FEDERACCIAI (The Italian Steelmakers Federation) response to the
Consultation on the Community Guidelines on State aid for environmental protection and
environmental support measures in the General Block Exemption Regulation

(With this statement, Federacciai replies only to Question 11, Miscellaneous)

1. Steel being a globally traded commodity, the EU steel industry has to face fierce competition from countries with lenient environmental legislation. The EU being the first steel importing region and the third steel exporting region, EU steel makers have to compete with third countries not only on the EU domestic market but on foreign markets as well. The most acute competition distortions towards foreign players stem from the EU climate and energy policy i.e. from operational costs made higher because of direct CO2 costs but also higher energy prices due to the indirect CO2 costs and the renewables and grid costs passed on power prices. This leads to market shares losses and production relocation to countries with lean – if any – climate policies. This phenomenon is known as carbon leakage as together with the production the emissions are relocated to countries with lower carbon constraints and therefore dirtier production standards. As a matter of fact, the EU emissions being capped, shifts of production will automatically increase the level of global emissions (the EU emissions being fixed by the cap).

The precedent for recognising the risk of carbon leakage has already been set in the EU ETS Directive, but this risk is also inherent in a wide range of national policies, which frequently can have a cumulative impact, the same being also valid to a broad extent for environmental protection policies in general. The persisting asymmetric costs caused by the EU’s stringent environmental legislations in a world where commodities are increasingly being traded on the global scale leads to jobs and know-how losses. While State aid control is aimed at minimising competitive distortions within the EU, climate change and other environmental policies can create competitive burdens which distort competition affecting both intra- and extra-Union trade. In the interests of the Union’s growth agenda, it is vital that the avoidance of competition distortions towards third countries should be adopted as a key guiding principle when assessing environmental aid measures. Therefore sectors facing global competition like Steel should be eligible for direct State aids and State aids in the form of exemptions offsetting 100% of the environmental costs so as to safeguard their competitiveness.

2. In this context, the notion of aid intensity cap brought forward in paragraph 159 (b) should be abandoned. Paragraphs 151 to 159 of the existing Guidelines deal among with aid in the form of exemptions from environmental taxes paid directly by the undertakings in question (). Paragraph 159 (b) requires that aid intensity for tax reductions where there is no harmonised tax should in general be limited to 80% (i.e. “aid beneficiaries [should] pay at least 20% of the national tax”). This provision is becoming increasingly untenable and risks damaging seriously the competitiveness of the EU industry. For example, energy intensive undertakings are frequently subject to multiple cost burdens. The cumulative impact of several 20% can of itself create problems.
3. In particular environmental tax rebates granted to industries with the objective of limiting competition distortions towards industries in Member States with lower taxation levels should not be considered as State aid.

4. There are other areas of climate change and energy costs not currently addressed by the Guidelines, where clear rules facilitating the elimination of carbon leakage risks need to be articulated:

   a. Member States may impose upstream carbon taxes or similar measures on electricity generators. These have the effect of increasing the price of electricity and can be harmful for energy intensive industries. The Commission has already set a precedent for aid aimed at addressing carbon leakage provoked by increases in upstream electricity costs in its EU ETS Guidelines. EUROFER urges that the same principles now be adopted for all forms of carbon pricing measure applied to electricity generators that impact adversely on downstream energy intensive industries.

   b. Member States have also adopted non-tax measures to incentivise investment in lower carbon, but more expensive, forms of electricity generation such as renewables. These measures include feed in tariffs and “green” certificate schemes, as well as direct grants. While the current Guidelines deal with the State aid issues as they relate to renewables operators, they do not address the downstream impacts. In cases where the additional costs of the measures are shared within the electricity supply market itself (as can happen with feed in tariffs and “green” certificate schemes), the costs are ultimately borne by the electricity consumers. In many Member States these costs are now enormous and again present a real and imminent risk of carbon leakage. The Commission must adopt guidelines that allow Member States to introduce measures that offset these costs.

   c. In cases where the market mechanism in question does not constitute State aid (which arguably applies in any system where there is no transfer of state resources), then it should be clear that any reallocation of the cost burdens so that they do not fall on energy intensive industries can also not be State aid.

   d. In other cases, where the market mechanism does constitute State aid and there is a reallocation of costs to the benefit of energy intensive industries, EUROFER urges the Commission to apply as an over-riding objective the need to avoid carbon leakage. There should be a presumption in favour of such redistributive market mechanisms. This will not only help the EU’s external competitiveness, but also minimise intra-EU distortions.

5. Additional comments:

   a. Member States should be urged when setting up State-aid in particular in the form of exemptions to make them clear, simple, understandable, consistent and meaningful.

   b. Local authorities may decide to impose Emission Limit Values that go beyond strict legal requirements (BAT). Aid for undertakings which go beyond Community standards or which increase the level of environmental protection in the absence of Community standards should be allowed.
c. It should be clarified when the BAT conclusions are considered entering into force in the sense of article 87 of the Guidelines: is it the date of publication on the EU Official Journal or the last day of the foreseen period of mandatory adoption? Should the more restrictive option prevail, it would result in very little or no incentive for most companies to set in advance investments complying with the most rigid prescriptions from the BAT.