Subject: State Aid SA.53427 (2019/N) – Spain
Compensation for indirect EU ETS costs in Spain – Budget increase

Sir,

1. Procedure

(1) By electronic notification dated 7 February 2019, the Spanish authorities notified to the Commission, in accordance with Article 108(3) of the Treaty on the Functioning of the European Union (“TFEU”), a modification of the scheme to compensate undertakings for a part of their indirect emission costs, that is to say the costs resulting from the EU Emission Trading System (“ETS”) passed on through the electricity prices.

(2) Spain initially notified the measure to the Commission on 30 September 2013. The Commission approved it by decision of 14 November 2013 (“the 2013 approval decision”)\(^1\). Spain notified a prolongation and budget increase on 18 April 2016, which the Commission approved on 14 June 2016 (“the 2016 approval decision”)\(^2\). Spain notified another budget increase on 5 December 2017, which the Commission approved on 15 December 2017 (“the 2017 approval decision”)\(^3\). The present notification concerns a further budget increase

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until the expiry of the scheme in 2020. As the budget increase exceeds 20% of the budget of the scheme the Spanish authorities have notified the budget increase to the Commission in line with Article 4(2)(a) of Commission Regulation (EC) No 794/2004.

2. DESCRIPTION OF THE MEASURE

(3) The Commission makes reference to recitals (2) to (11) of the 2013 approval decision for a detailed description of the aid measure. Through the 2016 approval decision, the measure has been approved by the Commission until 31 December 2020.

(4) Following the 2017 approval decision the annual budget of the scheme amounted to EUR 90 million for the period 2017 to 2020. The Spanish authorities intend to extend the budget of the scheme with further EUR 110 million per year to EUR 200 million per year for the compensation of the costs incurred in 2018, 2019 and 2020.

(5) All remaining conditions of the measure approved by the 2013 approval decision, as amended by the 2016 and 2017 approval decisions, will remain unchanged. With regard to reporting, transparency and monitoring of the scheme, the Spanish authorities will follow the requirements set out in points 48 to 54 of the Guidelines on certain State aid measures in the context of the greenhouse gas emission allowance trading scheme post-2012 ("ETS Guidelines"), in line with the commitment made at the time of 2013 approval decision.

3. ASSESSMENT OF THE MEASURE

(6) The Commission's conclusion in recital (13) of the 2013 approval decision, that the notified aid measure constitutes State aid within the meaning of Article 107(1) TFEU is not affected by the notified modification to the approved measure. The considerations set out in that decision therefore continue to apply.

(7) The maximum aid intensities to be granted are in line with point 26 of the ETS Guidelines. The Commission's compatibility assessment set out in recitals (16) to (27) of the 2013 approval decision is also not affected by the notified modification.

(8) The notified budget increase is considered proportionate as it is triggered by the increase of the price of the tonne of CO$_2$ under the EU ETS. The consequence of the increase of the price of the tonne of CO$_2$ is an increased amount of indirect emission costs to be compensated under the notified scheme. The Commission considers that any further increase of budget of the notified scheme due exclusively to an increase of the CO$_2$ price would also be proportionate.

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5 In particular the maximum aid intensities will remain at 80% of the eligible costs incurred in 2016, 2017 and 2018, and 75% of the eligible costs incurred in the years 2019 and 2020.
(9) On the basis of the considerations set out in the 2013 approval decision, the Commission finds that the notified measure is compatible with the internal market pursuant to Article 107(3)(c) TFEU.

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.

Yours faithfully
For the Commission

Margrethe VESTAGER
Member of the Commission