

## EUROFER contribution

### Competition Policy supporting the Green Deal

#### Part 1: State aid control

**1. What are the main changes you would like to see in the current State aid rulebook to make sure it fully supports the Green Deal? Where possible, please provide examples where you consider that current State aid rules do not sufficiently support the greening of the economy and/or where current State aid rules enable support that runs counter to environmental objectives.**

The contribution of EU material manufacturing industry to the Green Deal consists of developing and producing the materials, which will provide the physical backbone of the transformation and to reduce the industry's own Green House Gas (GHG) production emissions.

The biggest hurdle to the latter is the significant additional cost of GHG-lean production, both from CAPEX and OPEX, which, currently, cannot be passed through to the customers, because no markets for GHG-lean steel do yet exist and also due to the international competition from GHG intensive steel production, as well as, in the future, probably, from heavily cross-subsidised low-GHG production.

As an illustrative example, take the switch from coal-based blast furnace route steel production to Hydrogen based direct reduction steel making. The production cost of the GHG lean route for a site in middle Europe (CAPEX & OPEX) amounts to roughly 170% of the conventional production. (“Macroeconomic implications of switching to process-emission-free iron and steel production in Europe“; Mayer et al., Department of Economics at the University of Graz; November 2017).

As long as no binding and verifiable international commitment allowing equal treatment of competing producers and materials exist, the EU, to remove or at least to reduce this cost-obstacle, should develop and implement a mix of instruments and policies. The main levers are the reduction of investment and operating cost, the establishment of a market for GHG-lean steel, avoidance of unilateral CO<sub>2</sub>-cost for the steel production or the competition-neutral pass-through of CO<sub>2</sub>-costs and abatement cost to the final consumer.

With a view to avoid intra-EU competition distortion by differentiated national activities, it is most advisable to implement such instruments on EU-level. However, not for all of these within the EU the necessary legal and political requirements exist and therefore also state aid has to be an essential part of this mix of instruments and the corresponding policy mix.

The most important state aid rules to be adapted in this respect are the communication on State aid for Environmental Protection and Energy (EEAG) and the Communication State Aid to Promote the Execution of Important Projects of Common European Interest (IPCEI).

With regard to the EEAG, the most important modification is the granting aid for decarbonisation measures in energy-intensive industry, both for additional operating cost and investment cost. The revision of the EEAG should, in our view, be closely linked to the climate objectives set out in the European Green Deal. The transition of the steel industry, for example setting-up of new low-carbon production facilities, first deployment, their operational costs, and dismantling and clean-up costs of the replaced facilities, incurs tremendous costs the sector will not be able to bear on its own.

Against this background, the scope of the current EEAG needs to be amended in a way that provides European steel producers with the much-needed financial support. The transformation to low-carbon production processes is time intensive and investment decisions taken today are expected to start having an impact – in a best-case scenario – in 10 years. Thus, it is crucial to start and/or continue performing this shift as soon as possible and to support the companies in their efforts, by introducing provisions that ensure the following:

- Granting aid for decarbonisation measures in energy-intensive industry, both for additional operating cost and investment cost;
- Granting aid for dismantling CO<sub>2</sub> heavy production sites after transformation to production sites mainly relying on low-carbon energy;
- Providing support for investments in low carbon energy sources (such as the use of H<sub>2</sub> production);
- Extending its scope to render the use of low carbon energy eligible for aid as well (demand-side measures);
- Granting state aid not only explicitly to CCS, but also to other breakthrough technologies in industry, like H<sub>2</sub> based production and CCU;
- Granting state aid explicitly for the instrument of designing contract for difference CCfD in order to de-risk investments in low carbon technologies by dedicated steel production projects;
- Incentivize the reuse of waste as secondary material and to stop incentives and aid for incineration

EUROFER believes that it is key that energy intensive sectors exposed to global competition such as steel can have access to competitive energy. Therefore, it is also essential that the reductions in and exemptions from environmental taxes, and the reductions in funding support for electricity from renewable sources for energy intensive undertakings (see 3.7 EEAG), which are currently foreseen in the State aid rules, are at least be fully maintained. This is vital to maintain a competitive environment for European steel producers vis-à-vis producers from third countries, particularly as the industry will become more electro intensive, via direct or indirect sourcing (eg H<sub>2</sub>). Without these exemptions, they would face the imminent risk of losing market shares to competitors in third countries where no comparable climate protection measures are in place., leading to “carbon leakage”. This would be a huge setback with respect to the pursued climate protection objectives. In addition, “Capacity Mechanisms”, (back-up power capacity for the energy system in case of RES

power supply shortages). which should be subject anyway to strengthened transparency requirements, should be considered as a support for renewables and therefore companies which are paying for such capacities through their power bill should be eligible for the same kind of exemptions or reductions as provided for by point 3.7 of the Guidelines.

Funding of investment cost and aid intensities are also very important. As decarbonizing energy-intensive industries requires massive investments, there is a necessity to increase aid intensities to 100% the full financial needs.

In some cases, the current aid intensities are too low and this can block future decarbonisation projects. For example, if investment into low-carbon production process is considered as “Aid for undertakings increasing the level of environmental protection in the absence of Union standards, 40 % aid intensity for large company (50 % if eco-innovation) is certainly not sufficient compared to the important amounts needed to invest in such decarbonisation measures; nothing is envisageable in the current EEAG for dismantling CO<sub>2</sub> heavy production sites after transformation while 100% aid intensity is possible for the remediation of contaminated sites or 50% for relocation of undertakings ...”

Some other aid intensities are even lower (even only around 20 – 30 %) ; too low to trigger these high-volume investments. The reason is, that there remain still considerable uncovered funding gaps which inhibit the required decarbonisation projects necessary to enable the Green Deal.

Decarbonizing processes and products often require more expensive input materials and / or energy mixes. Therefore, it is crucial to allow funding for additional operation costs unit to establish a working market for “green products”. Therefore – accompanying the state-aid reform – necessary legal measures (e.g. obligatory quotas for green-products; enhancing green public procurement etc.) must be taken to establish a “lead market for green products” which will cover the higher costs (investment and operational cost) by itself at the long run. Until this has been achieved, state-aid is the only option to stimulate and enable the Green Deal.

The objective of the support is to bring low CO<sub>2</sub> processes to the market on a large industrial scale, a large part of which is already available. The criterion for approval under the state aid rules will therefore not only be the degree of innovation, but particularly the achievable far-reaching reduction volumes of greenhouse gas emission of such projects; similar to the ETS Innovation fund.

### **Incentivize the reuse of waste as secondary material**

Recycling waste streams into products which currently are incinerated is highly beneficial for decarbonization. It is therefore required to stop incentives and aid for incineration plants. At the same time, EUROFER requests that the reuse of waste as secondary material resource, in a cradle to cradle way, should be eligible for state aid under EEAG.

### **Contracts for Difference**

In particular, the upcoming revision of the Guidelines on EEAG should set the right framework for ambitious CCfDs to be implemented at national and sectorial level. In this context, the EEAG shall be revised and introduce CCfDs, factoring in criteria that are necessary for the transformation of industrial sectors such as steel, namely:

- 1) Allow compensation for the entire transformation cost;

- 2) Accept long-term duration of CCfDs, tailored to the specificity of industrial sectors with very long investment cycles such as steel;
- 3) Authorize a steel sector specific project contract industry sectors' quota for the allocation of CCfDs, without competition to other parties that have more money but less added value for decarbonisation;
- 4) Specific projects based CCfDs to be signed by large energy consumers like steel with the government,(without energy providers involved in the contractual arrangements);
- 5) Secure complementarity and synergies with other national and EU funding programmes.

With regard to the IPCEI, there is a list of equally relevant modifications, namely, to extend the co-financing requirement by the beneficiary by the option of co-financing by union funds, to extend the eligible projects of Point 23 in the section “specific criteria” with climate protection projects, to add a provision which would allow to consider the relevant costs of project proposals submitted to the Innovation Fund of the European Union Emissions Trading System as being equivalent to and compatible with the IPCEI funding gap, to exclude from the ban of “mass production” and “commercial activities” any production and commercial activities characterized by an innovative element and to provide that for investments with long investment cycles that the funding gap calculation should not be made across the full life time of the investment.

We propose the following adjustments to the environmental and energy aid guidelines, in order to implement the requirements:

- Definition of a general compatibility criterion “conversion to low CO<sub>2</sub> or CO<sub>2</sub>-neutral production”, according to which support for additional investment and operating costs with an aid intensity of 100% is expressly permitted under the state aid rules.
  - Inclusion of a special rule on the compatibility of carbon contracts for difference (CCfD) as a key instrument for the promotion of projects to introduce low carbon production processes.
2. **If you consider that lower levels of State aid, or fewer State aid measures, should be approved for activities with a negative environmental impact, what are your ideas for how that should be done?**
    - a. *For projects that have a negative environmental impact, what ways are there for Member States or the beneficiary to mitigate the negative effects? (For instance: if a broadband/railway investment could impact biodiversity, how could it be ensured that such biodiversity is preserved during the works; or if a hydro power plant would put fish populations at risk, how could fish be protected?)*

For many negative environmental impacts, there is EU legislation in place, including on biodiversity and biological and chemical water quality. There is thus no need for additional requirements in state aid regulations and schemes other than the necessity to be in compliance with these stipulations.

3. **If you consider that more State aid to support environmental objectives should be allowed, what are your ideas on how that should be done?**

- a. *Should this take the form of allowing more aid (or aid on easier terms) for environmentally beneficial projects than for comparable projects which do not bring the same benefits (“green bonus”)? If so, how should this green bonus be defined?*

EUROFER suggests not to support the Green Deal objectives via a legal construct like the “green bonus” but rather directly, as suggested in our response to the question 1 (see above).

Indeed, under the current state aid framework, the scope for state support is too limited: The possible aid intensities are too low and there is no directly applicable scheme to compensate for the extra costs.

The additional costs of the procedures must be compensated as fully as possible.

In addition to investment, operating costs must also be included.

These should be no artificial reductions of the aid and full aid intensities should be allowed for decarbonisation projects.

The objective of the support is to bring low CO<sub>2</sub> processes to the market on a large industrial scale, a large part of which is already available. The criterion for approval under the state aid rules will therefore not only be the degree of innovation, but also achievable far-reaching reduction of greenhouse gas emission of such projects.

- b. *Which criteria should inform the assessment of a green bonus? Could you give concrete examples where, in your view, a green bonus would be justified, compared to examples where it would not be justified? Please provide reasons explaining your choice.*

See our response to question 3.a (see above).

#### **4. How should we define positive environmental benefits?**

- a. *Should it be by reference to the EU taxonomy and, if yes, should it be by reference to all sustainability criteria of the EU taxonomy? Or would any kind of environmental benefit be sufficient?*

See our response to question 3.a (see above). We note that the EU Taxonomy is designed to describe and identify green economic activities and according investments but is less able to identify correctly industrial operations in transition towards the Green Deal objectives. Especially, the application of EU-ETS Benchmarks for determining coherence with the sustainability criteria is erroneous and misleading because these Benchmarks have been construed only to determine the cost-free allocation within the EU-ETS but they are not meant to neither able to assess the performance of individual plants or even installations. Therefore, more integrative solutions are required involving ideally all parts, but at least the most relevant parts, of the value chain, as for example provided for by the relevant parts of EN 19694.

Part 2: Antitrust rules

Part 3: Merger control