Subject: State Aid SA.41981 (2015/N) – Lithuania
Relief from indirect CO₂ costs in electricity in Lithuania

Sir,

1. PROCEDURE

(1) By electronic notification dated 26 May 2015, Lithuania notified to the Commission, in accordance with Article 108 (3) of the Treaty on the Functioning of the European Union (TFEU), a scheme to compensate undertakings for a share of their indirect emission costs, that is to say the costs resulting from the EU Emission Trading System (ETS) passed on in electricity prices. The Commission requested further information by letters dated 24 July 2015 and 19 October 2015 to which the Lithuanian authorities responded on 20 August 2015 and 12 November 2015.

2. DESCRIPTION OF THE MEASURE

(2) The measure compensates certain undertakings for increases in electricity prices resulting from the inclusion of the costs of greenhouse gas emissions due to the EU ETS, so called indirect emission costs, as defined in the ETS State aid guidelines (‘Guidelines’).¹


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2.1. Legal basis, budget and granting authority


(4) The provisional budget for the duration of the scheme (expenditure incurred from 2014-2020) is approximately EUR 13.1 million. Each year, a maximum amount of between EUR 1 million and EUR 3 million should be approved in the State budget.

(5) The Ministry of the Economy ('Ministry') will be the granting authority. In order to get the aid, the beneficiaries must file an electronic application by 1 March each year, containing the data needed to calculate the aid. The aid will only cover costs incurred in the year preceding the year in which the aid application is filed. The applications will be verified by the Ministry. The granting decision takes the form of an order of the Minister for the Economy.

(6) The support takes the form of a direct grant and is financed through the State budget.

(7) The measure covers the period from 2014 to 2020.

2.2. Beneficiaries

(8) The beneficiaries are companies in Lithuania active in one of the sectors listed in the Annex to the Procedure, which corresponds to Annex II to the Guidelines. The expected number of beneficiaries is less than 10.

2.3. Aid amount calculation

(9) The maximum aid amount payable per installation will be calculated according to the two formulae outlined in point 27 of the Guidelines. Where electricity consumption efficiency benchmarks have been published, the formula of point 27 (a) of the Guidelines applies. If no product-related electricity consumption efficiency benchmarks are published, the formula of point 27 (b) of the ETS Guidelines applies.

(10) The measure applies the electricity consumption efficiency benchmarks defined in Annex III, as well as the maximum regional emission factor of Annex IV. For the purpose of calculating the aid under the formula set out in point 27 (b), a fall-back electricity consumption efficiency benchmark of 80% of the baseline electricity consumption will be used, as envisaged by Annex I to the Guidelines.

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2 Annex III to the ETS Guidelines has been modified by the Communication from the Commission amending the Guidelines on certain State aid measures in the context of the greenhouse gas emission allowance trading scheme post-2012, OJ C 387, 15.12.2012, p. 5.
The maximum aid intensities will be 85% of the eligible costs incurred in 2014 and 2015, 80% of the eligible costs incurred in 2016, 2017 and 2018 and 75% of the eligible costs incurred in 2019 and 2020, in line with point 26 of the Guidelines.

In accordance with the Procedure, State aid shall only be granted to those operators whose power supply contracts include costs covering carbon dioxide emissions. Electricity supply contracts showing the CO₂ costs included in the final electricity price must be submitted as supporting information to the application form. Hence, operators that produce electricity for their own consumption and want it to be eligible for aid under the notified measure will have to provide supporting evidence to show that the CO₂ costs have been included in the final electricity price. If such supporting evidence is not provided, the applicant will not be eligible for compensation under the notified measure.

The Lithuanian authorities have stated that aid granted under the notified measure cannot be cumulated with aid received from other local, regional, national or EU schemes to cover the same eligible costs.

3. ASSESSMENT OF THE MEASURE

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

The Commission has assessed whether Article 107 (1) TFEU applies to the measure. In order for a measure to constitute State aid within the meaning of Article 107 (1) TFEU it has to fulfil four conditions. Firstly, the aid must be granted by a Member State or through State resources. Secondly, the measure must confer a selective advantage to certain undertakings or the production of certain goods. Thirdly, the measure must be liable to affect trade between Member States. Fourthly, the measure must distort or threaten to distort competition in the internal market.

The compensation is granted by the Ministry and funded through the State budget. Hence, State resources are involved. It confers an advantage to the beneficiaries by compensating for costs they would have incurred under normal market conditions. The aid is selective since it is granted only to the undertakings active in certain sectors. These sectors are all exposed to international competition as noted in the Guidelines, making it likely the aid can affect trade between Member States and distort competition.

Based on the above, the Commission considers that the scheme constitutes State aid within the meaning of Article 107 (1) TFEU.

3.2. Lawfulness of the aid

By notifying the scheme before its implementation, Lithuania has fulfilled its obligation according to Article 108 (3) TFEU.

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3 Annex II to the Guidelines.
3.3. Compatibility

(18) The Commission has assessed if the measure can be considered compatible with the internal market pursuant to Article 107 (3) (c) TFEU.

(19) Aid to undertakings to compensate for EU ETS allowance costs passed on in electricity prices falls within the scope of the Guidelines. The Commission assessed the measure’s compatibility on the basis of Section 3.1 of the Guidelines, which sets out the conditions under which such aid may be deemed compatible.

3.3.1. Objective and necessity of the aid

(20) Point 24 of the Guidelines requires that the objective of the aid is to prevent a significant risk of carbon leakage due to EU ETS allowance costs being passed on in electricity prices supported by the beneficiary. According to point 25 of the Guidelines, a significant risk of carbon leakage is considered to exist only if the beneficiary is active in a sector or subsector listed in Annex II to the Guidelines.

(21) The beneficiaries of the notified aid scheme are companies in Lithuania active in one of the sectors listed in the Annex to the Procedure which corresponds to Annex II to the Guidelines.

(22) Hence, the Commission concludes that the aid is necessary to realise the scheme’s well-defined objective of common interest.

3.3.2. Proportionality

(23) Point 45 of the Guidelines requires Member States to demonstrate that the aid granted is limited to the minimum necessary.

(24) The measure applies the aid intensities and benchmarks of the Guidelines. The maximum aid amount payable per installation is determined on the basis of the formulae spelled out in point 27 of the Guidelines. The measure uses the values of Annexes III and IV to the Guidelines.

(25) The maximum aid intensities will be 85% of the eligible costs incurred in 2014 and 2015, 80% of the eligible costs incurred in 2016, 2017 and 2018 and 75% of the eligible costs incurred in 2019 and 2020. This is in line with the maximum aid intensities set out in point 26 of the Guidelines.

(26) The measure does not provide for full compensation, as this could remove the incentive to further reduce electricity consumption. Moreover, due to the benchmarks the most efficient beneficiaries will get the highest proportion of their indirect ETS costs compensated.

(27) Point 11 of the Guidelines states that in case of contracts that do not include any CO₂ costs, no State aid will be granted. In order to get compensation under the notified scheme, the applicants must provide documentation that CO₂ costs are actually included in the final electricity price. This requirement is objective, transparent and non-discriminatory and in line with the objective underlying section 3.1 of the Guidelines to compensate undertakings for the indirect CO₂ costs included in the electricity price.

(28) The Commission thus concludes that the aid is proportional.
3.3.3. *Incentive effect*

(29) According to point 31 of the Guidelines, if all the conditions set out in section 3.1 of the Guidelines are fulfilled, the aid is presumed to have an incentive effect. As these conditions are met, the aid will provide for the incentive effect.

3.3.4. *Cumulation*

(30) The scheme's provisions on cumulation (see recital 13) are in line with the requirements set out in point 47 of the Guidelines.

3.3.5. *Annual reporting, transparency and monitoring*

(31) The Lithuanian authorities have committed to follow the requirements set out in points 48 to 49 and 52 to 54 of the Guidelines on reporting, transparency and monitoring of the notified scheme.

4. **CONCLUSION**

The Commission has accordingly decided not to raise objections to the aid on the grounds that it is compatible with the internal market pursuant to Article 107 (3) (c) of the Treaty on the Functioning of the European Union.

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](http://ec.europa.eu/competition/elojade/isef/index.cfm).

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European Commission,
Directorate-General Competition
State Aid Greffe
B-1049 Brussels
[Stateaidgreffe@ec.europa.eu](mailto:Stateaidgreffe@ec.europa.eu)

Yours faithfully
For the Commission

Margrethe VESTAGER
Member of the Commission