New State aid Guidelines in the context of the
amended EU Emissions Trading Scheme

Consultation paper

1. INTRODUCTION

In 2005 the European Union Greenhouse Gas Emission Trading Scheme (EU ETS) was introduced to reduce CO₂ emissions in a cost-effective way and avoid climate change. Directive 2009/29/EC¹ amending Directive 2003/87/EC² (ETS Directive) improved and extended the EU ETS in the third trading period 2013-2020 (ETS-3). ETS-3 will be based on a stricter and single EU-wide cap, the allocation of allowances will be made on transitional fully harmonised EU-wide basis and wider auctioning of allowances will be progressively introduced.

Article 10a(6) of the ETS Directive foresees that Member States may adopt financial measures in favour of sectors determined to be exposed to a significant risk of carbon leakage due to costs relating to greenhouse gas emissions passed on in electricity prices (indirect CO₂ costs), in order to compensate for those costs and where such financial measures are in accordance with state aid rules. The Directive also foresees that such support should only be granted where it is necessary and proportionate and should ensure that the EU ETS incentives to save energy and to stimulate a shift in demand from ‘grey’ to ‘green’ electricity are maintained. Such action may be taken for those specific sectors where it can be duly substantiated that the risk of carbon leakage cannot be prevented otherwise, where electricity constitutes a high proportion of production costs and is produced efficiently⁴.

The abovementioned provisions of the ETS Directive are based on the premise that financial support for indirect emissions can be highly distortive, if it is not properly targeted to sectors that are at significant risk of carbon leakage due to CO₂ costs passed on in electricity prices (so called "indirect emissions") and limited to the additional cost stemming from ETS-3 for the most efficient firms. Otherwise, aid would introduce economic distortions within the EU economy and have a detrimental impact on the efficiency of the EU ETS.

Therefore, the primary objective of State aid control in the context of the implementation of the EU ETS is to ensure that State aid measures will result in a higher overall level of


³ See recital 27 of the ETS Directive.

⁴ See recital 24 of the ETS Directive.
environmental protection (a reduction of greenhouse gas emissions) than would occur without the aid and to ensure that the positive effects of the aid outweigh its negative effects in terms of distortions of competition in the internal market, while preventing overcompensation and ensuring a level playing field across the EU.

In 2008, during the adoption process of the ETS Directive, the Commission complemented its proposal to the European Parliament and the Council and outlined, in a non-paper\(^5\), the guiding principles for granting financial support in relation to aid to energy intensive companies with regard to CO\(_2\) costs in electricity prices (state aid for indirect emissions). The purpose of this consultation is to invite Member States and stakeholders to express their views on the issue of financial support for indirect emissions. This consultation also forms part of the proportionate impact assessment with respect to the above mentioned aid measure that will be included in the future State aid Guidelines related to the EU ETS. The Commission services will undertake this impact assessment in conformity with the applicable guidelines\(^6\). It is to be noted that the future State aid Guidelines related to the EU ETS will also contain provisions on other state aid measures that are foreseen in the ETS Directive, namely investment aid to high efficient power plants which are CCS ready, aid involved in optional transitional free allocation for the modernisation of electricity generation in some Member States and aid involved in the exclusion of small installations from the EU ETS.

2. **HOW TO CONTRIBUTE TO THE CONSULTATION**

Member States and other interested parties are invited to respond to the questionnaire. Replies can be submitted in all official EU languages. Given possible delays in translating comments submitted in certain languages, translations of the replies in one of the Commission's working languages (English, French or German) would be welcome.

Certain questions are intended specifically for public authorities or certain stakeholders and respondents are thus not required to address every question. If you are not concerned by a particular question please reply "not applicable".

The deadline for the replies is **11.05.2011**. Replies should be sent to the European Commission, DG COMP, State aid registry, 1049 Brussels, with the reference "HT 582", preferably via e-mail to Stateaidgreffe@ec.europa.eu.

The Commission services plan to make the replies to this questionnaire accessible on the website [http://ec.europa.eu/competition/consultations/2011_questionnaire_emissions_trading/index_en.html](http://ec.europa.eu/competition/consultations/2011_questionnaire_emissions_trading/index_en.html). Therefore, if respondents do not wish their identity or parts of their responses to be divulged, this should be clearly indicated and a non-confidential version should be submitted to the Commission at the same time. In absence of any

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indication of confidential elements, the Commission services will assume that the response contains none and that it can be published in its entirety.
QUESTIONNAIRE

ABOUT YOU

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Please provide your contact details below.

<table>
<thead>
<tr>
<th>Name</th>
<th>Juliette JACQUES</th>
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</thead>
<tbody>
<tr>
<td>Organisation Represented</td>
<td>AAF (Association des Amidonniers et Féculiers a.i.s.b.l.) European Starch Industry Association</td>
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<td>Location (country)</td>
<td>Belgium</td>
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<td>E-mail address:</td>
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Please describe the main activities of your company/organisation/association.

The AAF - Association des Amidonniers et Féculiers - is the trade association that represents the interests of the European starch industry both at European and international level.

The starch industry extracts starch from cereal grains and potatoes and processes it into several hundreds products, from native starches to physically or chemically modified starches, liquid and solid sugars. Starch products are used as ingredients and functional supplements in food, non-food and feed applications. It also generates co-products which are sold into animal feed (e.g. wheat proteins, corn gluten feed) and food (e.g. wheat gluten) http://www.pfp-eu.org/.

SECTION A: ELIGIBLE SECTORS FOR SUPPORT FOR INDIRECT EMISSION COSTS & INABILITY TO PASS-THROUGH

A1 Sectors eligible for aid for indirect emission costs in ETS-3

According to the ETS Directive, the beneficiaries eligible for aid for indirect emissions should be those sectors for which a significant risk of carbon leakage exists due to increases in electricity costs (indirect emissions). In the non-paper addressed to the European Parliament and the Council, the Commission stated that it would identify at EU level a list of sectors deemed to be exposed to the risk of “carbon leakage” due to indirect emissions. The Commission also stated that it would use the method developed in the context of direct emissions, but adapt it in order to take into account cost increases related to indirect emissions.
"Carbon leakage\textsuperscript{7} could occur when, in the absence of binding international agreement, global greenhouse gas emissions increase in third countries where industry would not be subject to comparable carbon constraints and at the same time could put certain energy-intensive sectors and sub-sectors in the Community which are subject to international competition at an economic disadvantage.

Financial support should therefore be limited to those electricity intensive sectors which are unable to pass through the electricity cost increase stemming from CO\textsubscript{2} to their customers into product prices without significant loss of market share and which are likely for this reason to relocate to less carbon-constrained zones outside the EU.

1. Please specify the sectors (at NACE 4 level\textsuperscript{8}) that, according to you and the requirements in the Directive, are exposed to a significant risk of carbon leakage due to costs relating to greenhouse gas emissions passed on in electricity prices which will stem from ETS-3.

All products of the European starch industry are identified at carbon leakage, under the NACE code 1562: manufacture of starch and starch products in the relevant Commission decision of January 2008.

The European starch industry has opted for providing a generic answer to question 1 of this consultation as the base for its argumentation against the unfair treatment of cogeneration (or CHP, which stands for Combined Heat and Power) under the Emission Trading Scheme Directive.

The European starch industry is concerned about the differentiation of treatment between the ETS installations that are listed under Annex I of the Directive and those, such as the starch plants and other food industry installations that are not listed under Annex I of the Directive. Consequently, starch plants with a cogeneration unit that have a surplus of electricity are likely to be identified as electricity generators, precisely because their activities are not listed under Annex I of the Emission Trading Scheme Directive.

This creates a differentiation of treatments between heat sources. High efficiency CHP is being discriminated against compared to other sources of heat generation because it is subject to the linear reduction factor of -1.74\% as provided for under article 10a4 of the ETS Directive.

The European starch industry has stated previously that its facilities are not designed to produce electricity but to process agricultural products. They are not comparable with large electricity utilities and their cogenerations have little in common with cogenerations units from electricity producers, be it with regards to conception, operating system, productivity and metrology. The CHP facilities of starch operators are designed

\textsuperscript{7} See recital 24 of the ETS Directive.

\textsuperscript{8} According to NACE rev.1.1:
for on-site consumption of electricity, increasing the plants self-sufficiency in electricity. The very “raison d’être” of starch plants is to process agricultural raw materials into starch products, which are in turn used as ingredients, functional products and intermediates in food, feed and non-food applications.

The European starch industry advocates the compensation of starch installations for the allowances that they will have to buy for producing the electricity that is generated by CHP and used on-site for the manufacture of starch products. For more details of the arguments supporting that position, please refer to the Primary Food Processors’ position paper on cogeneration at: http://www.pfp-eu.org/pdf/March%202011%2C%20Co-generation%20in%20the%20PFP%20industry.pdf

If you are or you reply on behalf of a company or a trade association and you consider that you belong to a sector which is unable to pass-through possible increases in electricity costs due to CO2 (indirect emission costs) stemming from the ETS-3, please reply to the below questions for each of the sectors concerned, in order to substantiate your claim.

If you reply on behalf of a public authority or a Non-Governmental Organisation, please indicate which sectors of the economy are in your opinion (i) unable or, by contrast, (ii) able to pass-through increased electricity costs due to CO2 (indirect emission costs). In order to substantiate your claim, please reply to the below questions for each of the sectors concerned.

**Burden sharing / efficiency of ETS-3**

2. How do you reply to the view that granting compensation to some sectors of the economy and insulating them from the EU ETS indirect costs would be at the expense of other sectors of the EU economy, which would have to make stricter emission reduction efforts or be under a larger cost burden, in view of the overall EU cap on emissions?

**International context**

3. To what extent are producers outside the EU also confronted with a cost for indirect emissions? Are you aware of the existence or imminent implementation (before 2013) of emission trading systems, or emission reduction mechanisms with similar effect on production costs as the EU ETS, in other parts of the world? Which emission reduction mechanisms, if any, should be viewed as having a similar effect on production costs as the EU ETS?