Subject: State Aid SA.44378 (2016/N) – Finland
Aid scheme for indirect emission trading costs compensation

Sir,

1. PROCEDURE

(1) Following prenotification contacts, by electronic notification dated 7 February 2017, Finland 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. On 22 February 2017 Finland provided further information about the notified measure.

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.

2.1. Legal basis, budget, duration and granting authority

(3) The legal basis for the measure is Act 138/2017 on indirect ETS cost compensation. The entry into force of the act and hence the application of the scheme is conditional to its approval by the Commission.

(4) An additional act, a Government Decree will be published laying down the detailed rules regarding the procedure for applying for aid, and setting, inter alia, the content of the application, the information to be verified and the date for submission of applications.

(5) The measure covers the period from 2016 to 2020.

(6) The estimated budget for the duration of the scheme (expenditure incurred from 2016-2020) is approximately EUR 149 million. Finland has estimated the expenditures for each year during which eligible costs can be partially compensated as shown in Table 1.

Table 1. Estimated aid amount for costs incurred in different years

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount of aid at [million €]</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016</td>
<td>43</td>
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<tr>
<td>2017</td>
<td>27</td>
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<tr>
<td>2018</td>
<td>22</td>
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<tr>
<td>2019</td>
<td>26</td>
</tr>
<tr>
<td>2020</td>
<td>31</td>
</tr>
</tbody>
</table>

(7) The aid will be funded by Finland's EU allowance (EUA) auctioning revenues. The auctioning revenues will be available for compensation from year 2016 onwards. Finland's auctioning revenues are treated similarly to any State revenue, and cannot be hypothecated or otherwise ring-fenced for a specific purpose. Finland has estimated that the maximum amount of aid will remain below Finland's auctioning revenues in the period 2016-2021.

(8) A beneficiary will apply for aid from the Finnish Energy Authority (Energiavirasto), which will be the competent authority to grant the aid. The Finnish Energy Authority will apply the rules set out in the Act and the Government Decree mentioned in recitals (3) and (4), in consequence, it has no discretion as to which installations are eligible for aid, or how large the amount of the aid is. The Finnish Energy Authority may also examine and claim back the aid if it finds out that the aid is not to be paid to the beneficiary or the amount of the aid is based on incorrect information.

2.2. Reporting and monitoring of aid

(9) The Finnish Energy Authority shall maintain detailed records of the aid granted for 10 years as of the date the aid has been granted.

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2 Laki päästökaupasta johtuvien epäsuorien kustannusten kompensoimisesta.
3 Finland expects an increase of CO₂ prices from 8 EUR / ton of CO₂ in 2017 to 14 EUR / ton of CO₂ in 2020.
(10) Finland will provide to the Commission an annual report of the scheme, including all beneficiaries, aid amounts, aid intensities and other relevant information.

2.3. Beneficiaries

(11) The beneficiaries are companies in Finland active in one of the sectors or sub-sectors listed in Annex II to the Guidelines. The expected number of beneficiaries is between 50 and 80.

(12) An installation will only receive aid for the electricity consumption which exceeds 1 GWh per year. Finland considered the 1 GWh threshold for aid justified in terms of administrative costs and burden. The threshold is set with the aim to avoid a situation where administrative costs both for potential beneficiaries and the State are disproportionately high compared with the aid amount. The vast majority of the electro-intensive consumption (over 90%) would still be covered by the scheme.

(13) The Act request that all the information delivered to the Finnish Energy Authority for the admission of the aid must be verified⁴. The beneficiary will need to pay to the Finnish Energy Authority a fee⁵ on the basis of the administrative costs of handling the application.

2.4. Aid amount calculation

(14) The maximum aid amount payable per installation will be calculated according to the two formulas 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.

(15) The measure applies the electricity consumption efficiency benchmarks defined in Annex III⁶, 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.

(16) The maximum aid intensity will be 50% of the maximum aid intensities allowed by the Guidelines for the same year. In consequence, the maximum aid intensities are 40% of the eligible costs incurred in 2016, 2017 and 2018 and 37.5% of the eligible costs incurred in 2019 and 2020, in line with point 26 of the Guidelines.

(17) Aid is granted only for electricity including CO₂ costs in its price. Electricity can be (i) bought directly in the electricity market, (ii) bought from a power plant falling under the ETS or (iii) from a power plant not falling under the ETS. For each of these cases, the beneficiary shall demonstrate that CO₂ costs are included in the electricity used.

⁴ A beneficiary will have to procure an authorized verifier for this service (and thus face these costs).
⁵ The fee is estimated at EUR 600. It is increased to EUR 1900 if the Energy Authority gives a decision on the baseline output, the baseline electricity consumption or the significant capacity extension.
⁶ 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.
(18) In the first case this can be done through electricity contracts or bills, or documentation that the electricity is purchased from an electricity exchange. Finland has indicated that fossil-fuel power plants serve normally as marginal generation plants. In the second case, the beneficiary can show a delivery contract with the power plant subject to EU ETS or documentation on the ownership of the power plant subject to EU ETS. In all events the amount of electricity bought or transferred needs to be presented.

(19) For electricity purchased from plants not falling under the ETS the applicant needs to show that the electricity could be sold to a third party in the market place and at market price by demonstrating that this has been done for the year examined or in the past or it has the readiness to do it and it is technically possible. This refers to cases in which the potential beneficiary owns all or part of the plant and has the right to all or part of the electricity produced by that plant.[…]* In addition, the produced electricity can either be sold on the market or be used by the beneficiary itself. In this case, the beneficiary faces an opportunity cost as this electricity could be sold in the market at prices including CO₂ costs even if needed for use in its own industrial process. The beneficiary could then buy electricity in the market and sell the electricity on the market in order to become eligible for support.

(20) If such verified supporting evidence is not provided, the applicant will not be eligible for compensation under the notified measure. The Finnish Energy Authority has the right to carry out checks.

(21) Finland 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

(22) 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.

(23) The compensation is granted by the Finnish Energy Authority and funded through the EUA auctioning revenues obtained by Finland. These revenues are to be treated similarly to any other State revenue. 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 Guidelines⁷, making it likely the aid can affect trade between Member States and distort competition.

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⁷ Annex II to the Guidelines.
* Business secret.
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

The legal basis of the measure includes a clause indicating that the entry into force of the scheme is conditional to prior Commission's approval.

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

3.3. Compatibility

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

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

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.

The beneficiaries of the notified aid scheme are companies in Finland active in one of the sectors listed in Annex II to the Guidelines. Hence, the Commission concludes that the aid is aimed to realise the scheme's well-defined objective of common interest, namely addressing the significant risk of carbon leakage.

3.3.2. Proportionality

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

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.

The measure applies the aid intensities (capped at 50% by Finland) 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.

The maximum aid intensities will be 40% of the eligible costs incurred in 2016, 2017 and 2018 and 37.5% of the eligible costs incurred in 2019 and 2020. This is below the maximum aid intensities set out in point 26 of the Guidelines.
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 prove that CO₂ costs are actually included in the final electricity price. The beneficiary needs to provide evidence that the electricity market price is faced either directly or as an opportunity cost where electricity could be sold to the market at the market price. Finland has thus put measures in place to ensure that aid is not paid to beneficiaries that do not face CO₂ costs.

Finland will also comply with point 29 of the Guidelines, pursuant to which, if an installation manufactures products that are eligible for aid and products that are not eligible for aid, the maximum aid payable will be calculated only for the products that are eligible for aid.

Aid will be paid to the beneficiary in the year following the year in which the costs are incurred. First payments will be made in 2017 on the basis of eligible costs for year 2016. This is in line with point 30 of the Guidelines.

Concerning the threshold of 1 GWh per year and per installation explained in paragraph (12); Finland explained that the threshold’s purpose is to avoid a disproportionate administrative burden in processing applications for and paying out small amounts of aid. In that respect, the electricity consumption threshold of 1 GWh per year and installation is an objective criterion. Finland has estimated that the aid for the period 2016 – 2020 for an installation with a hypothetical electricity consumption of 1 GWh per year would be on average EUR 2 520 per year. This amount is relatively small, also taking into account the fee to be paid to the Energy Authority (see footnote 5), compared with the amount of administrative resources that would be required to process applications in respect of such small amounts of aid and therefore such a restriction can be considered justified.

The Commission thus concludes that the aid is proportional.

3.3.3. Incentive effect

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

The scheme's provisions on cumulation (see recital (21)) are in line with the requirements set out in point 47 of the Guidelines.

3.3.5. Annual reporting, transparency and monitoring

Finland 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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Yours faithfully  
For the Commission

Margrethe VESTAGER  
Member of the Commission