to 0.5% of GVA for the most exposed consumers, but provided that 1.5% of GVA applies to the combined sum of all environmental fees and levies (RES surcharge reductions, PSOs, high efficiency co-generation).

Policy request

- *Preserve the approach [the "hardship clause"] adopted in section 4.1 of the draft Guidelines, which foresees the possibility of limiting costs of RES surcharges, public service obligations and high efficiency co-generation surcharges to a combined maximum of 1.5% GVA*
- *Maintain the 15% level for the contribution paid by beneficiaries of reductions from levies in Section 4.11*

ii. Areas where the Guidelines should be extended

Not all the costs related to the ongoing transition are limited to '*stricto senso*' RES surcharges. In fact, the transition has led to European electricity consumers being burdened with numerous other costs and

[7] See Annex iii 'Ensuring sectors and undertaking receive equal treatment' for more details

charges, which threaten the global competitiveness of the most electro-intensive consumers (and particularly those who are also 'price takers' in global markets). The Commission has taken note of this and since the adoption of the EEAG, has evaluated (and approved) targeted reductions to numerous other electricity surcharges.

At the same time, the CEEAG will also play a crucial role in facilitating investments in industrial decarbonization. The possibility of aid for the additional costs involved in implementing low-carbon technologies (e.g. hydrogen, CCS/CCU) plays a crucial role in facilitating these investments. In order to avoid unjustified discrimination between different industrial sectors, and in order to incentivize as many industries as possible to electrify their processes, decarbonization aid must also be available for electro-intensive industries.

Aid in the form of reductions in the funding of capacity mechanisms

The draft Guidelines do not allow reductions from charges financing capacity mechanisms. Paragraph 354 of the draft Guidelines clarifies that reductions are only allowed in the case of "levies on electricity consumption which finance an energy policy objective" and not in cases where the levies "reflect part of the cost of providing electricity to the beneficiaries in question". The Commission considers that charges financing capacity mechanisms fall under the second category (reflecting part of the cost of electricity supply), and therefore reductions are not allowed. However, capacity mechanisms are becoming increasingly necessary specifically because of the increasing levels of RES penetration (this is actually acknowledged in the existing EEAG, paragraphs 216-218).

The cost of capacity mechanisms cannot be considered as "part of the cost of providing electricity" but actually part of the cost for security of supply; instead, it would be more correct to view levies that finance capacity mechanisms as "financing an energy policy objective" (i.e. facilitating the integration of renewables & replacing carbon-intensive generation with low/zero carbon dispatchable capacity), which would justify targeted surcharge reductions in line with the provisions of the draft Guidelines (Member States may grant reductions from levies on electricity consumption which finance an energy policy objective. The possibility for targeted reductions from capacity mechanism surcharges should therefore also be foreseen and para.354 of the draft Guidelines should be amended accordingly.

Policy request:

Tel: +40 374 570 006
Fax: +4021 408 35 89
contact@abiec.ro

ASOCIATIA MARILOR CONSUMATORI INDUSTRIALI DE ENERGIE

Inregistrata in Registrul Asociatiilor si Fundatiilor sub nr.57/28.06.2013,

cu sediul in Bucuresti, Splaiul Unirii nr. 64, etaj 1, sector 4

- *Expand section 4.11 of draft CEEAG to include targeted reductions to capacity mechanism surcharges, which should be viewed as decarbonization levies.*

Aid in the form of reductions from the levies funding low carbon energy

Section 4.1. allows for aid measures primarily aimed at reducing greenhouse gas emissions, including aid for the production of renewable and low carbon energy. While related surcharges financing the aid for the production of electricity from renewable energy are eligible to be reduced under the scope of Section 4.11, potential surcharges from aid for low carbon energy production are not included.

The scope of Section 4.11 should be extended to include surcharges for low carbon energy, given the fact that they serve the same energy policy objective, namely reducing greenhouse gas emissions (as stated in paragraph 74) and given the massive costs entailed by the construction of a nuclear power plant, costs eventually paid by final customers in their electricity price. Such extension of the scope of Section 4.11 would also provide legal coherence between the two sections (4.11 and 4.1) and would not discriminate amongst various sources of energy (RES vs. low carbon), thus reducing the risk of social opposition to the latter as it would create too big a burden on energy intensive sectors.

Policy request:

- *Expand section 4.11 of the draft CEEAG to include targeted reductions from levies financing support for low carbon energy.*

Aid in the form of reductions from the levies funding decarbonisation

Similarly, we consider necessary to expand the scope of Section 4.11 to include potential future levies financing support schemes for decarbonsation, particularly in the context of the increased ambition for 2030. All future decarbonisation measures will be reflected in the final electricity price, determining its increase and consequently, massively reducing the competitiveness of electro-intensive industries. Presently, the CEEAG allows reductions from only 4 categories of levies which does not realistically reflect the costs of the transformations the energy sector will undergo in the next decade.

Tel: +40 374 570 006
Fax: +4021 408 35 89
contact@abiec.ro

ASOCIATIA MARILOR CONSUMATORI INDUSTRIALI DE ENERGIE

Inregistrata in Registrul Asociatiilor si Fundatiilor sub nr.57/28.06.2013,

cu sediul in Bucuresti, Splaiul Unirii nr. 64, etaj 1, sector 4

Policy request:

- *Expand section 4.11 of the draft CEEAG to include targeted reductions from levies financing decarbonization of energy sector.*

Aid for Industrial Decarbonisation – expanding section 4.1 to include provisions on RES PPAs

Given the importance of competitive power to our industry, aluminium is at the forefront of renewable power corporate purchasing, particularly in the Nordic power markets. However, outside of the Nordics, numerous obstacles remain that prevent large scale RES PPAs from being signed in mainland Europe.

These obstacles were assessed in a report published by the European Commission[8] . In particular, the requirement for massive volumes of baseload electricity makes it very difficult, and very expensive, for large electro-intensive consumers to cover their demand using low-carbon generation, which tends to be much more variable given the profiles of wind and solar production. Given that baseload electricity is needed for aluminium producers, the cost of matching variable electricity generation with an industrial consumption profile (so called "firming costs" or "shaping costs") was identified as a major barrier to the further uptake of RES sourcing in the "Masterplan for a Competitive Transformation of EU Energy-intensive Industries"[9]. Although the EU's state aid rules routinely foresee the possibility for aid to cover the incremental costs involved in decarbonisation, such a possibility has not yet been foreseen with regard to consuming renewable electricity.

This is something which the upcoming Guidelines should seek to address. In order to achieve this in the most effective and cost-efficient way, one possible idea would be for the CEEAG to facilitate the possibility to introduce the creation of "Green Pool" aggregators that will further incentivise PPA agreements by electro-intensive consumers[10]. This idea is elaborated upon in other stakeholder responses but in brief, the ("new/additional") electricity produced by RES developers based on corporate PPAs with EIIs is "pooled" together by an aggregator that is established for this purpose. The aggregator undertakes all shaping responsibilities and supplies the consumer with a supply of electricity that matches its consumption profile. The firming/shaping costs are borne exclusively by the aggregator, and the

[8] See "Competitiveness of corporate sourcing of renewable energy, Part 2 of the Study on the competitiveness of the renewable energy sector", ENER/C2/2016-501

[9] Masterplan for a Competitive Transformation of EU Energy-intensive Industries Enabling a Climate-neutral, Circular Economy by 2050. Available here.

[10]

Tel: +40 374 570 006
Fax: +4021 408 35 89
contact@abiec.ro

aggregator is compensated for these costs via public funding (via an EEAG compatible scheme). Such a system would be a win-win, adding new RES capacity to the electricity system and ensuring that industry can sign-long term PPAs at a price that is suitable for both themselves (in terms of ensuring global competitiveness) and the RES developer (in terms of financing the RES project). The RES units involved in the Green Pool would not be eligible for further support under a RES support scheme, thereby eliminating any possibility for double compensation. In many cases, the cost of subsidizing the incurred shaping/firming costs would actually be lower than the cost of subsidizing the same RES capacity under a conventional RES support scheme, but with the added benefit of actually helping the consumer access this electricity. In this regard, the proposed scheme should be viewed as a more efficient, more targeted version of a RES support scheme.

Policy request:

- *Expand scope of Section 4.1. to include provisions fostering use of RES PPAs*

iii. Areas where the Guidelines should be changed

Conditionality

Paragraphs 364 and 365 stipulate that for reductions granted under Section 4.11, the beneficiaries shall be subject to energy efficiency audits and one out of 3 project conditionality requirements. In recent regulation we have witnessed the implementation of similar requirements in order to have access to carbon leakage protection, like the recently adopted ETS State Aid Guidelines, as well as several pieces of legislation at national level. Within this context, we see a risk of having various commitments that ultimately aim the same goal and multiplying these schemes outside the industry's business cycles.

Policy request:

- *To minimise this potential distortion, we propose to have the same approach as in the ETS State Aid Guidelines for legal coherence purposes and include the wording "or alternatively" at the end of letter (a) and (b) of paragraph 365.*

Tel: +40 374 570 006
Fax: +4021 408 35 89
contact@abiec.ro

ASOCIATIA MARILOR CONSUMATORI INDUSTRIALI DE ENERGIE

Inregistrata in Registrul Asociatiilor si Fundatiilor sub nr.57/28.06.2013,

cu sediul in Bucuresti, Splaiul Unirii nr. 64, etaj 1, sector 4

Applicability

Paragraph 414 (a) requires Member States to "amend, where necessary, their existing environmental protection and energy aid schemes in order to bring them into line with these guidelines no later than 31 December 2023". Such provision raises the risk of affecting the legal certainty of the decisions already approved under the EEAG and would have a retroactive effect of questionable legality while creating chaos in the electricity market and discouraging the investments so badly needed to achieve the EU decarbonisation targets. Furthermore, we find this provision at odds with Commission's recent approval[11] of support schemes under EEAG and with a life span beyond the EEAG expiration date.

Policy request:

- *We therefore consider appropriate to eliminate the whole paragraph 414, for the purpose of preserving legal and investors' certainty, similarly to the EEAG approach which goes even further and specifically mentions that support schemes approved under previous guidelines are not to be affected by the new provisions.*

Aid for the reduction and removal of greenhouse gas emissions including through support for renewable energy

Section 4.1 sets the framework for designing and approving of support scheme reducing greenhouse gas emissions. While it has certain very reasonable provisions, particularly those on the obligation to carry out a public consultation, the subsection 4.1.3.1 on the necessity of aid should be further improved. Every support scheme eligible under this section must be accompanied by an impact assessment study, prepared by a neutral party, a study that would analyse the costs incurred by the support measure on other market participants and on consumers (households and industry). Such a study would be a good governance tool and would contribute to the social acceptance of the support measures.

Policy request:

- *Approval of support schemes must be conditioned on the inclusion of an impact assessment study, prepared by a neutral party, a study that would analyse the costs incurred by the*

[11] SA.50272 - French support scheme for renewable energy approved under EEAG on 27 July 2021

Tel: +40 374 570 006
Fax: +4021 408 35 89
contact@abiec.ro

support measure on other market participants or on consumers. Such a study would ensure social acceptance of the support measure and it is a tool specific to good governance.

iv. Consultation questions

Cumulative level per MWh

Having read the accompanying support study to the draft guidelines[12], we understand that the introduction of a new threshold representing the 'cumulative effect of all levies' - as described in paragraph 356 of the draft guidelines – tries to serve the purpose of minimising the trade-offs between the 3 policy objectives: (i) to increase the budget to finance RES & CHP; (ii) to minimise distortions across EU Member States; and (iii) to reduce the risk of relocation of EIIs outside Europe.

The support study modelled different scenarios and concluded that exemptions conditional on the full levy exceeding a certain threshold are best in resolving the trade-offs between these policy objectives as it would allow for an increase in budget for supporting RES & CHP, while reducing the competition distortions among Member States and also being unlikely to cause large profitability reductions in most countries and sectors.

However, it should be noted that for price-taker industries competing globally, the only way of accurately assessing distortions is not between EU producers but rather within the international market, including non-EU producers. To tackle this, the EU should develop a more globally focused competition policy that looks at extra-EU market distortions, not just at the Single Market.

A climate ambitious state aid policy and its enforcement should, as a general principle, take into account the impact on the global competitiveness of the European industry as a key factor. Global warming is not an EU internal-market problem, but rather an international one. Through its ambitious climate policy, Europe is aiming to lead on international climate action, but its effort will have limited effect if we do not see corresponding, reciprocal effort by other large nations or regions. By acting alone, European industry is suffering from added costs compared with main international competitors. Until this global level playing field is established, European industrial competitiveness needs to be safeguarded also via competition policy. In today's carbon constrained world, globally competing industries, such as aluminium and steel, are exposed to market distortions due to different non-reciprocal climate policies worldwide. Therefore,

[12] https://ec.europa.eu/competition-policy/system/files/2021-06/kd0521173enn_EEAG_revision_2021_0.pdf

it is of utmost importance that competition policy and state aid address growing global competition imbalances, too.

The proportionality of the targeted surcharge reductions for electro-intensives is already ensured by the maximum aid intensity and -even more so- by the GVA cap. Thus, there is no need for a further threshold.

Policy request:

- *We believe the introduction of a new condition for aid eligibility in the form of a threshold representing the "cumulative effect of all levies" is* ***not necessary or appropriate.*** *Transparency in relation to the total amount of all levies determined by the energy transition and paid by energy-intensive industries in their final energy price would be more appropriate.*

Tel: +40 374 570 006
Fax: +4021 408 35 89
contact@abiec.ro