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Subject: State aid case SA.35597 (2013/N) – Czech Republic

**Reduction of emissions by up-grading dedusting system of 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').
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 further oral and written exchanges between the Commission and the Czech authorities. The Czech authorities submitted their latest reply on 30 August 2013.

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2. DESCRIPTION

2.1. Background

3. The Czech Republic intends to grant an amount of CZK 444.86 million (approx. EUR 17.33 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 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'). In the sinter plant south, sinter is produced on two sinter strands, referred to as no. 4 and no. 5. Each sinter strand is a separate facility and is equipped with a separate electrostatic precipitator for the purpose of dedusting. After cleaning, flue gases are led into a common smoke stack with a height of 120 m. The output from both sinter strands is the same.
6. The notified project to up-grade the existing dedusting system in the sinter plant south consists of an installation of fabric filters for flue gases exhausted from the sinter strands. Pre-treated exhaust gases will be routed from the electrostatic precipitators to fabric filters with a reactor where the emissions of other pollutants will be reduced through dosing of additives. Dust trapped in fabric filters will be removed with compressed air.
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.

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.

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 emissions of particulate matter (PM), *i.e.* dust, 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.

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

Dust	SO ₂	NO _x	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

13. The installations of ArcelorMittal must meet the emission limits as stipulated in the Czech and European legislation, in particular:
 - a) Act No. 201/2012Coll., 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 ;

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.

- 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 (hereinafter referred to as 'BAT conclusions');
 - 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 emission concentration of particulate matters is expected to be in the range of 1-5 mg/m³ for all strands, once the project is implemented, which is substantially lower than the Community standard of 15 mg/m³.
15. The Czech authorities have provided information on some alternative measures that, would be undertaken by the beneficiary in the absence of aid. Such measures are for instance organisational measures, which would not result in additional costs, while other measures would result in extra operating costs, which would fully be covered by the beneficiary.⁷ These additional measures, which would be implemented in the course of 2015. This would be entirely financed by the beneficiary.
16. The implementation of the notified project will result in environmental benefits consisting of a reduction of emissions of dust (which would be positively reflected in lower levels of ambient PM₁₀ pollution), and a further reduction of emission concentrations of various harmful organic compounds such as polychlorinated dibenzodioxins and polychlorinated dibenzofurans. The volume of dust captured in the second stage dedusting fabric filters from both sinter strands will amount to approximately 2 400 t/year, where dust captured from flue gases will represent about 200 t/year.
17. The Czech authorities have explained that the notified project will also result in a certain reduction of PCDD/F, whilst this is not the primary aim of the project. PCDD/F emissions are not directly linked to the unsatisfactory air-quality in Ostrava and the adjacent regions. In order to address PCDD/F emissions, additional, specifically targeted measures will be implemented at a later stage, such as for instance dosing of additives. These measures will be financed by the beneficiary.
18. 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

19. 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

⁵ OJ L 334 of 17.12.2010, p. 17.

⁶ OJ L 70 of 8.3.2012, p. 63.

⁷ Measures such as giving preference to the use of strands equipped with bag filters when not all the strands need to function, replacing the homogenising mixture with high quality sinter, exclusion of fine grained by-products from the charge for sintering strands 4 and 5.

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.

20. 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."

21. Once the notified project is implemented, 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. However, 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

22. 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

23. 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.
24. 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.⁸

2.7. Beneficiary

25. 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.⁹
26. 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.
27. 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.

⁸ These five projects concern the current notification and the state aid cases SA.35598 - Reduction of fugitive emissions from sinter handling and cooling at sinter plant south of ArcelorMittal Ostrava a.s.; SA.35599 - Arcelor Mittal Ostrava a.s. Reduction of fugitive emissions from VP3 foundries; 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.

⁹ Source: World Steel, see <http://www.worldsteel.org/statistics/top-producers.html>.

28. 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

29. The total costs of the investment are estimated at about CZK 593 million, out of which CZK 494 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 44 million annually¹⁰, *i.e.* CZK 220 million during the first five years of the operation.¹¹
30. 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 8.52 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.
31. 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 705.48 million. Table 2 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.

Table 2: Net eligible costs for the first five years of operation and aid intensity

	Without operating benefits (CZK million)	With operating benefits (CZK million)
Investment costs	494.00	494.00
Operating costs over the first 5 years	220.00	220.00
Operating benefits over the first 5 years	0.00	-8.52
Net eligible costs	714.00	705.48
Aid amount	444.86	444.86
Aid intensity	62.3%	63%

¹⁰ 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.

¹¹ The alternative measures, described above at recital 15, that would need to be implemented in the course of 2015 to meet the required standards, would correspond to an annual increase of operating costs in the range between EUR 0.72 million (CZK 18.5 million) and EUR 1.2 million (CZK 30.8 million).

32. The support of CZK 444.86 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 63% 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

33. 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.
34. The Czech authorities have indicated that the aid granted under the notified measure cannot be cumulated with other aid, for the same eligible expenses¹².

3. ASSESSMENT

3.1. Existence of state aid

35. 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.
36. 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

37. 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.

¹² 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).

3.3. Compatibility assessment

3.3.1. Framework for compatibility assessment

38. 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.
39. 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).
40. According to the definition provided in point 70(3) EAG, Community standard means *inter alia* the obligation under Directive 2008/1/EC¹³ to use BAT as set out in the most recent information published by the Commission pursuant to Article 17(2) of that Directive.
41. 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.

3.3.2. Common objective and market failure

42. 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.
43. The notified project will result in a significant reduction of air emissions stemming from the activities of the beneficiary, in particular a reduction of emission of dust and of various harmful organic compounds such as polychlorinated dibenzodioxins and polychlorinated dibenzofurans.
44. The notified project is expected to significantly reduce the emissions and will therefore 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 in line with point 74 EAG.
45. The measure does not merely aim at compliance with Community standards already in force, but enables the undertaking to reduce emissions to the maximum possible with existing technologies reaching emission levels that are lower than Community standards.
46. The measure also responds to a market failure because the beneficiary has no economic interest to reduce the emissions resulting from its activities to this extent as it entails high

¹³ OJ L 24 of 29.1.2008.

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. The beneficiary is situated in a region where air quality is poor, in particular regarding particulate matter which is an air pollutant that has serious impacts on human health. The implementation of the project would significantly contribute to improving the local air quality regarding particulate matter.

47. 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

48. 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.
49. 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.
50. In terms of available solutions for reducing the air pollution of the beneficiary to the desired level, the Czech authorities have submitted that the installation of fabric filters is the only solution, as other alternative technological solutions for industrial emissions in the steel sector are not known at this stage.
51. 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

52. 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.
53. According to point 171 EAG, "*State aid must result in the recipient changing its behaviour to increase the level of environmental protection*".
54. 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.
55. The Czech authorities have indicated that, in absence of aid, the beneficiary would not undertake the investment, and rather implement the alternative measures with lower environmental effects. To the extent these alternative measures would lead to increased costs, the respective costs will be financed from ArcelorMittal's own financial means.
56. The analysis of the counterfactual situation, based on the best available information, shows that the alternative measures would enable the undertaking to meet (either on average or for each production line) emission levels corresponding to the BAT performance for some undertakings in the sector within the EU. While there is some uncertainty about the precise amount of the additional costs to meet the environmental

standards by such alternative means (i.e. including the measures identified in the counterfactual scenario) the Czech authorities have provided the Commission with information giving reasonable assurance that such additional costs would in any event not significantly influence the results of aid intensity calculation. In other words, even assuming a counterfactual situation with relatively higher costs, the alternative measures would still be far less costly (and less effective) than the notified measure and the aid intensity of the notified measure would therefore still be below its permissible maximum level. In addition, the investment into the extra de-dusting equipment subject to the present notification 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.

57. 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. The incentive effect of the state aid would not just enable the undertaking to exceed the minimum Community standard regarding pollution by particulate matter, but also to reach the highest pollution abatement performance that is achievable using existing techniques thereby leading to up to a tenfold emission reduction compared to the minimum Community standard.
58. 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.
59. There are no production advantages for the beneficiary resulting from the notified project, as the investment into the fabric filters 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).
60. 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

61. 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.
62. 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).

63. 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%.
64. 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.
65. 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 fabric filters 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.
66. As presented above in table 2, the net eligible costs of the notified project, calculated on the basis of points 80 to 82 EAG, amount to CZK 705.48 million. To further conclude that the aid is proportional, the aid amount of CZK 444.86 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).
67. 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).
68. Whereas under the scheme SA. 33588 the aid intensity for these projects may be up to 90%, the envisaged aid amount of CZK 444.86 million equals 63 % of the net extra costs of CZK 705.48 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.
69. 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 fabric filters in 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 2), the Commission considers that the aid is limited to the minimum in line with point 174(c) EAG.
70. Accordingly, the Commission considers that the aid is proportional.

3.3.6. *Effects on competition and trade*

3.3.6.1. Market definition

71. As regards the relevant product market, in the case at hand this can be defined as the steel market.
72. 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 States¹⁴. The Commission assessed therefore the competition distortions for the steel market in the Czech Republic and in the EU.
73. 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.
74. 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 fabric filters 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).
75. Thus, considering the points 177(a), (b) and (c) EAG it seems that the notified aid will lead to very limited distortions of competition.

3.3.6.2. Dynamic incentives/crowding out

76. 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.
77. The Commission notes that the aid amount is about CZK 444.86 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 based on existing Community standards. 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

78. 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

¹⁴ The Czech Republic currently exports excessive scrap iron, amounting approx. to 1.5 million ton/year, to EU market.

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 Community standards but rather enables the beneficiary to reach emission levels that are substantially lower than the Community standard of 15 mg/m³ (cf. point 180 EAG).

3.3.6.4. Market power/exclusionary behaviour

79. 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%.
80. The steel industry in the Czech Republic amounts approximately up to 3.3% of the total volume of raw steel in the European Union.
81. 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.
82. 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.
83. 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).
84. 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

85. 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).
86. 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*

87. The Commission considers that the aided project has clearly demonstrated environmental benefits by enabling the undertaking to reduce emissions beyond Community standards in a region where air quality is poor with regard to particulate matter, a pollutant having particularly serious negative impacts on human health. 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 63% 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.
88. 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.
89. Accordingly, the Commission considers that the notified aid to ArcelorMittal for installation of fabric filters equipment to increase the level of environmental protection is compatible with Article 107(3)(c) TFEU.

4. DECISION

90. The Commission has accordingly decided to consider the aid to be compatible with the Treaty on the Functioning of the European Union.
91. 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).¹⁵

¹⁵ OJ L 140, 30.4.2004, p.1.

92. 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

