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**Subject: State aid No SA.35576 (2013/N) – United Kingdom
Changes to the Feed-In-Tariffs scheme to support the generation of
renewable electricity from low carbon sources**

Sir,

1. PROCEDURE AND DESCRIPTION OF THE MEASURE

- (1) On 25 January 2013, the UK authorities notified to the Commission, in accordance with Article 108(3) of the Treaty on the Functioning of the European Union (hereinafter referred to as TFEU) and under the Notice on simplified procedure¹, in particular under points 5(a) of the Notice on simplified procedure, certain changes to the existing Feed-In-Tariffs (FITs) scheme to support the generation of renewable electricity from low carbon sources. The scheme was originally approved by Decision of 14 April 2010 in case N 94/2010, later amended by means of Decision of 30 September 2011 in case SA.33210. The notification has been complemented by information submitted by the UK authorities on 1 February 2013.²

¹ OJ C136, 16.06.2009, p. 3-12.

² The UK clarified the budget of the notified measure and provided updated figures.

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- (2) A summary of relevant features of the notified measure can be found in the summary of the notification published on the website of the Commission http://ec.europa.eu/competition/elojade/isef/dsp_simple_notif.cfm and annexed to the present Decision.
- (3) As an integral part of the scheme, the UK authorities committed to carry out periodic reviews of the FIT levels (every three years) with a view to reassess the costs of technologies, electricity price forecasts and whether the target rate of return is still appropriate. Accordingly, following such review, a revision and decrease of the tariff levels is considered, in particular taking into account decreases in the levelised production costs to ensure there is no overcompensation.
- (4) In light of the results of the most recent review of the scheme³, the UK has proposed certain amendments to the FITs scheme, the main objective of which is to ensure that the aid is kept at an appropriate level.
- (5) The following modifications have been indicated by the UK authorities:
 - a. Introduction of a new intermediate hydro band in the range 100 - 500 kW (currently, installations with this capacity are eligible under the band range 100 - 2000 kW with FITs amounting to 12.1 p/kWh), combined with an increase in the tariff for such installations from 12.1 p/kWh to 15.5 p/kWh.⁴ The new FITs have been calculated on the basis of a rate of return of 7.3%.
 - b. Increase in the level of support for micro-CHP with a capacity of up to 2 kW from 11.0 p/kWh to 12.5 p/kWh (with the new tariff the average rate of return for such installations remains negative, -9.3%).
 - c. Review and accordingly decrease of support levels for solar photovoltaic (PV) installations in all ranges to ensure that overcompensation is avoided. This comprises the following measures: reduction of generation tariffs from 1 April 2012; further reduction of generation tariffs from 1 August 2012; increase of export tariff; new multi-installation tariff rate; new energy efficiency requirement; reduction in tariff period to 20 years; and introduction of a quarterly degression mechanism from 1 November 2012.⁵
 - d. Reduction of FITs for other types of installations than solar PV, with the effect from 1 December 2012, in line with the updated information available on the costs of these technologies, electricity price forecasts and the appropriateness of the target rate of return.

³ In view of rapid reductions of technology costs, the review has been carried out earlier than the initially envisaged three years period.

⁴ FITs for the hydro band range 500 – 2000 kW remains at the same level of 12.1 p/kWh.

⁵ The key features of the new degression mechanism for solar PV are: three-monthly tariff changes at fixed dates; baseline degression of 3.5% every three months, with larger cuts (to a maximum of 28%) depending on the rate of deployment; automatic tariff cuts will be skipped (for a maximum of two successive degenerations) if deployment is low; three degression bands (domestic, small commercial and large commercial/utility), with deployment in each band determining the future tariff in that band.

- e. Introduction of an annual tariff degression mechanism from 1 April 2014, in addition to the normal reviews of support levels, applicable to all non-PV installations except for micro-CHP.⁶
 - f. Introduction of a system of preliminary accreditation for non-PV installations, with the effect from 1 December 2012, for prospective FITs generators where installations have a relatively long lead time. The system will provide a tariff guarantee for a fixed period of six months to two years, depending on the technology.
- (6) The UK authorities have assured that other features of the FIT scheme, such as methodology of calculation of the tariff levels, requirements to demonstrate incentive effect and the rules on cumulation of aid, remain unchanged.
- (7) The budget for the scheme for the period 2011-2015 amounts in total to GBP 2.12 billion.
- (8) The modifications described under recital (5) a. and b. above will be introduced after Commission's approval of the changes to the FITs scheme in the present Decision.
- (9) The UK authorities have indicated that, in their view, the modifications described under recital (5) c., d., e. and f. do not amount to new aid that needs to be notified, but are within the scope of the previous Commission decision (approving the aid notified by the UK under the case N 94/2010 and SA.33210 – 2011/N) or represent purely administrative changes of the aid scheme. However, information on these modifications was provided to the Commission.

2. ASSESSMENT OF THE MEASURE

2.1. Existence of aid within the meaning of Article 107(1) TFEU

- (10) The changes presented in the notification do not alter the prior conclusion of the Commission in the case N 94/2010 that the measure constitutes state aid within the meaning of Article 107(1) TFEU.

2.2. Compatibility of the aid

- (11) The Commission's analysis did not imply any serious difficulties and confirms that the amendments made do not modify the original compatibility assessment regarding the approved measure N 94/2010 as further amended by Decision SA.33210. The Commission has carried out the compatibility assessment on the basis of the Environmental Aid Guidelines⁷, and in particular its Chapter 3.1.6. Aid for renewable energy sources.

⁶ This includes a baseline rate of automatic degression and capacity based triggers that may result in steeper degression steps in the event of higher than expected deployment, and shall lower degression steps if uptake is less than expected. Degression will take place in addition to the normal reviews of support levels, as approved under the original scheme.

⁷ Community guidelines on state aid for environmental protection, OJ C 82, 1.4.2008, p. 1.

- (12) The amendments presented in the notification do not alter the main characteristics of the FITs scheme as previously approved by the Commission. The UK authorities have confirmed that the objectives and the overall set-up of the measures, and the types of beneficiaries eligible for aid remain the same as in the previous notifications. The authorities have also confirmed that the UK remains committed to ensuring that there is no overcompensation, to maintaining the incentive effect as required by point 142 of the Environmental Aid Guidelines, and to ensuring compliance with the rules on cumulation.
- (13) The proposed amendments concern mainly the level of support to certain types of installations to provide a level of compensation appropriate to the new economic realities. In particular, tariff reductions and tariff degression reduce the risk of overcompensation in the context of a cost reduction trend for certain technologies.
- (14) As regards the levels of the rate of return, information provided by the UK authorities shows that, for most of the installations, the expected rate of return will lie within the range of 4% to 8% once the new tariffs apply. For some technologies, higher rates of return are envisaged, in any case not exceeding 13%. In this context, the UK authorities have explained that for the technologies concerned, a rate of return above 8% is required in order to provide the necessary incentive to invest. This is mainly due to higher risks connected to investments in such technologies. Based on the information submitted by the UK authorities, the Commission agrees that even the tariffs which allow for a rate of return above 8% seem appropriate due to the specificities related to the types of installations concerned.
- (15) The Commission therefore considers that the information on the rates of return, as presented in the notification, is consistent with the original Decision in case N 94/2010 and as later amended by means of Decision in case SA.33210.
- (16) The introduction of the degression mechanism is likely to stimulate cost reductions, and minimizes the risk of overcompensation by ensuring that the level of support is kept at the minimum level necessary. Thus, the introduction of the degression mechanism does not alter the Commission's conclusion as regards the compatibility of the scheme.
- (17) Considering the above, the Commission sees no reason to depart from its previous positive compatibility assessment in the Decision in case N 94/2010, as amended by means of the Decision in case SA.33210. The Commission's analysis confirms that the notified measure fulfils both the substantive and procedural requirements laid down in the Environmental Aid Guidelines.
- (18) The Commission has examined all the amendments to the scheme and considers that the respective modifications are covered by the review mechanism set out in the original scheme or represent administrative changes that need not be notified. In fact, the respective modifications result from the implementation by the UK authorities of their obligation to review the tariffs in order to ensure there is no overcompensation. In particular, the UK authorities have explained that the introduction of the new hydro bands in the range of 100-500 kW was a response to a widespread concern that the initial bands had created a perverse

incentive to undersize hydro projects, leading to an inefficient use of hydro resources. In the initial bands, there was a sharp drop of the support level from 19.6 p/kWh for plants with a capacity of 15-100 kW to 12.1 p/kWh for plants with a capacity of 100-2000 kW. The UK authorities have provided information demonstrating that the support proposed for the new band is appropriate taking into account the costs and revenues of this category of hydro plants, and that this amendment does not change (e.g. does not improve) the situation of the remaining plants from the initial band (hydro plants with a capacity of 500-2000 kW), for which the expected rate of return remains unchanged (8.3-12.3%). Under these circumstances, the Commission considers that in this particular case the creation of the new band was a reaction to the observed economic realities and therefore in line with the review mechanism of the scheme.

- (19) As for the preliminary accreditation described under recital (5) f., the Commission considers it as an administrative modification that has no impact on the evaluation of the compatibility of the aid measure with the common market.
- (20) The Commission further wishes to clarify that alterations to the scheme, resulting from and in compliance with the regular review process (in particular adjustments of the support levels aimed at maintaining the same rate of return for the beneficiaries in the light of updated data on their costs and revenues), are considered to remain within the scope of the decision approving the aid scheme and need not be notified.
- (21) The Commission did not receive any comments from third parties upon publication of a summary of the notification on its website.
- (22) In the light of the above, the Commission considers that the aid granted on the basis of the amendments of the FITs scheme, as presented in the notification, is compatible with the internal market in accordance with Article 107(3)(c) TFEU.

3. CONCLUSION

- (23) The Commission has accordingly decided to consider the aid to be compatible with the Treaty on the Functioning of the European Union.
- (24) In the context of the notification process, the UK authorities have indicated that the notification does not contain any confidential information.

For the Commission

Joaquín ALMUNIA
Vice-President

Annex: Summary of the notification based on the information provided by the Member State according to the standard form provided in Annex to the Notice on simplified procedure

Summary of notification

On 25/01/2013, the Commission received a notification of an aid measure pursuant to Article 108 of the Treaty on the Functioning of the European Union. On preliminary examination, the Commission finds that the notified measure could fall within the scope of the Commission Notice on a simplified procedure for treatment of certain types of State aid (JO C136, 16.06.2009, p. 3-12).

The Commission invites interested third parties to submit their possible observations on the proposed measure to the Commission. The main features of the aid measure are the following:

Reference number of the aid	SA.35576
Member State	United Kingdom
Member State reference number	
Region	- -
Granting authority	Department of Energy and Climate Change 3 Whitehall Place, London SW1A 2AW www.decc.gov.uk
Title of the aid measure	Changes to the Feed In Tariffs scheme to support the generation of renewable electricity from low carbon sources
National legal basis	Energy Act 2008 Sections 41-43; Modifications to the Standard Conditions of the Electricity Supply Licences (No4 of 2012); The Feed-In Tariffs (Specified Maximum Capacity and Functions) Order 2012
Proposed Community basis for assessment	Environment - Environmental Aid Guidelines 2008 - 2014
Type of measure	Scheme
Amendment of an existing aid measure	Modification N 94/2010 Modification PN 6/2010 Modification PN 265/2009
Duration	01.12.2012 to 01.04.2037
Economic sector(s) concerned	ELECTRICITY, GAS, STEAM AND AIR CONDITIONING SUPPLY
Type of beneficiary	All firms
Budget	Overall amount: GBP 2,120.00 (in millions)
Aid instrument (grant, interest rate subsidy, ...)	Other - All licensed electricity suppliers are required to make payments into Ofgem's E-Serve's levelisation fund, based on their market share of the Great Britain electricity supply market and any FIT payments made to accredited installations under the FIT scheme. The fund is then redistributed to FIT's licensees (licensed electricity suppliers) that have made more payments to accredited installations than they would be required to by their market share contribution. This process occurs on a quarterly basis.

Observations raising competition issues relating to the notified measure must reach the Commission no later than 10 working days following the date of this publication and include a non confidential version of these observations to be provided to the Member State concerned and/or other interested parties. Observations can be sent to the Commission by fax, by post or email under reference number SA.35576 to the following address:

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Directorate-General for Competition
State Aid Registry
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