

Comments by the Maltese Authorities on the revised Climate, Energy and Environmental Aid Guidelines (CEEAG)

- *Section 3.2 Negative condition: the aid measure must not unduly affect trading conditions to an extent contrary to the common interest*

Paragraph 56 (b) requires published information on each individual aid award granted ad hoc or under an aid scheme approved based on these guidelines and exceeding EUR 100 000.

Comment: We are of the opinion that this threshold should be kept at EUR 500 000, as in the existing guidelines, as lowering it to EUR 100 000 will put further unnecessary administrative burden on the already stretched resources of reporting entities.

- *3.3 Weighing the positive effects of the aid against the negative effects on competition and trade*

Paragraph 69 indicates that as a final step, the Commission will balance the identified negative effects on competition and positive effects of planned aid with the Taxonomy Regulation, by paying particular attention to Article 3 of the said Regulation, including the 'do no significant harm' principle.

Comment: The Maltese Authorities deem it premature to consider the inclusion of Article 3 of the Taxonomy Regulation in the State aid balancing exercise in the view that elements referred to therein are yet to be adopted and developed. We consider the cross referencing to Article 3 of the TR on a different basis than the cross reference to the Taxonomy Regulation in other Regulations, for instance in the Recovery and Resilience Facility Regulation. In this case the cross reference was limited to Article 17 which does not refer to delegated acts and not bound by the Taxonomy Regulation per se, but rather to its concepts, such that further guidance was then issued. Furthermore, in its Communication of 21 April, the Commission indicated that *"In the future, the original purpose of the EU Taxonomy should be reiterated, and the implications should be carefully assessed in terms of suitability, proportionality and compliance costs, before its inclusion in other policies."* Linking the Taxonomy Regulation to these Guidelines goes beyond the original purpose of the EU Taxonomy, and thus the implications should be carefully assessed before its inclusion in the Climate, Energy and Environmental Aid Guidelines.

- *Section 4.1 Aid for the reduction and removal of greenhouse gas emissions including through support for renewable energy*

Section 4.1 includes all activities which will result in GHG emission reduction, thus it includes both RES and EE measures.

Comment: We would like to ascertain that Member States would be able to resort to point 83a, especially in relation to:

- a. having schemes specific to Energy Efficiency, also in view of the energy efficiency first principle.
- b. Having renewable energy technology-specific schemes.

It is important that it is made clear in this section that Member States are allowed to implement schemes separately for specific RES technologies and EE.

- Paragraph 85 requires Member States to consult publicly on measures to be notified under section 4.1 prior to the notification of aid.

Comment: Malta is of the opinion that aid awarded for a specific project (not a scheme) which falls in line with the objectives of section 4.1 should be exempt from the requirement to undergo a public consultation, given that such projects would already have gone through, or required to undergo a public consultation as part of the relevant planning and environmental permitting process.

- Paragraph 92 lists the instances where beneficiaries of small projects are exempt from a competitive bidding process. 92(b) defines “small projects”.

Comment: We are of the opinion that 92(b)(i) should be reworded as follows: for electricity generation or storage projects – projects *listed in Article 5 of Regulation (EU) 2019/943 paragraphs (a) and (c)* to also capture demonstration projects. Art 5 (2)(b) is already captured by point 92(b)(ii).

- Paragraph 109 states that *“measures that incentivise new investments in energy or industrial production based on the most polluting fossil fuels... will not be considered to have any positive environmental effects, given the incompatibility of these fuels with the Union’s climate targets.”*

Comment: Does this preclude MS from supporting EE measures which involve investment in more efficient equipment which reduces fossil fuel consumption (for example a more efficient boiler which runs on diesel or LPG) or measures which reduce electricity (which is sourced from non-renewable sources)? If not, then would such aid need to be awarded on the basis of level of subsidy per unit of GHG reduced?

- *Paragraph 139: Despite existing policies, certain market barriers and market failures may remain unaddressed, including the affordability of clean transport vehicles compared to conventional vehicles, the limited availability of recharging or refuelling infrastructure and the existence of environmental externalities. Member States may therefore provide aid to address those residual market failures and support the development of the clean mobility sector.*

Comment: The Maltese Authorities believe that inter-operable technology and flexibility in relation to enabling cross border charging is also limited

- *Paragraph 169: Aid may be granted for the construction and installation or the upgrade of recharging or refuelling infrastructure.*

Comment: This should also include the possibility of electrical connectivity upgrades to support the charging infrastructure.

- *Paragraph 177: The eligible costs are the costs of the investment for the construction and installation, or the upgrade of the recharging or refuelling infrastructure. These may include the costs of....*

Comment: Costs related to the O&M (Operation and Maintenance) should also be included. Additionally, costs for special cabling required for fast chargers should also be included.

- *Sections 3.2.1.1 Necessity of the aid and 3.2.1.2 Appropriateness*

Comment: Should a case arise where Government, in efforts to phase out fossil fuel subsidies (i.e. eliminate reduced rates on fuel consumption), is considering providing State aid to a beneficiary as a compensation to eliminating the tax expenditure, would the elements in Sections 3.2.1.1 and 3.2.1.2 preclude such way forward?

Additional Comment:

As a final comment, the Maltese Authorities would like to highlight that guidelines for aspects to implement measures of the Green Deal (eg infrastructure for low carbon fuels for transport such as Sustainable Aviation Fuels in airports) remain missing. In our opinion the Guidelines should enable Member States to better support the implementation of the necessary infrastructure that would not necessarily be incentivised by the 'Fit for 55' various proposals due to lack of economies of scale.