



EUROPEAN COMMISSION

Brussels, 19.06.2013

C(2013) 3212 final

PUBLIC VERSION

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Subject: State aid case SA.35598 (2013/N) – Czech Republic

Reduction of fugitive emissions from sinter handling and cooling at sinter plant south of ArcelorMittal Ostrava a.s.

Dear Sir,

The Commission wishes to inform the Czech Republic that, having examined the information supplied by your authorities on the matter referred to above, it has decided to raise no objections to the aid measure.

1. PROCEDURE

1. Following pre-notification contacts, the Czech authorities notified the above measure on 20 March 2013, according to Article 108(3) of the Treaty on the Functioning of the European Union (hereinafter referred to as 'TFEU').

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2. Following a meeting with the Czech authorities on 19 April 2013, additional information was provided by the Czech authorities on 30 April 2013. The Commission requested additional information by letter dated 7 May 2013, to which the Czech authorities responded on 10 May 2013. The case was subject to conference calls between the Commission and the Czech authorities on 24 and 28 May 2013, following which additional information was provided on 27, 28 and 31 May 2013.

2. DESCRIPTION

2.1. Background

3. The Czech Republic intends to grant an amount of approx. CZK 345 million (approx. EUR 13.44 million¹) from the Operational Programme Environment of the EU Structural Funds to ArcelorMittal Ostrava a.s. (hereinafter referred to as 'ArcelorMittal') to support an investment into a dedusting facility for sinter handling and cooling in the sinter plant south (hereinafter referred to as the 'notified project' or the 'measure').
4. ArcelorMittal has applied for the aid under the scheme for reduction of air pollution in the Moravia-Silesia Region, approved by the Commission by means of Decision of 23 November 2011 in case SA.33588 (2011/N)². According to the Decision in case SA.33588 and in line with point 160(b)(i) of the Community Guidelines on State Aid for Environmental Protection³ (hereinafter referred to as 'EAG'), investment aid exceeding EUR 7.5 million for one undertaking is subject to an individual notification for a detailed assessment in line with Chapter 5 EAG.

2.2. Project description

5. ArcelorMittal's production site is divided into several plants. One of the plants is called "Plant 12 – Blast Furnaces". This plant includes four blast furnaces producing hot metal. They use sinter which is produced in two sinter plants: sinter plant north (also called 'agglomeration north') and sinter plant south (also called 'agglomeration south'). The notified project addresses reduction of fugitive emissions from cooling belts and sinter handling (grading) area in the sinter plant south.
6. The main source of dust and its subsequent spreading into the surroundings of the cooling bands is the transfer from the sintering band to the crusher, the sinter sorter and the first half of the cooling band. When cooling air flows through the layer of sinter, the air is heated and absorbs dust. As the air exiting from the layer of sinter has a higher temperature than the surrounding air, this results in intensive fugitive emissions of particulate matter (hereinafter referred to as 'PM'). The band will be covered for the purpose of preventing these emissions. In order to prevent a reduction in cooling efficiency, it will be necessary to extract the contaminated air from the cover. This contaminated air will be directed to a textile filter. In addition to the dedusting of the cooling bands, the extraction of the sorted grate feed will be also directed to a new separation station for reducing emissions of PM.

¹ Based on the ECB exchange rate on the notification date: 1 EUR = 25.67 CZK.

² OJ C 70 of 8.3.2012, p. 4.

³ OJ C 82 of 1.4.2008, p. 1.

7. In the past, ArcelorMittal has undertaken several measures to reduce air emission levels in its sinter plants, such as for instance an overhaul of electrostatic precipitators in the sinter plant south in 2008–2009 and an upgrade of the dedusting facility using fabric filters technology in the sinter plant north in 2011. Those investments were fully financed by the beneficiary's own financial means.

2.3. Objective of the measure in the form of environmental benefits

8. The objective of the measure is to achieve environmental benefits in the form of a significant reduction of dust emissions from stationary sources operated within the sinter plant south of ArcelorMittal, situated south-east of Ostrava.
9. Ostrava is located in the northeast part of the Moravian-Silesian Region. According to the Czech authorities, the districts of Ostrava are the most polluted areas in the Czech Republic and are among the areas of the EU most affected by air pollution. The air pollution reaches very frequently levels exceeding applicable EU and national air quality standards.
10. In terms of negative effects on human health, the most important threat is coming from suspended particles of fractions PM_{2.5} and PM₁₀ and polycyclic aromatic hydrocarbons, specifically benzo(a)pyrene, whose presence in the air is monitored. Other problematic pollutants include benzene and carbon monoxide.
11. High shares of air pollution in the Moravia-Silesia can be attributed to industrial pollution sources operated in the districts of Ostrava, Karviná and Frýdek-Místek. Other sources are road transport, local heating (in particular small combustion sources in households) and remote transfer of pollution from the territory of Southern Poland. Dust emissions from stationary sources are in the districts concerned on average twice the values of the Czech Republic.
12. The production premises of ArcelorMittal are located in the territory where the annual average concentrations of PM₁₀ in ambient air exceed the limit value (above 40 µg/m³)⁴. Dust emissions and emissions of other pollutants from "Plant 12 - blast furnaces" (including emissions from the sinter plant south) are shown in table 1. The information in the table does not include fugitive emissions, on which the notified project is focused, since these emissions are not reported. However, on the basis of an expert opinion prepared for the purpose of the feasibility study of the notified project, current dust emissions in the form of emissions from defined ducts and fugitive emissions amount to 167.956 t/year (including emissions from grading facility).

Table 1: Emissions of pollutants from the Plant 12 - Blast furnaces in 2010 [t/year]

Dust	SO ₂	NOx	CO
813.2	1 105.7	875.5	29 859.4

Source: Feasibility study "Reducing fugitive emissions from sinter handling and cooling at Agglomeration South", May 2012

⁴ A large part of the production premises is located in an area where the annual average concentrations of PM₁₀ exceed the value of 45 µg/m³.

13. According to the Czech authorities, the dedusting facility currently in place in sinter handling and cooling in the sinter plant south operated by ArcelorMittal is in compliance with all legally enforceable environmental values at the national and European level, in particular:
- a) Act No. 201/2012 Coll., on ambient air protection (which replaced Act No. 86/2002 Coll. as from 1 September 2012);
 - b) Act No. 415/2012 Coll., on the admissible level of pollution and identification thereof and on implementation of certain other provisions of the Air Protection Act;
 - c) Act No. 76/2002 Coll. on integrated pollution prevention and control, on integrated pollution register and on amendment to certain acts, as amended ;
 - d) The best available techniques (hereinafter referred to as 'BAT') conclusions adopted by the European Commission pursuant to Directive 2010/75/EU on industrial emissions (integrated pollution prevention and control)⁵, *i.e.* Commission Implementing Decision of 28 February 2012 establishing the best available techniques (BAT) conclusions for iron and steel production under Directive 2010/75/EU⁶;
 - e) Directive 2001/80/EC on the limitation of emissions of certain pollutants into the air from large combustion plants;
 - f) Directive 2000/76/EC on the incineration of waste;
 - g) Directive 2008/1/EC on integrated pollution prevention and control.
14. The implementation of the notified project will result in environmental benefits consisting of a reduction of fugitive dust emissions (which would be positively reflected in lower levels of ambient PM₁₀ pollution). However, the level of expected reduction of fugitive dust emissions can only be estimated, as the determination of their mass concentration is difficult to carry out. According to the information submitted by the Czech authorities, the dust emission levels in 2012 for all sources of secondary emissions within the sinter plants were below the upper end of the BAT-associated emission level range as defined in the BAT conclusions. Table 2 demonstrates that the implementation of the notified project will reduce annual fugitive emissions of dust from sinter cooling and handling by about 36.6% (from about 168 t/year to 106 t/year).

Table 2: Estimated level of fugitive emissions from sinter cooling and handling

	Dust [t/year]
Current situation	167.956
After the project implementation	106.450

Source: Feasibility study "Reducing fugitive emissions from sinter handling and cooling at Agglomeration South", May 2012

⁵ OJ L 334 of 17.12.2010, p. 17.

⁶ OJ L 70 of 8.3.2012, p. 63.

15. The effectiveness of the newly installed extractor will be 80% and the new filtration station will achieve an emission concentration lower than 10 mg/m³ (estimated in the range 1-5 mg/m³).
16. Finally, the Czech authorities have submitted that the notified project will have positive environmental benefits beyond the districts of Ostrava.

2.4. Exemption from the fee for polluting

17. According to Act No 201/2012 Coll. on air protection, certain operators of stationary sources of pollution have an obligation to pay a fee for polluting. The basis for the calculation of the fee for polluting is the quantity of emissions from a stationary source or sources expressed in tonnes (cf. Section 15(1)-(3) of Act No 201/2012). In addition, a progressive scale is applicable for the rates of the fee between 1 January 2017 and 31 December 2021.
18. On the basis of Section 15(6) of Act No 201/2012, as of 1 January 2017, certain operators will be exempted from the obligation of the fee payment, in particular if they fulfil the following conditions:

"a) reconstruction or modernisation is carried out on the stationary source resulting in the reduction of the annual emissions of solid pollutants during the whole fee period by at least 30 %, sulphur oxides expressed as sulphur dioxide by at least 55 %, nitrate oxides expressed as nitrogen dioxide by at least 55 % or volatile organic compounds by at least 30 % in comparison with 2010,

b) the stationary source for which the best available technologies are specified reaches during the whole fee period lower emission concentration than 50 % of the upper limit of the emission level associated with the best available technologies according to information published by the European Commission, or

c) the stationary source for which the best available technologies are not specified reaches during the whole fee period lower emission concentration than 50 % of the value of the specific emission limit."

19. The Czech authorities have explained that, to the extent that fugitive emissions cannot be measured, they are currently not subject to the air pollution fee.
20. Once the notified project is implemented, however, it cannot be excluded that ArcelorMittal might benefit from the exemption from the air pollution fee because it is likely to fulfil the above mentioned conditions for exemption. The Czech authorities have underlined that the exemption from the fee is not automatically granted, but is subject to a decision by the relevant regional authority as the administrator of the fee. The Commission notes that any such exemption or a scheme providing for such exemptions under the Act No 201/2012 are outside the scope of the present Decision. Should the respective changes involve any aid, such aid would be subject to a separate notification.

2.5. National legal basis

21. The Czech authorities have indicated as legal basis for the notified measure the following:
- Act No 201/2012 on protection of the air and its implementing regulations;
 - Act No 76/2002 on integrated pollution prevention and control, on an integrated pollution register and amending certain acts;
 - Environment Operational Programme: programming document and implementation document;
 - Ministry of the Environment Guidelines for the submission of applications and the granting of financial contributions for projects in the Environment Operational Programme, including co-financing from the State Environment Fund of the Czech Republic and the state budget of the Czech Republic – chapter 315 (Environment)

2.6. Selection procedure

22. The selection of the notified project has been done in accordance with the awarding procedure, the conditions of which have been specified in the scheme for reduction of air pollution in the Moravia-Silesia Region, as laid down in the state aid Decision in case SA.33588. The basic criteria of such call for projects are the following:
- a) Supported projects must be selected using a transparent selection procedure: The basic condition for the possibility of providing aid in the required amount is the transparent selection of projects to be supported; it is not permissible that a sufficient amount of funds available in the relevant call is used to support all projects. Each call can support 80 % of the highest quality projects eligible for support within the respective call. This limit must be applied only to projects relevant for this notification – i.e. projects belonging to the area of intervention 2.2.b), where sources are located in Ostrava-city, Karviná and Frýdek-Místek districts, requesting for a subsidy of 90 % of costs.
 - b) There is a sufficient number of projects in each call: For each subsequent call, if declared, at least 50 % of new projects must be submitted to avoid the situation when, due to frequent re-declaration of calls, all the projects submitted in the first of the relevant challenges will be eventually supported. If the sufficient number of projects shall not be submitted within a call, the aid may only be granted up to 50 % with regard to increased net operating costs and benefits.
23. According to these criteria, a call for proposals was launched and 33 proposals were submitted. Out of the 33 applications, 26 projects were selected. Among these, five exceeded the individual notification threshold set out in the EAG for individual notification, and were therefore notified to the Commission for the purpose of a detailed assessment.⁷

⁷ These five projects concern the current notification and the state aid cases SA.35597 - Reduction of emissions by up-grading dedusting system of sinter plant south of ArcelorMittal Ostrava a.s.; SA.35599 - Arcelor Mittal Ostrava a.s. Reduction of fugitive emissions from VP3 foundries;

2.7. Beneficiary

24. The beneficiary of the measure, ArcelorMittal Ostrava a.s., belongs to the ArcelorMittal Group, the world's largest steel company. In the worldwide ranking of the largest steel producers in 2011, ArcelorMittal Group is the top producer with 97.2 million tonnes.⁸
25. In the Czech Republic, ArcelorMittal operates in the industrial area of Nová Hut' in Southern Ostrava in the Moravian-Silesian Region of the Czech Republic. According to the Czech authorities, the company is the largest producer of steel and coke in the Czech Republic.
26. Manufacturing activity of the company focuses primarily on the production and processing of iron and steel and secondary metallurgical operations. Long and flat rolled products account for the largest share of steel production. Engineering production focuses mostly on mine supports and road guardrails. Maintenance and service activities are mainly provided by own service operations. ArcelorMittal also provides transport services for external businesses operating in the company's premises.
27. The steelworks plant of ArcelorMittal in the Czech Republic has an annual production volume of over three million tonnes.

2.8. Budget and cost calculations

28. The total costs of the investment are estimated at about CZK 489.6 million, out of which CZK 383.4 million represent eligible expenses for financing under the Environment Operational Programme. In addition, the implementation of the project will increase the operating costs of the beneficiary by approx. CZK 19.8 million annually⁹, *i.e.* CZK 99 million during the first five years of the operation.
29. Furthermore, as mentioned above, as a result of the implementation of the project the beneficiary might benefit from a reduction from the air pollution fee, and, as of 2017, from an exemption from the fee. Such potential savings from the reduction and the exemption from the fee on air polluting have been estimated at CZK 1.05 million over the first five years of operation of the new installation. For the sake of completeness, the Commission has also analysed the potential maximum aid intensity taking into account those estimated savings.
30. Therefore, total investment costs of the project, net of operating costs and benefits over the first five years of operation, *i.e.* the eligible costs calculated according to EAG, amount to CZK 481.41 million. Table 3 provides a calculation of net eligible costs and aid intensity for both situations: without operating benefits in the form of estimated potential savings resulting from the reduction and exemption from the fee on air polluting and taking into account such operating benefits.

SA.35600 - Třinecké železářny, a.s. De-dusting of waste gases and de-dusting of junctions at sintering plant 2 and SA.35601 - Třinecké železářny, a.s. - secondary de-dusting of basic oxygen furnace workshop.

⁸ Source: World Steel, see <http://www.worldsteel.org/statistics/top-producers.html>.

⁹ The estimates of the operating costs are based on current experience of the beneficiary with a similar technology that has already been installed and is in operation in the sinter plant north.

Table 3: Net eligible costs for the first five years of operation and aid intensity

	Without operating benefits	With operating benefits
	(CZK million)	(CZK million)
Investment costs	383.46	383.46
Operating costs over the first 5 years	99.00	99.00
Operating benefits over the first 5 years	0.00	-1.05
Net eligible costs	482.46	481.41
Aid amount	345.11	345.11
Aid intensity	71.53%	71.68%

31. The support of CZK 345.11 million, calculated as 90% of the eligible expenses for financing under the Environment Operational Programme will be provided in the form of a direct grant. The grant represents 71.68% of the eligible cost calculated according to EAG, *i.e.* taking into account the five-year net operating costs of the project.

2.9. Duration and cumulation

32. The implementation of the notified project is scheduled to start in 2014. The equipment will be put into operation in the fourth quarter of 2015. The expected life-time of the equipment is between 15 and 20 years.
33. The Czech authorities have indicated that the aid granted under the notified measure cannot be cumulated with other aid, for the same eligible expenses.¹⁰

3. ASSESSMENT

3.1. Existence of state aid

34. A measure constitutes state aid under Article 107(1) TFEU if it fulfils four conditions. Firstly, the funding comes from the state or from State resources. Secondly, the measure confers an advantage to certain undertakings or economic activities. Thirdly, the measure is selective. Fourthly, the measure has the potential to affect trade between Member States and distorts competition in the internal market.

¹⁰ The beneficiary will probably benefit from an exemption from the air pollution fee. Should the assessment of the exemption lead to the conclusion that it involves aid, there will be cumulation with the aid granted under the notified measure. The effect of such cumulation would then have to be assessed in the analysis of compatibility of the exemption. However, at the request of the Commission, the Czech authorities have included the estimated benefit resulting from the tax exemption in the calculations provided (see table 3 above).

35. The measure in the form of co-financing the investment under assessment in favour of the beneficiary fulfils all the conditions mentioned above. The measure is funded from the EU Structural Funds, and resources of national origin. As already indicated in the assessment of the aid scheme in the case SA.33588 (recital 44), all these resources qualify as State resources for the purpose of the assessment under Article 107(1) TFEU. Further, the measure confers an advantage to the beneficiary by providing funds which the beneficiary would not have obtained under normal market conditions. The measure is selective, since it is granted only to the beneficiary, and it has the potential to affect trade between Member States and to distort competition, since the beneficiary is active in a sector where trade between Member States takes place. The aid granted to the beneficiary thus constitutes state aid pursuant to Article 107(1) TFEU.

3.2. Lawfulness of the aid

36. The Czech authorities have confirmed that the aid will not be granted under the notified measure before the approval by the Commission. Therefore, the Czech Republic has fulfilled its obligation according to Article 108(3) TFEU by notifying the aid measure before its implementation.

3.3. Compatibility assessment

3.3.1. Framework for compatibility assessment

37. The objective of the measure is environmental protection since it aims at reducing air emissions from ArcelorMittal's activities in Ostrava and the wider Moravia-Silesia region beyond applicable Community standards.
38. Investment aid enabling undertakings to go beyond Community standards for environmental protection or to increase the level of environmental protection in the absence of Community standards can be considered compatible with the internal market within the meaning of Article 107(3)(c) TFEU provided that the conditions set out in points 74 to 84 and section 3.2. EAG are fulfilled (cf. point 73 EAG).
39. According to the definition provided in point 70(3) EAG, Community standard means *inter alia* the obligation under Directive 2008/1/EC¹¹ to use BAT as set out in the most recent information published by the Commission pursuant to Article 17(2) of that Directive.
40. In addition, investment aid exceeding EUR 7.5 million for one undertaking, as in the case at hand, is subject to a detailed assessment under section 5.2 EAG (cf. point 160(b)(i) EAG). As indicated in point 165 EAG, the detailed assessment will be conducted on the basis of the positive and negative elements of the measure in question. As regards the positive effect, the environmental aid must address a clearly identified market failure, have an incentive effect and be proportionate. The negative impact of the measure on competition and trade must be limited. The Commission must balance the positive and negative elements of the measure.

¹¹ OJ L 24 of 29.1.2008.

3.3.2. Common objective and market failure

41. Environmental protection is recognised as an objective of common interest as foreseen in Article 107(2) and (3) TFEU. According to point 167 EAG, the Commission verifies whether "*State aid is targeted at [a] market failure by having a substantial impact on environmental protection*". In this context, the Commission pays particular attention to the expected contribution of the measure to environmental protection.
42. The investment into the installation of dedusting facilities for sinter handling and cooling in the sinter plant south of ArcelorMittal will result in reduction of fugitive dust emissions stemming from the activities of the beneficiary.
43. Currently applicable BAT for secondary emissions from sinter strand discharge, sinter crushing, cooling, screening and conveyor transfer points is to prevent dust emissions and/or to achieve an efficient extraction and subsequently to reduce dust emissions by using a combination of the following techniques: (i) hooding and/or enclosure; (ii) an electrostatic precipitator or a bag filter. The BAT-associated emission level for dust is < 10 mg/Nm³ for the bag filter and < 30 mg/Nm³ for the electrostatic precipitator, both determined as a daily mean value. As submitted by the Czech authorities, the annual fugitive emissions will be reduced by about 36.6 % compared to the current situation. The new filtration device will achieve emission concentrations of dust lower than 10 mg/m³ (estimated in the range 1-5 mg/m³). This provides evidence that the investment will enable ArcelorMittal to increase the level of environmental protection by going beyond the mandatory obligation that can be imposed on the beneficiary based on applicable Community standards. The Commission performed a technical assessment based on data provided by the Czech authorities and concluded that for the notified project current dust emissions are already within the range of BAT-associated emission levels (BAT AELs) established in the most recently published BAT conclusions for iron and steel production and will be improved further through the project implementation. The Commission considers this in line with point 74 EAG.
44. In this context, the Czech authorities have also confirmed that the measure does not merely aim at compliance with Community standards already in force, since all applicable European and national (stricter) standards are already fulfilled.
45. The measure also responds to a market failure because the beneficiary has no economic interest to further reduce the emissions resulting from its activities as it entails high investment costs and increased operating costs without providing any particular advantages to the beneficiary. At the same time, the reduced emissions will have a number of positive effects in the region concerned.
46. Therefore, the Commission considers that there are clear indications of a market failure justifying state aid to improve environmental protection by means of the notified project.

3.3.3. Appropriate instrument

47. In line with points 169 and 170 EAG, the Commission has assessed whether state aid is the appropriate instrument to achieve the objective of increased environmental protection.

48. The Czech authorities have explored alternative ways of achieving the same objective, for instance, higher national standards and the fee on air pollution, but these have proved to be insufficient because they could not tackle the particular situation of the region concerned where there is a concentration of heavy polluters.
49. In terms of available solutions for reducing fugitive emissions to the desired level, the Czech authorities have submitted that the currently applicable BAT (cf. Directive 2010/75/EU) are already in place in the sinter handling and cooling system of the sinter plant south of ArcelorMittal and the notified project will lead to further reducing the emissions.
50. Based on the above, the Commission concludes that investment aid constitutes an appropriate instrument to reach the objective of environmental protection.

3.3.4. Incentive effect and necessity of aid

51. On the basis of the information submitted, the beneficiary applied for aid to the Czech authorities before the start-up of the project. Therefore, according to point 143 EAG, the aid may provide an incentive for a more environmentally friendly behaviour, if all other conditions mentioned below are met.
52. According to point 171 EAG, "*State aid must result in the recipient changing its behaviour to increase the level of environmental protection*".
53. Taking into account points 146(a) and 172(a) EAG, the Member State must prove that without the aid, in the counterfactual situation, the more environmentally friendly alternative would not have been retained. For this purpose, it must provide information demonstrating that the counterfactual situation is credible.
54. The Czech authorities have indicated that, in absence of aid, the beneficiary would not undertake the investment, since it already complies with the current environmental standards. In addition, the investment into the extra dedusting equipment translates into additional operating costs over the life-time of the installation. In view of that, the Commission considers that the counterfactual situation of a non-investment is credible.
55. The notified project is certain to fulfil point 172(b)(i) EAG by increasing the level of environmental protection as compared to the counterfactual scenario since the measure will indeed reduce the air emission levels.
56. In this context, the Commission has considered that the project does not generate any operating revenues, thus, the rate of profitability of the project is negative, even with the public co-financing. This also applies even taking into account the possible reduction/exemption from the fee on air pollution, given that the Czech authorities have presented calculations, according to which a potential estimated fee reduction/exemption - as a result of the notified project - will be fully offset by the increased operating costs of the new installation at least during the first five years of operation. Therefore, even taking into account the potential benefits from the reduction and exemption from the fee on air pollution, the rate of profitability of the project is expected to remain negative.
57. There are no production advantages for the beneficiary resulting from the notified project, as the investment is realised independently of the production process of ArcelorMittal. Therefore, the incentive effect is not lowered by potential production advantages (point 172(c) EAG) and the level of risk and the profitability of the beneficiary are not positively influenced by the measure (cf. points 172(f) and (g) EAG).

58. Based on the above, the Commission concludes that public co-financing of the notified project provides for the necessary incentive to invest into the fabric filters equipment to achieve increased environmental protection. Therefore, the measure has an incentive effect.

3.3.5. Proportionality of aid

59. In order to declare the aid proportional the Commission first conducts the analysis of eligible extra investment costs necessary to achieve a higher level of environmental protection and calculated for the first five years of operating of the plant, net of all operating benefits and of all operating savings related to the extra investment as described in points 80 to 82 of Chapter 3 EAG.
60. For the purpose of calculating eligible costs, operating benefits include *"in particular cost savings or additional ancillary production directly linked to the extra investment for environmental protection and, where applicable, benefits accruing from other support measures whether or not they constitute State aid (operating aid granted for the same eligible costs, feed-in tariffs, or other support measures)"* (cf. point 70(20) EAG).
61. According to point 77 EAG, aid intensity may amount up to 100% of the eligible investment costs, if the investment aid is granted in a genuinely competitive bidding process on the basis of clear, transparent and non-discriminatory criteria. For the aid scheme SA. 33588, the Commission approved an aid intensity of 90%.
62. In addition, the aid amount needs to be re-assessed in respect to its accuracy as required by the detailed assessment of point 174, Chapter 5 EAG.
63. In the case at hand, the investment into the extra dedusting equipment of ArcelorMittal is being undertaken independent of the production process of the steelworks. The new dedusting measures will be installed as a stand-alone investment, not involving any other business activities of the beneficiary. Therefore, the costs of investing in environmental protection can be easily identified (cf. point 81(a) EAG) and constitute the total investment costs of the notified project.
64. As presented above in table 3, the net eligible costs of the notified project, calculated on the basis of points 80 to 82 EAG, amount to CZK 481.58 million. To further conclude that the aid is proportional, the aid amount of CZK 345.11 million needs to be examined in a detailed assessment to analyse if the eligible costs have been accurately calculated and the aid is limited to the minimum (point 174 EAG). The calculation of the eligible costs seems accurate on the basis of the information available, as the Czech authorities provided detailed evidence about the costs and their calculations (cf. point 174(a) EAG).
65. The Czech authorities have demonstrated that the notified investment project has been selected in a genuinely competitive bidding process on the basis of clear, transparent and non-discriminatory criteria, under the conditions of the scheme SA.33588, and have provided the list of all the application received, ranked according to the points each application received. On the basis of the information available, the selection procedure seems to have led to the selection of projects that can address the environmental objective using the least amount of aid or in the most cost-effective way (cf. point 174(b) EAG).

66. Whereas under the scheme SA. 33588 the aid intensity for these projects may be up to 90%, the envisaged aid amount of CZK 345.11 million equals 71.68% of the net extra costs of CZK 481.41 million. Consequently, the aid appears to be proportional in view of the thresholds set in point 77 EAG and the aid intensity approved by the Commission in the scheme SA.33588.
67. In addition, given that, in the first five years of operation and over the life-time of the investment, operating extra cost resulting from the installation of the new dedusting equipment for sinter handling and cooling at the sinter plant south exceed by far the possible benefits from the reduction and the exemption from the air pollution fee, to which the beneficiary might be entitled (see above table 3), the Commission considers that the aid is limited to the minimum in line with point 174(c) EAG.
68. Accordingly, the Commission considers that the aid is proportional.

3.3.6. Effects on competition and trade

3.3.6.1. Market definition

69. As regards the relevant product market, in the case at hand this can be defined as the steel market.
70. As for the relevant geographic market, the Commission could either consider the worldwide steel market since steel sales take place on a worldwide basis, or the EU steel market in order to assess the effects on intra Community trade. It has been submitted by the Czech authorities that the beneficiary's activities focus on the Czech market, with limited export activities, mainly to the EU Member States¹². The Commission assessed therefore the competition distortions for the steel market in the Czech Republic and in the EU.
71. As for the likelihood that the beneficiary will increase or maintain sales as a result of the aid (cf. point 177 EAG), the Commission notes that the investment is carried out independently of the production process or any other business activities of the beneficiary. Implementation of the proposed measure will not result in any increase of the volume of steel production of the beneficiary.
72. The project will not result in costs savings that might allow the beneficiary to increase its sales (cf. point 177(a) EAG). On the contrary, it is expected to lead to additional net operating costs. Steel consumers do not seem to have a strong preference for a more environmentally-friendly production process, as their purchase decisions seem to be determined by the price of the products (see point 177(b) EAG). Finally, by installing the new dedusting equipment with a sole purpose of an increased environmental protection in the region concerned, the beneficiary does not develop any new products (cf. point 177(c) EAG).
73. Thus, considering the points 177(a), (b) and (c) EAG it seems that the notified aid will lead to very limited distortions of competition.

¹² The Czech Republic currently exports excessive scrap iron, amounting approx. to 1.5 million ton/year, to EU market.

3.3.6.2. Dynamic incentives/crowding out

74. When assessing the aid in line with point 178 EAG, the Commission considers whether the aid would crowd out investments in other Member States or distort dynamic incentives. For this purpose, the Commission has considered all the elements indicated in points 179(a) to 179(i) EAG.
75. The Commission notes that the aid amount is about CZK 345.11 million, an amount that is not very high, when compared to the size of the general activity of the beneficiary. It is a one-off investment aid, granted for a project that allows the beneficiary to go beyond the mandatory obligation that can be imposed on him based on existing Community standards, after having complied with rather strict mandatory requirements at the national level as regards the emission limits. There is no mandatory requirement concerning this production technology. The project is not directly related to the production and is unlikely to favour any cross-subsidisation. In the light of the above, the Commission considers that the aid is unlikely to significantly distort the dynamic incentives or to crowd out investments in other Member States.

3.3.6.3. Maintaining inefficient firms afloat

76. During the selection process, the Czech authorities have also performed an economic evaluation of each applicant. Based on the information provided by the Czech authorities, the economic evaluation of the applicants had no influence on the project ranking, but allowed them to verify that no aid is granted under the scheme SA.33588 for companies in difficulty. According to the information available, ArcelorMittal Ostrava a.s., a subsidiary of ArcelorMittal Group, does not operate with a low level of efficiency, and is not in poor financial health. In any case, the notified aid is not meant to allow the beneficiary to adapt to mandatory standards (cf. point 180 EAG).

3.3.6.4. Market power/exclusionary behaviour

77. According to point 181 EAG, it is unlikely that competition concerns related to market power arise in markets where the aid beneficiary has a market share below 25%.
78. The steel industry in the Czech Republic amounts approximately up to 3.3% of the total volume of raw steel in the European Union.
79. As regards the Czech domestic market, the Czech authorities provided data showing that in 2012, ArcelorMittal's share was 20.44% in the long rolled products and 7.61% in the flat rolled products. In the light of this data, the Commission considers that the beneficiary does not benefit from a dominant position in the Czech Republic (cf. point 182(a) EAG). The Commission notes however that the beneficiary, ArcelorMittal Ostrava a.s., belongs to the ArcelorMittal Group, the world's largest steel company. At the EEA-wide level, ArcelorMittal is considered to be a strong competitor, with market shares likely exceeding 25% in several steel markets. In any event, the aid is unlikely to allow the beneficiary to increase its production or to reduce its operational costs, and is therefore unlikely to have any material impact on the beneficiary's position on the steel markets.

80. Furthermore, the aid is not likely to prevent new entry on the market in the Czech Republic or in other Member States of the EU and Contracting Parties to the EEA Agreement (cf. point 182(b) EAG), given that similar measures may in principle be available to competitors of ArcelorMittal, including new entrants on the basis of the scheme SA.33588. In this context, the Commission notes that this was one of the 26 projects selected by the Czech authorities and which will receive financing under this scheme.
81. The aid will not lead to product differentiation as it will not affect the product but only the pollution level resulting from the production process. Therefore the aid is also unlikely to allow any price discrimination. (point 182(c) EAG)
82. Finally, on the steel market there are strong buyers and the aid is highly unlikely to allow the beneficiary to increase its prices to the detriment of the consumers (point 182(d) EAG).

3.3.6.5. Effects on trade and location

83. The Commission notes that aid is only granted to one beneficiary and will not result in the ArcelorMittal territory benefitting from more favourable production conditions, thus incentivizing other companies to relocate in the same territory (cf. point 183 EAG).
84. In addition, there is no evidence that the beneficiary considered other locations for its investment, as the project is of very small size when compared to the beneficiary's production activities, thus having limited effects on trade and competition (cf. points 184 and 185 EAG).

3.3.7. Balancing and conclusion

85. The Commission considers that the aided project has clearly demonstrated environmental benefits. The distortion of competition is expected to be limited and the aid has an incentive effect. Furthermore, the aid is proportional. The aid intensity of 71.68 % is below the maximum aid intensity allowed under the EAG and under the scheme SA.33588. The project will increase the operational costs and is highly unlikely to provide any advantage to the beneficiaries in the form of additional profits or additional production.
86. On the basis of the information available, the effects on trade and location seem limited, since in the counterfactual scenario the beneficiary would have not invested at all into the equipment (section 5.2.2.4 EAG). Regarding the distortive effects of the aid, the Commission finds that the negative effects of the measure on competition and trade are clearly outbalanced by the positive effects of the aid so that the overall balance of the measure is positive.
87. Accordingly, the Commission considers that the notified aid to ArcelorMittal for installation of the new dedusting equipment for sinter handling and cooling in the sinter plant south with a view to increasing the level of environmental protection is compatible with Article 107(3)(c) TFEU.

4. DECISION

88. The Commission has accordingly decided to consider the aid to be compatible with the Treaty on the Functioning of the European Union.
89. The Commission reminds the Czech Authorities that, in accordance with article 108(3) TFEU, any plans to refinance, alter or change this aid have to be notified to the Commission pursuant to provisions of the Commission Regulation (EC) No 794/2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty (now Article 108 TFEU).¹³
90. If this letter contains confidential information which should not be disclosed to third parties, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to the disclosure to third parties and to the publication of the full text of the letter in the authentic language on the Internet site:

<http://ec.europa.eu/competition/elojade/isef/index.cfm>

Your request should be sent by registered letter or fax to:

European Commission
Directorate-General of Competition
State Aid Registry
1049 BRUSSELS
Belgium
Telefax n°: + 32-2-296.12.42

Please mention the name and number of the case in all the correspondence.

Yours faithfully,

For the Commission

Joaquín ALMUNIA

Vice-President

¹³ OJ L 140, 30.4.2004, p.1.

