The Alliance of Energy Intensive Industries response to the public consultation on the revised Climate, Energy and Environmental Aid Guidelines

Brussels, 27 July 2021

The Alliance of Energy Intensive Industries (AEII) welcomes the opportunity to comment on the proposed “Guidelines on State aid for climate, environmental protection and energy 2022”. The Guidelines are one of the key instruments to facilitate the industrial transformation.

Energy-intensive industries provide directly around 2.6 million jobs and represent the foundations of strategic value chains that enable the EU economy and society. Our sectors have collectively identified a range of technological pathways that can deliver deep emission reductions. Companies are working on concrete projects to progress further.

In our response, we focus on the following elements of the Guidelines:

1. Aid for the reduction and removal of greenhouse gas emissions including through support for renewable energy
2. Aid in the form of reductions from electricity levies for energy-intensive users
3. Aid for the security of electricity supply

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

The AEII appreciates that the draft Guidelines aim at supporting emerging decarbonisation technologies. In this context, we welcome that the text recognises:

- The importance of aid in a variety of forms such as upfront grants and contracts for ongoing payments to support the operating costs of an investment
- The potential of hydrogen, and other low-carbon gases, which is to be coupled with the recognition of the need for CO_2 infrastructure
- The benefits of CCS/CCU and resource efficiency

2. Aid in the form of reductions from electricity levies for energy-intensive users

The AEII appreciates that the Guidelines continue allowing reductions from electricity levies for energy-intensive users. This measure becomes even more important as levies have been increased substantially across the European Union in recent years. However, we are concerned about several changes substantially affecting the aid level.

a. Overall cumulative level of levies

It is not appropriate to make the compensation conditional to a minimum level of the levies.

Firstly, any chosen value would be arbitrary as there is not a single cost across and within Member States, resulting in various costs occurring in industries and companies.

Secondly, by setting a threshold in absolute terms there is a risk of creating an unstable investment environment. The prices can unpredictably change, even by Eurocents per MWh, preventing the companies to receive reductions.

Lastly, due to the very large energy consumption and the partial nature of exemptions, energy-intensive industries would have a major competitive disadvantage compared to producers based in third countries that do not have comparable climate legislation and related regulatory costs.

b. Eligibility

Affordable electricity is necessary to allow the industries to realise their GHG reduction pathways. Therefore, it should be possible to provide additional data to the Commission if a sector wishes to advocate for the reintroduction on the list of eligible sectors.

For example, trade intensity is a dynamic indicator given that the import/export figures can increase very quickly with changing market conditions. In this respect, sectors should be able to provide reliable data for more recent years. The current reference period does not always reflect the dynamic aspect of trade nor the need for EU industries to adapt to the decarbonisation agenda.

The CEEAG draft proposes to limit the list of sectors eligible for electricity levies under section 4.11 and included in Annex 1 of the Guidelines. The justification for the proposed limitation is not clear. We would like to see the impact of such change properly assessed.

The limitation of the eligibility list is a consequence of the changed criteria for the trade and emission intensities of the sectors. In the current Guidelines, it is possible to qualify with the thresholds of 4% trade intensity and 20% electro-intensity. The reasons for the change proposed in the draft CEEAG are not clear.

c. Proportionality

The draft Guidelines may prove counterproductive to the investments in electrification technologies. The proposed increase of percentages relative to levies or relative to GVA seems not reasonable. The current proposal would negatively affect the competitiveness and trade of the European industry by increasing the industry's exposure to international competition. In addition, there is no impact assessment included to support this proposal.

According to point 359 of the draft Guidelines, levies reduction will be considered proportionate if undertakings pay at least 25% of the levies concerned. We recommend the Commission maintain the minimum paid by beneficiaries at 15%.

In addition, the possibility to cap undertakings' contributions should also be kept at the current level of 0.5% of their GVA (point 360). In practice, the value of 1.5% may prove to be too high for some sectors.

d. Conditionality

Compensation should not be made conditional on additional requirements. At least, the conditions should be harmonised across different instruments.

This kind of state aid aims at reimbursing partially the energy-consuming sectors for the costs of the climate and energy policies passed on in the energy bill. If now state aid is made conditional to additional measures to be taken by the company (i.e. investments in energy efficiency or emission reductions and carbon-free power purchase agreement,) de facto it is not anymore a (partial) reimbursement of incurred costs since it requires additional expenditure to the company.

As the eligible sectors are acknowledged as being at risk of carbon leakage (based on market characteristics, profit margins and abatement potential), the missed reimbursement would create the conditions for the materialisation of such risk, leading to an increase in global emissions.

As the draft CEEAG proposes that "one or more" of the conditions are to be met, Member States could create a framework that is extremely hard for the industry to receive reductions. A solution could be to require "at least one" of the criteria to be met in the proposed CEEAG.

3. Aid for the security of electricity supply

Point 324 of the Guidelines stipulates the following: "[…] the costs of a security of supply measure should be borne by the market participant who contribute to the need for the measure. […]". This sentence shows that the European Commission aims to specify how the aid must be financed and thus limits the freedom of choice of the Member State as regards the cost pass-through of such measure, surpassing the subsidiarity principle anchored in EU law.

We suggest amending this sentence as follows: "[…] the costs of a security of supply measure should in principle and to the extent that the costs of financing security of supply measures are recovered from market participants be borne by the market participant who contribute to the need for the measure. […]".

Last, but not least, we are concerned about **the impact of the CEEAG on regulatory stability**. A clear and stable state aid framework that is to accompany the "Fit for 55" legislative package is needed to safeguard industries' competitiveness. Companies need long-term predictability of European rules for support and exemptions schemes.

We are concerned about the short deadline set to eventually adjust existing aid and exemptions schemes. We emphasise the need to consider existing rules and schemes in the new CEEAG.

We are also concerned about linking the CEEAG provisions with legislative instruments which are still under development, such as the taxonomy. It may result in uncertainty when designing national support schemes.

In the case of the taxonomy, this should be avoided also because the instruments have different objectives. The taxonomy is to be a voluntary classification system aiming at improving transparency for investors towards 2050 while state aid rules impact the investment framework for the next decade.

The Alliance of Energy Intensive Industries comprises of the following associations:

- Cefic, the European Chemical Industry Council
- CEMBUREAU, the European Cement Association
- Cepi, the Confederation of European Paper Industries
- Cerame-Unie, the European Ceramic Industry Association
- EuLA, the European Lime Association
- Euroalliages, the Association of European ferro-alloy producers
- EUROFER, the European Confederation of Iron and Steel Industries
- Eurometaux, the European non-ferrous metals association
- EXCA, the European Expanded Clay Association
- Fertilizers Europe
- FuelsEurope
- Glass Alliance Europe, the European Alliance of Glass Industries
- IFIEC EUROPE

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