

# **Guidance document for reporting of non- energy Environmentally Harmful Subsidies (EHS)**

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## **1. The context for mapping of environmentally harmful subsidies**

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### **1.1. Status of this document**

This document was prepared on the basis of input and discussions in an Expert Group of the Member States, entitled Working Group on Environmentally Harmful Subsidies and the Polluter Pays Principle<sup>1</sup>. It is being made available on the site of the Expert Group, in accordance with the standard procedures.

This working document is made available to Member States, and is considered as a mature enough version to allow Member States to organise their internal processes. The intention is to follow this draft with a formal version.

### **1.2. Purpose of this guidance**

The 8<sup>th</sup> Environment Action Programme (EAP)<sup>2</sup> tasks the Commission to produce guidance to define, map and catalogue environmentally harmful subsidies (EHS).

This guidance creates a common basis to support Member States in identifying EHS. It sets out the EHS definition and a methodology and structure for reporting, accompanied by examples of environmentally harmful subsidies in different sectors.

Member States should not report on energy subsidies, which are covered by the Governance Regulation<sup>3</sup> which ensures collection of energy subsidies, including those harmful to the environment and reporting them to the Commission<sup>4</sup>.

This guidance builds upon work undertaken by the Organization for Economic Cooperation and Development (OECD), the World Trade Organisation (WTO) and other work in the European Commission including the Taxonomy Regulation<sup>5</sup> and methodological developments by Eurostat. It also takes account of work in other contexts, for example, irrespective of this guidance, the assessment of whether EU funds comply with the Do No Significant Harm (DNSH) principle which is based on separate guidance from the European Commission, but can also inform decisions on EHS.

### **1.3. Scope – identification and reform**

There are two steps to EHS reform: firstly, identification; secondly; the reform process itself.

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<sup>1</sup> [Register of Commission expert groups and other similar entities \(europa.eu\)](#). Sub group on Environmentally Harmful Subsidies and the Polluter Pays Principle (E02987/1)

<sup>2</sup> Decision (EU) 2022/591 on a General Union Environment Action Programme to 2030 [EUR-Lex - 32022D0591 - EN - EUR-Lex \(europa.eu\)](#)

<sup>3</sup> Regulation (EU) 2018/1999 on the Governance of the Energy Union and Climate Action [EUR-Lex - 32018R1999 - EN - EUR-Lex \(europa.eu\)](#)

<sup>4</sup> See [Study on energy subsidies and other government interventions in the European Union - Publications Office of the EU \(europa.eu\)](#) for an explanation of the methodology used and scope of this reporting on energy subsidies, and is relevant for avoiding double counting.

<sup>5</sup> Regulation (EU) 2020/852 on the establishment of a framework to facilitate sustainable investment [EUR-Lex - 32020R0852 - EN - EUR-Lex \(europa.eu\)](#)

This guidance focuses on the first step of identifying and documenting EHS. One of the lessons learnt from Member States already undertaking this identification process is that this is in itself a difficult step.

This guidance does not cover the second step, the prioritisation of reform efforts. The reform step needs consideration and contextualisation of the economic, social and environmental impacts of reform of identified EHS. The EHS list should include subsidies that are considered as environmentally harmful but that are nevertheless justified based on their social or economic objectives. For example, agriculture subsidies may be harmful to the environment whilst still supporting objectives of the Common Agricultural Policy set out in Art. 39 of the TFEU; subsidies for industry may be harmful to the environment but support the long-term competitiveness and productivity of Europe's economy. The challenge of reform is to ensure that such social and economic objectives are delivered whilst doing no significant harm to the environment, as good practice shows is possible. As part of the social impacts, Member States in their reform processes should consider the fairness of how EHS are reformed. Member States should report on their efforts, so that the Commission can provide onward reporting in accordance with the mandate (see Section 1.4).

#### **1.4. Mandate**

Through the 8<sup>th</sup> EAP, co-legislators confirmed commitments on phasing out fossil fuel subsidies and agreed on a binding monitoring and reporting framework on energy related EHS under the Energy and Climate Governance. An implementing act was adopted in 2023, providing the structure and process for the integrated national energy and climate progress reports,<sup>6</sup> thus also as regards the energy related EHS.

The 8<sup>th</sup> EAP commits the Commission to deliver a “*methodology developed in consultation with Member States, by 2023, to identify other environmentally harmful subsidies; on the basis of that methodology Member States shall identify other environmentally harmful subsidies and report them regularly to the Commission, allowing for a Commission report on the level and type of such subsidies in the Union, and on progress made on phasing them out.*” This guidance document is the first step in the response to this commitment, which is set out in Annex 2.

#### **1.5. Responsibility of Member States**

Whilst this guidance document supports the process, it is for Member States to decide whether a (non-energy) subsidy should be identified as an EHS given their national context. The Commission will support this process, including through technical validation of Member States reporting, and provide onward reporting to the European Parliament and the Council.

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<sup>6</sup> Commission Implementing Regulation (EU) 2022/2299 laying down rules for the application of Regulation (EU) 2018/1999 of the European Parliament and of the Council as regards the structure, format, technical details and process for the integrated national energy and climate progress reports [EUR-Lex - 32022R2299 - EN - EUR-Lex \(europa.eu\)](#)

## 2. Definition of an Environmentally Harmful Subsidy

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### 2.1. Elements of the definition

The definition of EHS is to be used to identify and report EHS to the Commission. It responds to two questions further developed in Sections 2.1.1 and 2.1.2:

- i. Is there a subsidy? A subsidy is a **government<sup>7</sup> measure** that confers an advantage on specific consumers or producers, in order to supplement their income or lower their costs; and
- ii. Is the subsidy environmentally harmful? A subsidy is considered harmful to the environment if it causes **significantly increased negative environmental impacts**.

The definition, and the mapping of EHS, does not include subsidies that are purely beneficial to the environment. Subsidies that have a significant negative impact on the environment are considered EHS, even if they also have significant positive impacts (see explanation later).

#### 2.1.1 Which subsidies are included?

The definition used is the WTO classification<sup>8</sup> and includes the following categories:

- **Direct transfer of funds**, i.e., when the government provides direct payments or grants to third parties. These are given either in connection with a specific investment or to enable an individual/company/organisation to (partly) cover its general costs or the costs related to a specific activity (including the transfer of risk). This includes low-interest or preferential loans provided by the government to producers.
- **Price and income support** to keep producer prices at a higher level or consumer prices at a lower level than under fully competitive conditions or guaranteeing a minimum income level (in general or for specific groups) when there is a direct connection of a subsidy with a higher level of supply of or demand for goods or activities.
- **Government provision of goods or services** other than general infrastructure, or purchases of goods at non-market conform terms including direct market intervention;
- **Foregone government revenue**, i.e., not collected, such as tax exemptions, rebates, refunds, deferrals or reduced rates for specific groups, activities or products.

The definition covers ‘measures’, which means active government interventions<sup>9</sup>. A lack of intervention (such as failing to regulate the access to natural resources) is not counted as a

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<sup>7</sup> The term government can be understood as the general government sector (S.13) as defined in the European System of Accounts (ESA2010) and its’ subsectors including central, state and local government. Transfers within government are not considered subsidies, and so are not considered to be EHS.

<sup>8</sup> The definition follows the Agreement on Subsidies and Countervailing Measures (ASCM) framework developed by the World Trade Organization (WTO) and is set out at [https://www.wto.org/english/docs\\_e/legal\\_e/24-scm.pdf](https://www.wto.org/english/docs_e/legal_e/24-scm.pdf)

<sup>9</sup> The WTO definition is wider than the definition of subsidies in the European System of Accounts (ESA2010) as set out in Regulation (EU) No 549/2013 of the European Parliament and of the Council, containing the reference framework of common standards, definitions, classifications and accounting rules for drawing up the accounts of the Member States for the statistical requirements of the Union. In ESA2010, the definition used is that “Subsidies (D.3) are current unrequited payments which general government or the institutions of the

subsidy and is, therefore, not an EHS. Reflecting wider literature on the non-internalisation of externalities, Member States may nevertheless report such information voluntarily.

The definition covers both subsidies to consumers and to producers. Consumption subsidies cover government support to further the consumption of a product or service, lowering their costs for households<sup>10</sup> or other consumers, such as industrial consumers. Production subsidies are provided to the producers of a product or service and can occur along all stages of production. Such subsidies can include investment subsidies and reducing the cost of capital for producers.

The measures referred to in the definition cover subsidies that lead to price or cost reductions. This includes tax exemptions, tax reductions and other types of costs support, as well as other input support for specific industries.

The definition includes potential transfers, such as State guarantees. Indeed, a State guarantee implies a transfer of risk to the State. As these risks would normally be remunerated by a premium, the State provides a benefit by reducing this premium. This can be through, for example a state-owned enterprise, or by offering credit, loan guarantees or other risk-sharing mechanisms to independent companies on terms that are more favourable than could be obtained from private lenders.

The measure has to confer an advantage to specific (groups of) consumers or producers. Therefore, the definition excludes public infrastructure. Provision of public goods is not considered a subsidy, unless the benefit from the provision of this infrastructure is limited to certain consumers or producers as a dedicated infrastructure (for example, a road in a factory yard) and thus could be considered an implicit subsidy<sup>11</sup>. Government investment and whether it is environmentally harmful or not is though usually considered under Green Budget reporting (which has a larger scope, looking at all budget expenses).

Only subsidies that have a monetary impact in the reporting year are included. This includes temporary subsidies, or subsidies that are in the process of being phased out, so that Commission reporting can cover the reform and phasing out of EHS.

### **2.1.2 Which subsidies are environmentally harmful?**

Once a measure has been classified as a subsidy, the second step is to determine whether it results in significant negative environmental impacts for the purposes of determining whether a subsidy is considered an EHS.

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European Union make to resident producers.” The definition of the WTO includes several transfers not considered as subsidies in the ESA2010, for example, the provision of capital at below market cost.

<sup>10</sup> The term households can be understood as defined in the European System of Accounts (ESA2010). The households sector (S.14) consists of individuals or groups of individuals as consumers and as entrepreneurs producing market goods and non-financial and financial services (market producers) provided that the production of goods and services is not by separate entities treated as quasi-corporations. It also includes individuals or groups of individuals as producers of goods and non-financial services for exclusively own final use.

<sup>11</sup> Explicit transfers are any observable and reported transaction in the official budget, that influences the price directly or indirectly. These transfers correspond to (D.3, D.6, D.7, D.9) distributive transactions in the European System of Accounts (ESA2010), and involve the release of funds by the general government. Implicit transfers are any other support that it is not directly observable. It can be in the form of tax abatement, but also in an indirect form through preferential treatment, risk transfer, etc.

In some cases, the identification of a subsidy as an EHS is not straightforward, and will depend on the assumptions used to establish the counterfactual, i.e. the situation where the subsidy does not exist and on the assessment of the magnitude of the impacts.

Member States considering whether environmental impacts exist and are significant are strongly encouraged to take account of the Taxonomy Regulation<sup>12</sup>: a classification system that for a list of specific activities, through technical screening criteria as determined in the EU Taxonomy's Delegated Acts identifies whether an activity significantly harms the environment.

Member States should also take account of work undertaken by the OECD on environmentally harmful subsidies in general, but also with a particular focus on different sectors such as agriculture, fisheries, energy and industry<sup>13</sup>.

### Environmental impacts

A subsidy is considered environmentally harmful if it causes significant harm to one or more of the following environmental objectives as set out in Article 9 of the Taxonomy Regulation: (1) climate change mitigation, (2) climate change adaptation, (3) sustainable use and protection of water and marine resources, (4) transition to a circular economy, (5) pollution prevention and control and (6) protection and restoration of biodiversity and ecosystems.

Given the linkages between these environmental objectives, there will also be secondary impacts: for example, a subsidy whose primary impact is on climate change will through that have a secondary impact on biodiversity.

When assessing a subsidy, the environmental impact of the products and services throughout their life cycle should be taken into account, in particular by considering the production, use and end of life of products and services.

### Significance of environmental impacts

Any subsidy that leads to a violation of EU environmental law would be considered an environmentally harmful subsidy. This would not include inadvertent or minor issues, such as leading to non compliance with a reporting obligation but in all cases, Member States should as a priority ensure compliance<sup>14</sup>. However, a designation of a subsidy as an EHS does not in itself indicate non-compliance with EU environmental law.

The term environmentally harmful subsidies is not meant to capture subsidies that lead to only minimal negative impacts on the environment. Instead, it is meant to capture only subsidies that cause significant harm to the environment, with Member States reporting focusing on priority subsidies, and not including small subsidies to activities that are marginally negative

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<sup>12</sup> Regulation (EU) 2020/852 on the establishment of a framework to facilitate sustainable investment [EUR-Lex - 32020R0852 - EN - EUR-Lex \(europa.eu\)](#)

<sup>13</sup> An overview can be found through Matthews, A. and K. Karousakis (2022), "Identifying and assessing subsidies and other incentives harmful to biodiversity: A comparative review of existing national-level assessments and insights for good practice", OECD Environment Working Papers, No. 206, OECD, Paris. Also, through work being undertaken by the Environment Policy Committee. See also [Government Support and Subsidies Portal - OECD](#)

<sup>14</sup> Subsidies that are illegal should be dealt with through law enforcement at the national or EU level and the strong expectation is that Member States will not subsidise such activities, and they will not be identified.

to the environment. A subsidy that has environmental impacts but where none are significant would not be considered an EHS.

The Taxonomy Regulation is about activities that "significantly harm the environment" and in this context sets out criteria for identifying activities that cause significant environmental harm. Member States can use these criteria for the assessment of whether subsidies – as defined above - for activities lead to significant harm.

The Taxonomy Regulation is designed for the purposes of establishing the degree to which an investment is environmentally sustainable, with an economic activity qualifying as environmentally sustainable where that economic activity:) does not significantly harm any of the environmental objectives, within the meaning of Article 17 of the Taxonomy Regulation on the principle of Do No Significant Harm (DNSH) and as further elaborated in the subsequent delegated acts, which provide more operational criteria. Article 17 sets out:

- (a) climate change mitigation, where the EHS leads to significant greenhouse gas emissions;
- (b) climate change adaptation, where the EHS leads to an increased adverse impact of the current climate and the expected future climate, including on people, nature or assets;
- (c) the sustainable use and protection of water and marine resources, where the EHS is detrimental:
  - (i) to the good status or the good ecological potential of bodies of water, including surface water and groundwater; or
  - (ii) to the good environmental status of marine waters;
- (d) the circular economy, including waste prevention and recycling, where:
  - (i) the EHS leads to significant inefficiencies in the use of materials or in the direct or indirect use of natural resources such as non-renewable energy sources, raw materials, water and land at one or more stages of the life cycle of products, including in terms of durability, reparability, upgradability, reusability or recyclability of products;
  - (ii) the EHS leads to a significant increase in the generation, incineration or disposal of waste, with the exception of the incineration of non-recyclable hazardous waste; or
  - (iii) the long-term disposal of waste may cause significant and long-term harm to the environment;
- (e) pollution prevention and control, where the EHS leads to a significant increase in the emissions of pollutants into air, water or land, as compared with the situation before the activity started; or
- (f) the protection and restoration of biodiversity and ecosystems, where the EHS is:
  - (i) significantly detrimental to the good condition and resilience of ecosystems; or
  - (ii) detrimental to the conservation status of habitats and species, including those of Union interest.

Whilst the Taxonomy Regulation provides an indication of significance for some subsidies, it does not cover all subsidies and Member States may consider additional impacts or context and, for example, go beyond the Taxonomy Regulation.

The Taxonomy Regulation requires the Commission to adopt delegated acts establishing the technical screening criteria for determining whether an economic activity causes significant harm to one or more environmental objectives. These delegated acts, where available, therefore provide the detailed considerations needed to operationalise the definition in many cases and consider whether a subsidy that promotes an economic activity leads to significant harm. These delegated acts are living documents that must be added to and adjusted in line with technological progress and scientific findings.

A subsidy that is associated with significant negative impacts but also with significant positive environmental impacts is considered an EHS for this reporting. For this mixed (both positive and negative) case, Member States in their reform will wish to maintain or enhance the positive environmental impacts whilst reducing the negative environmental impacts so they no longer qualify as an EHS.

The technical screening criteria of the Taxonomy Regulation are available on the [Taxonomy compass](#), which offers a user-friendly way of navigating the content of the various Delegated Acts<sup>15</sup>.

Also of relevance is the EU Green Budgeting Reference Framework (GBRF)<sup>16</sup> and the toolkit for Member States willing to implementing or upgrade green budgeting practices. This provides a list of budgetary items whose net environmental impact could be considered broadly as ‘green’ or ‘brown’. These lists are only indicative and not comprehensive, but can also provide some assistance in assessing subsidies.

### **2.1.3 Considerations on the choice of the counterfactual**

The counterfactual (sometimes called the baseline) is required for identifying whether a subsidy is environmentally harmful, and also for the measurement of its impacts. The counterfactual may vary from country to country and this implies difficulties in comparability between countries.

The counterfactual should be defined by assuming the absence of the specific subsidy in question. Some examples are:

- If the subsidy is a direct money transfer from the government to an enterprise or consumer, the counterfactual is the absence of this money transfer.
- For tax reductions/exemptions, the counterfactual will refer to the tax rate that would be applicable in the Member State in question in the absence of the reduction/exemption<sup>17</sup>. In this case, the size of the subsidy should be calculated using the value of the reduction within the particular country.
- For a lower tax band for less environmentally damaging pesticides and a higher tax band for more environmentally damaging pesticides, the analysis could conclude that

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<sup>15</sup> The Taxonomy compass will be further developed, when new delegated acts enter into force (see here for latest delegated act: [https://finance.ec.europa.eu/publications/sustainable-finance-package-2023\\_en](https://finance.ec.europa.eu/publications/sustainable-finance-package-2023_en)).

<sup>16</sup> [Green budgeting in the EU - European Commission \(europa.eu\)](#)

<sup>17</sup> This is similar to the approach used for State aid.

the differentiated tax rates encourage environmentally virtuous behaviour and so does not cause environmental damage and, thus, does not constitute an EHS<sup>18</sup>.

- A subsidy for industry or a sector that is associated with improving the environmental performance (greening) compared to what would otherwise have happened, would not be considered as an EHS.

The question of the potential environmental harm relates to what the behavioural response by producers and consumers to the subsidy and its reform would be, both direct and indirect. For the identification of whether a subsidy is environmentally harmful, or not, a general understanding of whether supply or demand will change is usually sufficient. Measuring the size of the environmental impact requires some understanding of the response to the change price sensitivity of demand for product categories, and how demand shifts to other products. A proportionate analysis need only to provide an indication of whether the impact is significant or not but can also include a general indication of the impacts: there is no requirement for detailed research of interrelated impacts to provide highly specific estimates<sup>19</sup>.

Overall, determining whether a subsidy is environmentally harmful requires comparison with a counterfactual. As this depends on the sectors where the subsidy is applied, the identification of EHS needs to reflect the national situation.

## 2.2. EU Funds

The EU provides funding for a range of projects and programmes. It applies strict rules, for tight control over how funds are used and to ensure money is spent in a transparent, accountable manner. The programmes funded by the EU budget<sup>20</sup> fall under one of three types of implementation modes depending on the nature of the funding concerned:

- direct management: EU funding is managed directly by the Commission.
- shared management: the Commission and national authorities jointly manage the funding<sup>21</sup>.
- indirect management: funding is managed by partner organisations or other authorities inside or outside the EU.

DNSH compliance is already explicitly required across several EU budgetary instruments. The Commission has also proposed in the revision of the Financial Regulation to include mandatory

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<sup>18</sup> Minor variations in the tax rates that do not reflect the environmental impacts and do not correct for environmental externalities would not be sufficient to avoid classification as an EHS. This reflects the need for consideration on a case by case basis and the difficulty of setting definitive criteria at this stage.

<sup>19</sup> Two steps in quantification are (1) quantifying the monetary size of environmentally harmful subsidies and (2) quantifying their negative impacts on the environment. The former is methodologically easier, and should be the priority for analysis.

<sup>20</sup> [EU funding programmes - European Commission \(europa.eu\)](https://european-council.europa.eu/media/en/press-areas/pages/press-release-2018-05-23-01.aspx)

<sup>21</sup> Around 70% of EU programmes are run this way. For example, a farmer might apply for funds under the Common Agricultural Policy (CAP) going through the country's Ministry of Agriculture, or an equivalent institution, which would be in charge of managing the funds on behalf of the EU. The Member States' administrations (at national, regional and local level) choose which projects to finance and take responsibility for day-to-day management. Working together with the Member States, the Commission makes sure that the projects are successfully concluded, and the money is well spent based on the programmes as programmed at national/regional level and adopted by the Commission.

application of DNSH in all programmes of the next MFF<sup>22</sup>. This means working towards a conceptually consistent and practical application across all programmes that allows for the principle to be implemented according to the process-specific circumstances of each fund.

This guidance document is destined for reporting by Member States. The latter should not report on directly managed EU funds. For indirect and shared management, reporting should follow the application of DNSH as adapted to those EU funding instruments and set out in guidance: for example, consideration of DNSH is already required for InvestEU and is supported by operational guidance<sup>23</sup>.

Where the spending complies with DNSH, this means that such spending should not be considered as an EHS. Funding where compliance with the DNSH was not assessed require a separate assessment by Member States.

### **2.3. Consistency with ‘State aid’**

Since State aid may distort competition by favouring certain firms over their competitors, EU legislation (Article 107 of the Treaty on the Functioning of the European Union (TFEU)) generally prohibits State aid unless it is exceptionally justified. Article 107(1) of the TFEU defines State aid as ‘... *any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods (...) in so far as it affects trade between Member States.*’

This definition translates into the following features or criteria, all of which must be met for State aid to be present: (1) there has been an intervention by the State (aid granted by a Member State) or through State resources which can take a variety of forms; (2) the intervention confers an advantage on the recipient on a selective basis (e.g., for specific companies or industry sectors, or to companies located in specific regions, or to the production of certain goods); (3) aid distorts or has the potential to distort competition; and (4) the intervention is capable to affect trade between Member States.

The term ‘State aid’ therefore refers to an advantage of any kind granted by national public authorities and financed through State resources to undertakings/enterprises on a selective basis, insofar as it threatens to distort competition and affects trade. This means that the definition of State aid is narrower than the one on EHS, in the sense that subsidies granted to individuals (i.e. subsidies not granted for economic activities) are *not* covered by this prohibition. Despite the general prohibition of State aid, the Treaty leaves room for several policy objectives for which State aid can be considered compatible with the internal market.

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<sup>22</sup> COM(2022)223 final of 16.5.2022: proposal for a Regulation of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (recast); New Article 33(2)(d) – ‘*programmes and activities should be implemented to achieve their set objectives without doing significant harm to the environmental objectives of climate change mitigation, climate change adaptation, the sustainable use and protection of water and marine resources, the transition to a circular economy, pollution prevention and control and the protection and restoration of biodiversity and ecosystems, as set out in Article 9 of Regulation (EU) 2020/852 of the European Parliament and of the Council.*’

<sup>23</sup> Guidance documents provide operational assistance on how to assess for EU funds. For example, for InvestEU, analysis should reflect the Guidance from the Commission on Sustainability proofing under the InvestEU Regulation (Regulation (EU) 2021/523) and also the technical guidance [https://commission.europa.eu/publications/dnsh-technical-guidance-amended-october-2023\\_en](https://commission.europa.eu/publications/dnsh-technical-guidance-amended-october-2023_en)

EU State aid control requires prior notification of all new aid measures to the Commission except for certain State aids that are exempted from this requirement.

Some State aid rules have recently been revised to contribute to the Green Deal and to integrate the DNSH principle. In any case, State aid cannot be approved that would entail a violation of EU law, including EU environmental law, which is indissolubly linked to the aid. Member States may take account of any DNSH assessments undertaken for other purposes. State aid that was assessed as complying with the DNSH principle should not be considered as an EHS. When a Member State labels State aid measures where compliance with the DNSH was not assessed as EHS, then this decision is without prejudice to its compatibility with the internal market as is the case for fossil fuel subsidies. So, the qualification of a subsidy as EHS is, if the subsidy at the same time constitutes State aid in the meaning of Article 107(1) TFEU, without prejudice to its compatibility with the internal market.

This guidance deals only with identifying environmentally harmful subsidies, and not on whether they are (legally) justified or not. The fact that a Member State has declared a subsidy as environmentally harmful is without consideration of the possible trade-off between socio-economic and environmental considerations that led to the adoption of the subsidy. Inclusion in an inventory of EHS as part of this reporting exercise is not considered sufficient to challenge State aid approval, or to challenge compatibility with the internal market. Member States may have different policy objectives and consider an aid measure beneficial while considering that, seen in isolation, it might be caught by the EHS methodology. It is for the Member State to make that choice. The reporting requirement on EHS will therefore not be an intrinsically linked provision to finding an aid measure compatible with the internal market.

### **3. Examples of the practical application of the definition**

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The application of the definition requires considering whether a measure is a subsidy, and whether it has environmentally negative effects leading to significant harm compared to a counterfactual. The application therefore needs to take account of different information, which may be dependent on the national context including other policies in place, geographical factors, policy design etc.

This section includes examples of how the definition could be considered and applied for the purposes of considering whether a subsidy is an EHS. It is not intended to be a comprehensive list and it does not cover all sectors. Furthermore, it should not be understood as the European Commission labelling an activity as automatically environmentally harmful. The list will be further developed on the basis of the first data collection.

As discussed above, analysis can take advantage of the technical screening criteria developed under the Taxonomy Regulation (see section 2.1.2), which covers 16 sectors, detailed below, and in Annex 3 for the 152 economic activities currently covered. The technical screening criteria are available on [the Taxonomy compass](#) and provide an increasingly sophisticated picture of activities that can be associated with significant environmental damage. The economic sectors covered are:

- Arts, entertainment and recreation
- Civil engineering
- Construction and real estate
- Disaster risk management
- Education
- Energy
- Environmental protection and restoration activities
- Financial and insurance activities
- Forestry
- Human health and social work activities
- Information and communication
- Manufacturing
- Professional, scientific and technical activities
- Services
- Transport
- Water supply, sewerage, waste management and remediation

#### **3.1. Agriculture**

Agricultural practices take place in close contact with environmental ecosystems with potentially diverse impacts (use of natural resources, such as water and soil, as well as emissions to air and water, and many other). When assessing the environmental impact of subsidies related to agriculture, it is important to keep in mind that the main purpose of agriculture is to meet essential needs of people, in this respect it should be treated as a specific production activity that is linked to the economy as a whole. For certain subsidies for agriculture, like voluntary coupled support, the link between environmental harm and the subsidy is indirect and difficult to ascertain with clarity. While some of the subsidies aim to reduce the costs and with that support production (these could be potentially harmful), others

are put in place to improve the environmental performance of the agriculture practice. The majority of support under the Common Agricultural Policy ('CAP') consists of income support for farmers (to ensure the fulfilment of CAP economic, environmental and social objectives<sup>24</sup>). As these subsidies do not influence production and since they follow conditionality (good agricultural and environmental conditions (GAECs) and statutory management requirements (SMRs), they are unlikely to be significantly harmful to the environment<sup>25</sup>.

In line with Art 5 of the CAP Strategic Plan Regulation and with the objective to maintain the functioning of the internal market and a level playing field between farmers in the Union and with the principle of subsidiarity, CAP support “shall aim to further improve the sustainable development of farming, food and rural areas and shall contribute to achieving the following general objectives in the economic, environmental and social spheres, which will contribute to the implementation of the 2030 Agenda for Sustainable Development:

- (a) to foster a smart, competitive, resilient and diversified agricultural sector ensuring long-term food security;
- b) to support and strengthen environmental protection, including biodiversity, and climate action and to contribute to achieving the environmental and climate-related objectives of the Union, including its commitments under the Paris Agreement;
- (c) to strengthen the socio-economic fabric of rural areas.”

#### General agricultural subsidies:

Political entities all over the world have policies to safeguard agricultural activity and ensure food security and food affordability as key social aspects<sup>26</sup>. Quite often these policies contain subsidies. The text below mainly focusses on subsidies in the EU Common Agricultural Policy but the same reasoning applies when assessing national subsidies for agriculture.

The OECD methodology for the reporting of agricultural supports has been originally developed to study trade and market distortions and has a number of limitations for the assessment of the environmental impacts of agricultural support policies. The OECD categorises green box payments (see below) as “least environmental harmful”. However, more recently in its Agricultural Policy Monitoring and Evaluation<sup>27</sup>, the OECD assessed that for EU Member States the “*potentially most-distorting forms of support still represent nearly a quarter of support to producers.*” However, this mainly refers to market price support, which the OECD estimates based on the gap between reference prices for the world and reference prices for EU markets. This indicator mainly reflects in the EU the increased domestic prices due to tariffs and non-tariffs measures, which are not subsidies, and not per se harmful (they can limit environmental effects of trade). Support prices in the EU have been significantly reduced.

In the WTO context, a methodology has been agreed to assess the nature of subsidies for agriculture with exclusive regard to their trade distortive impact. The WTO Agreement on Agriculture includes in its Annex 2 ‘green box’ activities that ‘have no, or at most minimal,

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<sup>24</sup> Article 39 TFEU.

<sup>25</sup> See Annex 3 Regulation (EU) 2021/2115 [EUR-Lex - 32021R2115 - EN - EUR-Lex \(europa.eu\)](#)

<sup>26</sup> For the EU level, this is set out in Article 39 TFEU.

<sup>27</sup> [Agricultural Policy Monitoring and Evaluation 2022 : Reforming Agricultural Policies for Climate Change Mitigation | Agricultural Policy Monitoring and Evaluation | OECD iLibrary \(oecd-ilibrary.org\)](#)

trade-distorting effects or effects on production'<sup>28</sup>. These include for example pest and disease control measures (point 2(b)) as well as infrastructural services (point 2(g)), such as port facilities, dams and drainage schemes. These 'green box' activities are thus "green" from a trade viewpoint, not necessarily from an environmental viewpoint. This should be borne in mind when comparing OECD and WTO terminologies, approaches and methodologies.

The Common Agricultural Policy provides a common framework but leaves considerable freedom to design its support to the Member States. Budgetary speaking, most of the support takes the form of decoupled direct payments. This is a green box income support – farmers on average have significantly lower incomes compared to the rest of the economy - that farmers receive whether they produce something or not. 85% of EU farm support falls into the "green box". This support can have a positive effect on the environment as it is linked to the respect of certain good agricultural conditions<sup>29</sup> often going beyond standing environmental law.

However, the effect of other interventions, e.g. the support for investments or coupled income support (support linked to the production of a certain crop, of the rearing of certain animals) can have a positive, neutral or a negative effect on the environment. The specific eligibility conditions linked to the support as well as the indicators usually indicate whether the support is likely to trigger more intensive or more extensive farm practices. Moreover, when assessing whether a subsidy is environmentally harmful, it is necessary to imagine the counterfactual to estimate what would happen if the subsidies did not exist. In this context the JRC Scenario 2030 report may be useful<sup>30,31</sup>.

For reporting of EHS in line with this guidance, Member States may make use of the OECD methodology which identifies the potentially most environmentally harmful support, based on implementation criteria originally created to assess the impact of these supports on market distortion. However, it is to be stressed that the environmental impacts of trade distorting subsidies could be neutral or even beneficial, when assessed with the appropriate level of granularity as to the type of production supported, possible cross-compliance requirements and their effectiveness. For this reason, the OECD methodology uses the word "potentially". If no definitive conclusion can be taken on a category of support, a case-by-case analysis will be necessary. Reporting of general agricultural subsidies should be complemented by specific examples, such as:

#### Pesticide subsidies:

Tax rates differentiated according to environmental damage are not in themselves an environmentally harmful subsidy. For example, in the case of a lower tax band for less environmentally damaging pesticides, and a higher tax band for more environmentally damaging pesticides, there is no environmentally harmful subsidy present (as long as the higher tax band is equal or higher than the standard tax rate, and the differentiation in tax rates represents the differentiation in environmental impacts). By contrast, any taxation system supporting higher-risk pesticides would change the cost/benefit ratio of users regarding the use

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<sup>28</sup> [https://www.wto.org/english/docs\\_e/legal\\_e/14-ag\\_02\\_e.htm#annll](https://www.wto.org/english/docs_e/legal_e/14-ag_02_e.htm#annll).

<sup>29</sup> The "Good Agricultural and Environmental Conditions" or "GAECs" are a set of EU farming standards targeting soils protection and crop cover, set out in Annex III of Regulation EU No 2021/2115 for the current CAP.

<sup>30</sup> [Scenar 2030 \(europa.eu\)](https://ec.europa.eu/scenar2030/)

<sup>31</sup> Other useful references are the [Evaluation of the CAP on climate change and greenhouse gas emissions \(europa.eu\)](#) and the report EU Court of Auditors on the [CAP and climate](#) (and the [Commission's response](#)).



### 3.2. Construction

Construction requires large amounts of resources and generates considerable waste. Greenhouse gas emissions from material extraction, manufacturing of construction products, as well as construction and renovation of buildings can be significant. Construction can also lead to land sealing, and loss of biodiversity. As a result, subsidies to construction can be EHS, however, it depends on the nature of the construction and, for example, whether it promotes circularity principles throughout the lifecycle of buildings and infrastructure. (In this respect, the Taxonomy Regulation and the technical screening criteria provide specific provisions that should be considered.)

Examples could include:

- Incentives including for the construction of new housing or infrastructure, leading to artificialisation of land (areas that have been significantly shaped by human activity), loss of biodiversity or damage to soil. This can include subsidised loans, tax exemptions for construction, reduced VAT, subsidies that promote the development of greenfield sites over brownfield sites etc. The extension of artificialized areas causes unfavourable impacts on the environment, including loss of natural habitat and often loss of resources when they occur at the expense of the richest soils. Subsidies can be environmentally harmful when they are coupled to relatively weak environmental requirements, which do not mitigate the negative impacts on nature and the environment.

### 3.3. Fishing

Fisheries policy has as an objective to ensure healthy seas and a sustainable use of the oceans and of marine resources in the EU and worldwide. This requires sustainable fisheries ensured through the Common Fisheries Policy and an integrated approach to policies impacting the oceans, including fostering a sustainable blue economy. This should provide jobs and prosperity to coastal communities and sustainable food, and contribute to a healthy environment for today's and future generations.

Poorly targeted government support can though have undesirable outcomes if it encourages excess fishing capacity, and overfishing and illegal, unreported and unregulated (IUU) fishing. The text below mainly focusses on subsidies in the Common Fisheries Policy but the same reasoning applies when assessing national subsidies for fisheries<sup>33</sup>.

In the WTO context, the WTO membership concluded negotiations at Ministerial Conference (MC12) on the WTO Agreement on Fisheries Subsidies<sup>34</sup>. The Agreement will enter into force for the WTO Members that have accepted it upon acceptance by two thirds of the WTO Members. This WTO Agreement focused on sustainability, and sets out a way in which to determine if EHS are occurring:

- Illegal, Unregulated and Unreported (IUU) fishing: It is prohibited to provide subsidies to fishing vessels or operators found to be engaged in IUU fishing. In the context of the EU, there are strict rules in place already ensuring that such subsidies do not take place.

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<sup>33</sup> For national subsidies, also consider section 2.3 on State aid.

<sup>34</sup> Agreement on fisheries subsidies, Ministerial Decision of 17 June 2022, WT/MIN(22)/33, WT/L/1144 <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/MIN22/33.pdf&Open=True>

- High seas fishing: there is an absolute prohibition of subsidies in areas outside regional fisheries management organisation (RFMO) competence areas.
- Overfished stocks: the principle is established of the link between sustainable management of fisheries and provision of subsidies. Subsidies are allowed, and are not considered environmentally harmful only if there are measures in place to rebuild such stocks.

Subsidies falling under the three categories above should be considered EHS. The Commission is currently considering if EU rules need to be clarified to implement the new WTO agreement, but the Common Fisheries Policy (CFP) already includes a number of the key elements of the agreement. For example, the CFP already prohibits subsidies to vessels determined to have engaged in IUU fishing.

The OECD has developed a tool that is more closely focused on helping governments assess the risk that their support policies may present for the environment, and in particular fish stock health. It classifies fisheries support based on the level of risk they may pose to fishery sustainability and lists mitigating factors that can limit this risk (effective management, targeting stocks that are underfished and policy design restricted to effectively managed or underfished fisheries).<sup>35</sup>

The OECD deems support targeted at ensuring productive and sustainable fisheries through spending on management, monitoring, control, and surveillance (MMCS) to have no risk. Conversely, some support presented a high risk of encouraging unsustainable fishing in the absence of effective fisheries management – and this support mostly consists of subsidised fuel and vessels. Support to infrastructure and income presents a moderate yet non-negligible risk.

### **3.4. Forests**

Forests and other wooded land provide ecosystem services through air, water and as a habitat for biodiversity. To improve forest resilience and adaptation, it is necessary to increasingly protect and restore forest biodiversity and adopt biodiversity-friendly forest management practices.

Subsidies that support unsustainable forest management practices are EHS. For instance, some subsidies for bioenergy that are not based on clear sustainability conditions (e.g the compliance with the cascade principle) can be EHS. On the other hand, subsidies that support the improvement of forest's resilience, for instance supporting the adaptation to climate change, should not be considered EHS.

### **3.5. Manufacturing**

Support for manufacturing is motivated by the strategic importance that governments assign to the industry and the significance of the costs associated with needed infrastructure. The most dominant subsidies identified are targeted to the production, transport and use of all types of energies in industrial sectors and so are covered by the Governance Regulation.

Below-market finance can take the form of government loan guarantees or state banks offering loans at interest rates that are lower than firms would otherwise get on the market. It can also take the form of below-market equity returns, whereby government shareholders accept lower returns on their investments for longer than private investors would. Support can be provided

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<sup>35</sup> [OECD Review of Fisheries 2022 | OECD Review of Fisheries | OECD iLibrary \(oecd-ilibrary.org\)](#)

through a mix of grants and corporate tax concessions through to below-market finance. If the support is for greening a sector then it is not associated with environmental damage<sup>36</sup>. (In this respect, the Taxonomy Regulation and the technical screening criteria provide specific provisions that should be considered.)

### 3.6. Transport

Transport policy is a cornerstone of European integration and is vital for fulfilling the free movement of individuals, services and goods. Transport is also a major contributor to the economy and EU transport policy is developing a modern infrastructure network that makes journeys quicker and safer, while promoting sustainable and digital solutions. The Sustainable and Smart Mobility Strategy (SSMS), presented by the European Commission in December 2020, acknowledges the importance of ensuring accessible, affordable and fair mobility for all individuals, as well as an efficient, sustainable and multimodal freight transport system.

Subsidies in the transport sector can though, if not well designed, have significant negative environmental impacts, for example, by increasing GHG emissions, air pollution and noise.

Examples could include:

- Tax benefits for company cars: some Member States tax the use of company cars for private purposes in a way that is financially beneficial to both employees and employers. Support for internal combustion engine (ICE) vehicles is likely to be an EHS, though Member States are now usually targeting the schemes toward supporting the purchase of “green” vehicles. Company car tax benefits that steer transport towards highly polluting passenger cars and away from sustainable solutions such as zero-emission passenger cars or public transport may represent an EHS, depending on the counterfactual.
- Tax exemptions for certain types of motor vehicles (including mopeds and motorcycles) can lead to the increased uptake of these types of vehicles at the expense or not of other vehicle types. However, despite possible noise impact, it should be noted that in terms of pollution and climate effects, motorcycles might on average perform better than certain types of other road vehicles. This needs to be established on a case-by-case basis.

### 3.7. Other

- Reduction/exemption from water charges or taxes, in particular where it has a significant effect on reaching and maintaining good status and avoiding the deterioration of status. Reducing charge or tax incentivises the inefficient use of water (abstraction or generation of wastewater), by households, agriculture and companies. Consequently, reducing the charge or tax contributes to increased exploitation and potential over-exploitation of water resources in the country and thus reduces water resilience. This holds also for a deficient application of the requirement<sup>37</sup> for prior authorisation for abstraction and impoundment including any exemptions.

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<sup>36</sup> [Industrial subsidies and levelling the playing field - OECD](#) provides a discussion of the approaches to measure such support

<sup>37</sup> Water Framework Directive, article 11(3)(e). See for example European Court of Auditors Special Report 20/2021: ‘Sustainable water use in agriculture;’ <https://www.eca.europa.eu/en/publications?did=59355>.

- Exemption from development tax for public or public utility premises: Such a tax exemption can be seen as potentially promoting environmentally harmful and wasteful practices, but depending on the environmental conditionalities could reduce the environmental impact of the premises. Given this varied interpretation and uncertain consequences, the subsidy itself requires further consideration.
- Reduced VAT rate for an environmentally damaging product or service that increases demand and trigger significant environmental damage. For example, reduced VAT rate for meat compared to other sources of protein.

## 4. Reporting Environmental Harmful Subsidies

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### 4.1. Reporting process

The reporting of EHS will take place in parallel to reporting on fossil fuel subsidies under the Governance Regulation to allow for consistency, and a full picture. Member States should report on EHS by March 2025 and every two years thereafter. The Commission will then report the data onwards to the European Parliament and the Council in line with the mandate and including:

- EHS present in each Member State,
- Analysis of the EHS landscape over the EU,
- An assessment of the quality of the data, including consistency and comparability,
- Reform processes in the EU.

Data will need to be prepared and submitted by Member States. It is foreseen that Member States will use an e-platform, and this will be confirmed in due course along with any technical amendments that need to be made to the templates below to facilitate its use. The use of the e-platform will facilitate communication between the Member States and the Commission, to promote cooperation among Member States and facilitate public access to information, whilst ensuring consistency with other related reporting (for example, on fossil fuel subsidies)<sup>38</sup>.

When Member States provide their data, there will be validation by the European Commission. This will consist of technical validation and checking of consistency for obvious issues with data submitted. This validation process should not be interpreted as endorsement or approval of the data submitted.

In the tables below, data should be reported for each individual subsidy, in English, French or German. Where available, Member States are also encouraged to provide general data giving an overview of subsidies (where there is an overlap eg between general support and a specific subsidy, this should be indicated in the comments section).

Items in the reporting template:

**Table 1: Environmentally harmful subsidies**

- **Title of subsidy (National language)**
- **Title of subsidy (English)**
- **Year of data** – for reporting in year N, data should if possible be for year N or N-1 but otherwise for N-2 (this should be specified)
- **Economic sector(s) of the beneficiaries:** Member State should identify the beneficiaries in line with the NACE categories<sup>39</sup> that designate the various statistical classifications of economic activities in the European Union. NACE provides the framework for collecting and presenting a large range of statistical data according to economic activity in the fields of economic statistics (e.g. production, employment, national accounts) and is mandatory within the European Statistical System. Reporting

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<sup>38</sup> The e-platform will be confirmed in due course but is currently foreseen as being ReportENER, which is used for reporting of energy subsidies including fossil fuel subsidies.

<sup>39</sup> [NACE Rev. 2 - Statistical classification of economic activities - Products Manuals and Guidelines - Eurostat \(europa.eu\)](https://ec.europa.eu/eurostat/tgm/table.do?tab=table&init=1&language=en&plugin=1)

should be provided for the sectors most affected by a subsidy using the intermediate aggregation below. At minimum, using the levels designated in the table below.

The table below presents the "intermediate SNA/ISIC aggregation A\*38":

A*38 code	ISIC Rev. 4/ NACE Rev. 2	Divisions
1 A	Agriculture, forestry and fishing	01 to 03
2 B	Mining and quarrying	05 to 09
3 CA	Manufacture of food products, beverages and tobacco products	10 to 12
4 CB	Manufacture of textiles, apparel, leather and related products	13 to 15
5 CC	Manufacture of wood and paper products, and printing	16 to 18
6 CD	Manufacture of coke, and refined petroleum products	19
7 CE	Manufacture of chemicals and chemical products	20
8 CF	Manufacture of pharmaceuticals, medicinal chemical and botanical products	21
9 CG	Manufacture of rubber and plastics products, and other non-metallic mineral products	22 + 23
10 CH	Manufacture of basic metals and fabricated metal products, except machinery and equipment	24 + 25
11 CI	Manufacture of computer, electronic and optical products	26
12 CJ	Manufacture of electrical equipment	27
13 CK	Manufacture of machinery and equipment n.e.c.	28
14 CL	Manufacture of transport equipment	29 + 30
15 CM	Other manufacturing, and repair and installation of machinery and equipment	31 to 33
16 D	Electricity, gas, steam and air-conditioning supply	35
17 E	Water supply, sewerage, waste management and remediation	36 to 39
18 F	Construction	41 to 43
19 G	Wholesale and retail trade, repair of motor vehicles and motorcycles	45 to 47
20 H	Transportation and storage	49 to 53
21 I	Accommodation and food service activities	55 + 56
22 JA	Publishing, audiovisual and broadcasting activities	58 to 60
23 JB	Telecommunications	61
24 JC	IT and other information services	62 + 63
25 K	Financial and insurance activities	64 to 66
26 L	Real estate activities*	68
27 MA	Legal, accounting, management, architecture, engineering, technical testing and analysis activities	69 to 71
28 MB	Scientific research and development	72
29 MC	Other professional, scientific and technical activities	73 to 75
30 N	Administrative and support service activities	77 to 82
31 O	Public administration and defence, compulsory social security	84
32 P	Education	85
33 QA	Human health services	86
34 QB	Residential care and social work activities	87 + 88
35 R	Arts, entertainment and recreation	90 to 93
36 S	Other services	94 to 96
37 T**	Activities of households as employers; undifferentiated goods- and services-producing activities of households for own use	97 + 98*
38 U**	Activities of extra-territorial organisations and bodies	99*

\* including imputed rents of owner-occupied dwellings

\*\* All of U and part of T (division 98) are outside the SNA production boundary, and will be empty for SNA data reporting, but are included for completeness.

- **Description of the subsidy:** Member States should indicate in the description column what the subsidy covers and whether the objective has been laid down in legislation and, if applicable, provide the reference to the relevant legislation. Member States can also describe the specific amounts or conditions attached to the subsidy schemes (or provide a link to the relevant information).
- **Responsible Authority** – the authority providing the subsidy (including if relevant whether federal/regional/municipal)
- **Category of Subsidy:** Member State should select from the following options (Section 2.1.1 provides further clarification):
  - Direct transfer of funds
  - Price and income support
  - Government provides goods or services including at subsidised rates
  - Foregone government revenue

- **Implementation period:** Year and month policy enabling subsidy was first implemented (if known), and if relevant year and month when the enabling policy ends (is no longer in effect or implementation), at which time subsidies can no longer be paid.
- **Subsidy volume paid:** Subsidy volume paid or foregone revenue in nominal (current prices) currency values<sup>40</sup> for the reporting year
- **Currency:** Member State should select from the following options (one option can be selected): EUR; BGN; CZK; DKK; HUF; PLN; RON; SEK.

## Table 2: National reforms

- **National objective(s) or plans) set to phase out environmental harmful subsidies:** Member States should report any objectives to phase-out the EHS, if existent.
- **Description:** Member States should include in the description column a short description of these plans, and clarify when such commitments are expected to become effective. Member States should specify any quantitative milestones if existent. For example, 50% phase out by 2027, 100% phase out by 2030. If no objectives are set to phase out EHS, Member States should report on any plans, if existent, to make a phase out commitment or set a phase out objective.
- **Target year:** if existent, Member States should provide a target year or the target years by which the objective should be achieved.
- **Progress towards target / objective:** Member States should report on progress accomplished towards meeting the objective and the milestones, if relevant.
- **Steps to ensure phase out does not affect just transition:** Member States should report on any steps taken to ensure the phase outs do not affect efforts towards a just transition<sup>41</sup>.
- **General comments.**

### 4.2. Expectations on Data Quality for measurement and reporting

Reporting on EHS faces challenges in terms of data availability and quality and will require refinement of data streams over time. There is also an element of trade-off between allowing the definition to be customised to reflect national conditions while allowing for harmonisation and comparability between Member States and policy areas.

The data from mapping and reporting EHS aim to be accessible, transparent, granular and time-bound. Data may be collected by various institutions and may therefore require central coordination at Member State level to ensure completeness. The methodology used to collect and/or estimate the data should be reported too. Involvement of stakeholders is advised e.g. through consultation during the process or on the draft output.

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<sup>40</sup> Guidelines for the calculation of subsidies volumes are available, for example, at: <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:1998:394:0006:0019:EN:PDF>

<sup>41</sup> While fighting climate change and environmental degradation will benefit all in the long term and provides opportunities and challenges for all in the medium term, not all regions and Member States start their transition from the same point or have the same capacity to respond. Some are more advanced than others, and the transition entails different social, economic and environmental impacts across regions. Such a situation not only creates the risk of a variable speed transition in the Union, but also of growing disparities between regions, detrimental to the objectives of social, economic and territorial cohesion. In order to be successful and socially acceptable for all, the transition has to be fair and inclusive.

Full comparability across Member States and sectors will not be achieved at first. Differences in the amount of subsidies reported may depend on a range of factors such as a higher tax benchmark, a stricter definition of the benchmark system, or a more complete set of tax-expenditure accounts. Over time, a higher degree of standardisation may be achieved to increase the level of comparability.

In terms of the data reported, measurement should be proportionate. For example, measurement of the environmental impacts can and should be undertaken in a proportionate manner by identifying if they are considered significant, without necessarily the need to provide precise estimates based on field work etc.

### **4.3. Tax expenditures**

Tax expenditures are tax concessions that are typically provided through lower rates, exemptions, or rebates of consumption taxes for a comparatively narrow population of taxpayers. They can include the following:

- Rate reduction: a reduced tax rate or exemption (zero tax rate)
- Allowances: amounts deducted from the tax base before applying the tax rate(s)
- Credits: amounts deducted from tax liability
- Tax deferral: a delay in paying the tax
- Accelerated depreciation of assets

A tax expenditure can in principle be removed in two different ways: either by increasing the lower tax rate(s) to the benchmark, or by lowering the benchmark to the currently lowest tax rate. Both will result in the abolishment of the EHS but may have different environmental impacts.

In estimating the value of the subsidy, Member States should use the revenue foregone method, which provides an estimate of the fiscal cost of support measures<sup>42</sup>. This involves estimating the benefit per recipient and the number of recipients: as this data is not always readily available, such figures are seen as estimates only. Furthermore, the simplest approach is to assume there is no behavioural reaction to the removal of the tax expenditure.

For accelerated depreciation of assets, the value of the subsidy is the difference between the tax that would have been paid during the investigation period under the normal depreciation schedule for the assets concerned and the amount actually paid under accelerated depreciation.

Given the technical challenges of estimating in a consistent manner tax expenditures, particular attention will be paid after first reporting of EHS to assessing the comparability of estimates and of identifying ways to improve their reporting<sup>43</sup>.

### **4.4. Consistency with other reporting processes**

Member States should ensure that the data reported is consistent with data used in other processes: meaning the same data unless the scope differs. For example, the use of this data

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<sup>42</sup> The analysis does not measure the magnitude of support for environmentally harmful practices, but rather the fiscal cost of that support. The terminology reflects that the data recorded by Member States will be revenue losses reported by countries based on their own benchmark tax system (and therefore their own objective function).

<sup>43</sup> For example, there is a possibility that EHS will be measured as higher for countries that address environmental problems through differentiated taxation compared to countries that do not address environmental problems. Such issues will be investigated to allow for refining of the inventory, and should be reflected in the reforms.,

should be considered within the context of green budget analyses. To facilitate this, whole of government co-ordination is encouraged, including of statistical services.

### International reporting

Member States are encouraged to ensure consistency in the practical mapping of EHS through for example, ensuring the same subsidy values are provided in different international reporting contexts.

The Joint Subsidy Platform (JSP)<sup>44</sup> is hosted by the IMF, OECD, World Bank, and WTO to enhance transparency on the use of subsidies. The JSP provides access to information on the nature, size, and economic impact of subsidies, with a view to facilitating dialogue on their appropriate use and design.

This guidance is consistent with analysis being undertaken by the WTO and OECD. The definition is underpinned by the WTO definition of what constitutes a subsidy, which is also used for the reporting of energy subsidies. The OECD work develops further the question of whether a subsidy is environmentally harmful, which is not covered in the WTO definition, and examines it in particular contexts such as fishing, agriculture and subsidies to industry.

### Energy subsidies

This guidance is consistent with the identification and reporting of energy subsidies to the Commission. Article 17(1) of the Governance Regulation<sup>45</sup> requires each Member State to report to the Commission on the status of implementation of its integrated national energy and climate plan (NECP). This covers energy subsidies with a particular focus on fossil fuel subsidies. The definition of a subsidy used in this guidance document is consistent with the definition used for energy subsidies.

To avoid overlaps and double counting, energy subsidies that are harmful for the environment and in particular fossil fuels subsidies are not included in the reporting covered by this guidance document. These are covered by the reporting under the Governance Regulation including energy subsidies for energy carriers other than fossil fuels (e.g. heat, electricity, nuclear, bioenergy, renewable energy sources, hydrogen) which may be identified as environmentally harmful.

### Biodiversity Harmful Subsidies

All of the data reported in accordance with this guidance is relevant for reporting of biodiversity harmful subsidies under the **Kunming-Montreal Global Biodiversity Framework** (GBF) agreed at the 15th Conference of the Parties to the Convention for Biological Diversity (CBD COP15) and which includes Target 18<sup>46</sup> to:

*“Identify by 2025, and eliminate, phase out or reform incentives, including subsidies, harmful for biodiversity, in a proportionate, just, fair, effective and equitable way, while substantially and progressively reducing them by at least 500 billion United*

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<sup>44</sup> [www.subsidydata.org](http://www.subsidydata.org)

<sup>45</sup> Regulation (EU) 2018/1999 on the Governance of the Energy Union and Climate Action [EUR-Lex - 32018R1999 - EN - EUR-Lex \(europa.eu\)](https://eur-lex.europa.eu/eli/reg/2018/1999/oj)

<sup>46</sup> [Target 18 \(cbd.int\)](https://www.cbd.int/target18) This CBD Target 18 is underpinned by OECD analysis and methodologies, that are reflected in this Guidance.



**Annex 1: Tables for reporting**

No.	Title of subsidy (Local language)	Title of subsidy (English)	Year of data	Economic sector(s) of the beneficiaries	Description (including objective)	Responsible Authority	Category of Subsidy	Implementation period	Subsidy volumes		General comments
									Subsidy volume paid	Currency	
1											
2											

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**Table 2: National reforms to environmental harmful subsidies**

National objective(s) or plans set to phase out environmental harmful subsidies	Description	Target year	Progress towards target / objective	Steps to ensure phase out does not affect just transition	General comments

## Annex 2

Mandate from the 8<sup>th</sup> Environment Action Programme<sup>48</sup>:

*The attainment of the priority objectives set out in Article 2 shall require the following from the Commission, Member States, regional and local authorities and stakeholders, as appropriate:*

....

*(h) strengthening environmentally positive incentives as well as phasing out environmentally harmful subsidies, in particular fossil fuel subsidies, at Union, national, regional and local level, without delay, inter alia, by:*

*(i) a binding Union framework to monitor and report on Member States' progress towards phasing out fossil fuel subsidies, based on an agreed methodology;*

*(ii) setting a deadline for the phasing out of fossil fuel subsidies consistent with the ambition of limiting global warming to 1,5 °C;*

*(iii) a methodology that is set out by the Commission, in consultation with Member States, by 2023, to identify other environmentally harmful subsidies; on the basis of that methodology Member States shall identify other environmentally harmful subsidies and report them regularly to the Commission, allowing for a Commission report on the level and type of such subsidies in the Union, and on progress made on phasing them out;*

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<sup>48</sup> [EUR-Lex - 32022D0591 - EN - EUR-Lex \(europa.eu\)](#)

## Annex 3

### Taxonomy activities, per sector

#### **Arts, entertainment and recreation**

- Creative, arts and entertainment activities

- Libraries, archives, museums and cultural activities

- Motion picture, video and television programme production, sound recording and music publishing activities

#### **Civil engineering**

- Maintenance of roads and motorways

- Use of concrete in civil engineering

#### **Construction and real estate**

- Acquisition and ownership of buildings

- Construction of new buildings

- Installation, maintenance and repair of charging stations for electric vehicles in buildings (and parking spaces attached to buildings)

- Installation, maintenance and repair of energy efficiency equipment

- Installation, maintenance and repair of instruments and devices for measuring, regulation and controlling energy performance of buildings

- Installation, maintenance and repair of renewable energy technologies

- Renovation of existing buildings

- Demolition and wrecking of buildings and other structures

#### **Disaster risk management**

- Flood risk prevention and protection infrastructure

- Nature-based solutions for flood and drought risk prevention and protection

#### **Education**

- Education

#### **Energy**

- Cogeneration of heat/cool and power from bioenergy

- Cogeneration of heat/cool and power from geothermal energy

- Cogeneration of heat/cool and power from renewable non-fossil gaseous and liquid fuels

- Cogeneration of heat/cool and power from solar energy

- District heating/cooling distribution
- Electricity generation from bioenergy
- Electricity generation from geothermal energy
- Electricity generation from hydropower
- Electricity generation from ocean energy technologies
- Electricity generation from renewable non-fossil gaseous and liquid fuels
- Electricity generation from wind power
- Electricity generation using concentrated solar power (CSP) technology
- Electricity generation using solar photovoltaic technology
- Installation and operation of electric heat pumps
- Manufacture of biogas and biofuels for use in transport and of bioliquids
- Production of heat/cool from bioenergy
- Production of heat/cool from geothermal energy
- Production of heat/cool from renewable non-fossil gaseous and liquid fuels
- Production of heat/cool from solar thermal heating
- Production of heat/cool using waste heat
- Storage of electricity
- Storage of hydrogen
- Storage of thermal energy
- Transmission and distribution networks for renewable and low-carbon gases
- Transmission and distribution of energy
- Construction and safe operation of new nuclear power plants, for the generation of electricity and/or heat, including for hydrogen production, using best-available technologies
- Electricity generation from nuclear energy in existing installations
- Pre-commercial stages of advanced technologies to produce energy from nuclear processes with minimal waste from the fuel cycle
- Electricity generation from fossil gaseous fuels
- High-efficiency co-generation of heat/cool and power from fossil gaseous fuels
- Production of heat/cool from fossil gaseous fuels in an efficient district heating and cooling system
- Environmental protection and restoration activities**
  - Restoration of wetlands
  - Conservation, including restoration, of habitats, ecosystems and species
  - Hotels, holiday, camping grounds and similar accommodation

**Financial and insurance activities**

Non-life insurance: underwriting of climate-related perils  
Reinsurance

**Forestry**

Afforestation  
Conservation forestry  
Forest Management  
Rehabilitation and restoration of forests, including reforestation and natural forest regeneration after an extreme event

**Human health and social work activities**

Residential care activities

**Information and communication**

Data processing, hosting and related activities  
Data-driven solutions for GHG emissions reductions  
Programming and broadcastig activities  
Provision of IT/OT data-driven solutions and software  
Software enabling physical climate risk management and adaptation  
Provision of IT/OT data-driven solutions for leakage reduction

**Manufacturing**

Manufacture of aluminium  
Manufacture of anhydrous ammonia  
Manufacture of automotive and mobility components  
Manufacture of batteries  
Manufacture of carbon black  
Manufacture of cement  
Manufacture of chlorine  
Manufacture of electrical and electronic equipment  
Manufacture of energy efficiency equipment for buildings  
Manufacture of equipment for the production and use of hydrogen  
Manufacture of hydrogen  
Manufacture of iron and steel  
Manufacture of low carbon technologies for transport  
Manufacture of nitric acid

Manufacture of organic basic chemicals

Manufacture of other low carbon technologies

Manufacture of plastic in primary form

Manufacture of plastic packaging goods

Manufacture of rail constituents

Manufacture of renewable energy technologies

Manufacture of soda ash

Manufacture, installation and associated services for leakage control technologies enabling leakage reduction and prevention in water supply systems

Manufacture, installation, and servicing of high, medium and low voltage electrical equipment for electrical transmission and distribution that result in or enable substantial contribution to climate change mitigation

Manufacturing of aircraft

Manufacture of active pharmaceutical ingredients (API) or drug substances

Manufacture of pharmaceutical products

### **Professional, scientific and technical activities**

Close to market research, development and innovation

Consultancy for climate risk management

Professional services related to energy performance of buildings

Research, development and innovation for direct air capture of CO<sub>2</sub>

### **Services**

Marketplace for the trade of second-hand goods for reuse

Preparation for re-use of end-of-life products and product components

Product-as-a-service and other circular use- and result-oriented service models

Repair, refurbishment and remanufacturing

Sale of second-hand goods

Sale of spare parts

### **Transport**

Air transportation ground handling operations

Freight rail transport

Freight transport services by road

Infrastructure enabling low carbon water transport

Infrastructure enabling low-carbon road transport and public transport

Infrastructure for personal mobility, cycle logistics  
Infrastructure for rail transport  
Inland freight water transport  
Inland passenger water transport  
Leasing of aircraft  
Low carbon airport infrastructure  
Operation of personal mobility devices, cycle logistics  
Passenger and freight air transport  
Passenger interurban rail transport  
Retrofitting of inland water passenger and freight transport  
Retrofitting of sea and coastal freight and passenger water transport  
Sea and coastal freight water transport, vessels for port operations and auxiliary activities  
Sea and coastal passenger water transport  
Transport by motorbikes, passenger cars and light commercial vehicles  
Urban and suburban transport, road passenger transport

**Water supply, sewerage, waste management and remediation**

Anaerobic digestion of bio-waste  
Anaerobic digestion of sewage sludge  
Collection and transport of non-hazardous waste in source segregated fractions  
Composting of bio-waste  
Construction, extension and operation of waste water collection and treatment  
Construction, extension and operation of water collection, treatment and supply systems  
Depollution and dismantling of end-of-life products  
Desalination  
Landfill gas capture and utilisation  
Material recovery from non-hazardous waste  
Phosphorus recovery from waste water  
Production of alternative water resources for purposes other than human consumption  
Recovery of bio-waste by anaerobic digestion or composting  
Remediation of contaminated sites and areas  
Remediation of legally non-conforming landfills and abandoned or illegal waste dumps

Renewal of waste water collection and treatment  
Renewal of water collection, treatment and supply systems  
Sustainable urban drainage systems (SUDS)  
Transport of CO<sub>2</sub>  
Underground permanent geological storage of CO<sub>2</sub>  
Water supply  
Collection and transport of hazardous waste  
Treatment of hazardous waste  
Urban Waste Water Treatment  
Collection and transport of non-hazardous and hazardous waste  
Sorting and material recovery of non-hazardous waste