



EUROPEAN COMMISSION
Impact Assessment Board

Brussels,
D(2012)

Opinion

Title **DG COMP - Impact assessment on Guidelines on certain State measures in the context of Greenhouse Gas Emission Allowance Trading Scheme**

(resubmitted version of 21 March 2012)

(A) Context

The EU Emission Trading System (ETS) has been established in 2005 to enable the EU to meet its 2020 climate change targets. The ETS is a key tool to reduce energy and industrial greenhouse gas emissions, based on a cap-and-trade model. However the system could have a potential negative externality in the form of "carbon leakage", which may occur when asymmetric costs impact on firms producing in the EU, possibly leading to loss of market share to competitors based outside the EU, or when investments are re-targeted towards countries which do not have equivalent CO2 constraints in place. Two mechanisms were incorporated into the 2009/29/EC Directive in order to protect EU (sub)sectors from carbon leakage: 1) compensation in the form of free EU allowances to emit CO2 when it impacts on their own production processes ("direct CO2 costs"); 2) the possibility for Member States to grant state aid for "indirect CO2 costs" (when these costs are passed on by electricity producers in their prices). This IA report accompanies the Guidelines on certain state aid measures in the context of the ETS. The report focuses solely on the second mechanism, i.e. tackling carbon leakage through state aid.

(B) Overall assessment

The revised report has been significantly improved but still needs some further work on a number of issues. Firstly, it should further strengthen the intervention logic and the presentation of the options by linking the various option packages more explicitly also to the specific objective of preventing illegal operating aid. Secondly, it should further improve the presentation of the costs and benefits of the different options, and should address the possible consequences of non-alignment of the treatment of direct and indirect costs. Finally, the report should better explain how the criteria for the selection of the preferred option have been applied.

(C) Main recommendations for improvement

(1) Further improve the intervention logic and the presentation of options. The various option packages should be more explicitly linked to one of the stated specific objectives: to prevent illegal operating aid. The report should further explain to what extent, and how, the recently made suggestions (after the submission of the original draft IA report) by Member States and stakeholders with regard to 'floor prices' have been taken into account in the design of option packages. The report should also discuss the possibility of using CO2 forward prices to determine the aid amount and how to avoid potential speculative behaviours that this choice may entail.

(2) Strengthen the presentation of costs and benefits. The report should better use the available quantitative evidence to support the assessment of the most relevant option packages and use consistent assumptions regarding likely reactions of Member States for each option package. The indication of sectors which would be most likely included in the application of the proposed Guidelines should not only be given for the baseline, but for all the different option packages presented. The broader impacts should be illustrated by an indication of the relative importance, geographical distribution, and the number of persons employed in these sectors. The report should improve its analysis concerning the possible creation of new market distortions within sectors, and provide more detail with regard to the possible impact in this context of non-alignment of the treatment of direct and indirect costs. The report should, in summing up the expected impacts, clearly assess competitiveness issues, as well as the distribution of impacts across Member States.

(3) Better explain the criteria for selection of the preferred option. The report should describe in a transparent way by which criteria the preferred option has been selected, and explain in more detail how they have been applied in this case.

Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report.

(D) Procedure and presentation

The baseline scenario should be presented within the problem definition, while the section on subsidiarity and proportionality should be presented after the problem definition. The report can still be considerably shortened, especially the section on problem definition. It should also include a glossary of technical terms and abbreviations in the Annexes.

(E) IAB scrutiny process

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| Reference number | 2011/COMP/11 |
| External expertise used | No |
| Date of IAB meeting | Written procedure. An earlier version of this report was submitted to the IAB in October 2011, for which the Board has issued an opinion on 11 November 2012. |