

To

European Commission
Directorate-General for Competition
State aid registry
Ref.: HT.582
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Attn:

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Subject: Public consultation on draft ETS State aid Guidelines, Ref.: HT.582

Dear Sirs/Madams,

With reference to the Public consultation on draft ETS State aid Guidelines, published on 14.01.2020 with the following we would like to contribute to the efforts of the Commission to finalize the rules for providing state aid under Art. 10a (6) and Art. 10c of EU ETS Directive 2003/87/EC.

We appreciate the revision and value the improved criteria and more detailed rules for granting state aid. The rules reflect adequately the requirements for Phase 4 laid down in the revised EU ETS Directive.

We are sending our observations with recommendations that we expect to be considered in the final version of the text. In our opinion some texts should be clarified in the context of the system for greenhouse gas emission allowances trading post 2021 regarding :

- terms used and
- the mechanisms for compatibility assessment of State aid measures.

Below are our detailed comments :

Ref. Para 1.2. Definitions :

(9) **"EUA Forward price"** – The EU given carbon exchange shall be specified, having in mind that not all exchanges publish "forward" prices. For example, EEX publishes auctions, spot, futures and options prices. The carbon exchange name and the product name should be specified and be the same for all countries. However, it is important that the daily one-year price is calculated in a transparent manner. Therefore, we recommend that the selected exchange or the European Commission undertakes the responsibility to publish the specific adopted "EUA forward price" value valid for each reporting year by a specified date prior the reporting deadlines.

(10) **"CO₂ emission factor"** – The methodology for calculation of the national CO₂ emission factor should be specified as well as if the national competent authority is obliged to publish this emission factor on a yearly basis. The conditions under which the national or the maximum regional CO₂ factor (published in Annex III) will be applied

should be specified as well. Country – specific factors should be also considered. For Bulgaria those are the production changes in the installations using fossil fuels, the import of electricity for sale, the enabled reserve capacities for electricity production from fossil fuels for each reporting period.

Ref. Section 3 Compatibility assessment under Article 107(3)(c) of the Treaty

Ref. Para 3.1. Aid to undertakings under art. 10a (6)

- **Item 21.** We consider that the criteria under which a Member state is allowed to select only some of the sectors, listed in Annex I, as eligible for state aid, should be predetermined. We propose this option to be additionally considered to avoid giving competitive advantage to undertakings in one country selected for state aid before undertakings from the same sectors in other countries included in Annex I, but not selected for state aid.
- **Item 25.** The EC should provide recommendations to member-states for a mechanism for ex-post payment adjustment, especially in case that the state aid in year t+1 is less than the over-paid amount.

Ref. Para 3.2. Aid to undertakings under art. 10c – additional free allocation of allowances

- **Item 42 (c) i** – It is necessary to provide definitions for “significant level of CO2 reductions” and “taking into account the size of the project” in case that different scaling is foreseen than the threshold of EUR 12.5 million. It is necessary to specify whose responsibility it is to “pre-determine” those two parameters. In case this is the responsibility of member states, the criteria should be publicly available, uniform and transparent or at least EC guidelines should be issued.
- **Item 44** provides for using a Commission reference rate for discounting the value of investments over time. Please clarify if this is the discount rate specified in Commission Regulation (EU) No 271/2008 of 30 January 2008 amending Regulation (EC) No 794/2004 for the implementation of Regulation (EC) No 659 Council Regulation / 1999 laying down detailed rules for the application of Article 93 of the Treaty establishing the European Community. If different discount rate is foreseen, please clarify how and who shall establish it. It shall be made publicly available as well.

Ref. Section 4. Evaluation

- **Item 51** Definitions are necessary for “large aid budgets”, “novel characteristics”, “significant market, technology or regulatory changes” in order to provide equal treatment of projects in all member states.

Ref. Section 5. Energy audits and management systems

- **Item 54 (a)** Having in mind that the common lifetime of industrial equipment and energy infrastructure is 25 years (and that applies not just to conventional generation mechanisms but also innovative installations), the required pay-back period of 5 years for implementation of recommendations from the energy audit report is rather small. In order to achieve reduction of CO2 emissions from the undertakings we consider that a pay-back period of at least 10 years is needed. In case operators are allowed to apply faster depreciation other than the common accounting rules and standards adopted by the State Aid guideline, this option must be clearly stated in the State aid guidelines.
- **Item 54 (c)** A definition is needed for the term “well below” the applicable benchmark used for free allocation in the EU ETS either in percentage or in absolute value.

Ref. Section 7. Reporting and Monitoring

- **Item 58 (h)** An obligation for the competent authority to make publicly available the methodology for calculation of the national CO2 emission factor shall be included.


Ref. Section 8. Period of application and revision


- **Item 66** An obligation to review in 2025 the national CO2 emission factor as well should be included.

We consider it appropriate in the reports to the Commission that Member States also include information on the control of beneficiaries under Art. 10a of Directive 2003/87 / EC;

We thank you for the opportunity to express our position and support the efforts of the European Commission to set effective rules for the implementation of EU ETS revised conditions.

Regards,


Anna Dimitrova - Head of department "Energy policy, enviromnet and innovation"


Velko Kurshumov - executive member of the Board of Directors
EVN Bulgaria Toplofikatsia EAD



