EUROPEAN COMMISSION

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REGULATORY SCRUTINY BOARD OPINION

Communication from the Commission
Guidelines on certain State aid measures in the context of the system for greenhouse gas emission allowance trading post 2021

{C(2020) 6400 final}
{SWD(2020) 190-195 final}

EUROPEAN COMMISSION
Regulatory Scrutiny Board

Brussels,
RSB/

Opinion

Title: **Impact assessment / Guidelines on State aid for the post-2020 ETS**

Overall opinion: POSITIVE WITH RESERVATIONS

(A) Policy context

The Emission Trading System (ETS) may influence companies' decisions to move production (and their CO_2 emissions) outside the EU. This is known as carbon leakage. This initiative looks at state aid measures to support sectors exposed to a risk of carbon leakage caused by indirect ETS costs due to higher electricity prices.

The impact assessment analyses the sectors that can benefit from state aid, given that some sectors are more exposed than others. It explores a redefinition of the parameters in a formula that calculates the maximum aid amount that Member States can spend to support these sectors, if they decide to do so.

The impact assessment also looks at the consequences of state aid for distortions in the internal market and the incentives for a cost effective decarbonisation.

(B) Summary of findings

The Board notes the additional written information sent in advance of the meeting. However, the report still contains significant shortcomings. The Board gives a positive opinion with reservations because it expects the DG to rectify the following aspects:

(1) The report is not sufficiently explicit about relevant on-going policy developments in the context of the European Green Deal. It is not clear about the possible temporary nature of the proposal, as a stopgap to bridge the period between January 2021 and new proposals.

(2) The impact assessment is not clear on how the proposal can address the problem of indirect carbon leakage. It does not recognise that some of the parameters to determine allowed state aid relate only loosely to the indirect carbon leakage risk and their values are ad hoc choices.

(3) The report does not group the large number of options in packages to help the reader understand the political decision that needs to be taken.

This opinion concerns a draft impact assessment which may differ from the final version.

(C) What to improve

(1) The impact assessment should acknowledge future policy initiatives, announced as part of the Green Deal, that will potentially change the premises for the state aid guidelines. It should reflect on the forthcoming revision of the ETS Directive and the envisaged carbon border adjustment measures. It should clarify whether this initiative is a stopgap or whether the foreseen periodic updates of the parameters are sufficient to adapt to future developments. The report should also address possible future developments in the context of COVID-19.

(2) The state aid formula should be better explained (including the units of its parameters). The report should recognise that the parameters in the central formula are weak proxies for indirect carbon leakage. It should clarify whether "aid intensity" which excludes full compensation for carbon expenditure in electricity prices aims to induce technical change or to account for market power. The report should explain better that the carbon leakage problem encompasses both imports and exports. It should also focus more on the market structures of the sectors, the possibility to pass-on the costs to the end consumer (price-taker vs. price- maker), and the risk of substitution by goods from non-EU countries; all of which are at the basis of the carbon leakage problem.

(3) The report should correct and improve the comparison of options. It should use quantified impacts for the selection of the preferred options when possible. The 24 options are currently analysed separately, making it difficult to understand how the preferred option is arrived at. Options should be grouped and their combined impact analysed. The baseline should be the point of comparison and be scored as 0.

(4) Only 12 Member States and Norway currently implement a national compensation scheme. The report should look into implications for the internal market caused by this uneven implementation at Member State level. It should recognise the consumption distortion created by the scheme between eligible and non-eligible sectors in both national markets and the single market.

(5) The report should properly reflect the ownership by the Commission services of its content.

Some more technical comments have been sent directly to the author DG.

(D) Conclusion

The DG must revise the report in accordance with the Board's findings before launching the interservice consultation.

If there are any changes in the choice or design of the preferred option in the final version of the report, the DG may need to further adjust the attached quantification tables to reflect this.

Full title	**Revision of the Guidelines on certain State aid measures in the context of the greenhouse gas emission allowance trading scheme post-2020**
Reference number	PLAN/2018/4137
Submitted to RSB on	26 May 2020

Date of RSB meeting	24 June 2020

ANNEX: Quantification tables extracted from the draft impact assessment report

The following tables contain information on the costs and benefits of the initiative on which the Board has given its opinion, as presented above.

If the draft report has been revised in line with the Board's recommendations, the content of these tables may be different from those in the final version of the impact assessment report, as published by the Commission.

I. Overview of Benefits – Preferred set of options with respect to baseline		
Description	Quantification	Comments
Direct benefits		
Address the risk of carbon leakage due to indirect ETS costs, resulting in preservation of employment and economic activity combined with the less possible distortion to competition	Estimation of the maximum annual budget to cover the sectors at highest risk = 2.73[1] bio EUR (compared to 3.07 bio EUR under the baseline scenario, which includes sectors at low or low- medium risk of carbon leakage due to indirect ETS costs) Estimation of annual budget to be spent based on current schemes = 1.432[2] bio EUR (compared to 1.473 bio EUR under baseline) Direct employment = 630.000 persons only in sectors at medium-high or medium risk (compared to 1.065 Mio persons under baseline option, including 311.000 employees from sectors at low or low-medium risk of carbon leakage due to indirect ETS costs)	Aid will be limited to the minimum necessary in order to reach the objectives. Only the sectors and subsectors, which are the most at risk of carbon leakage, will receive compensation for addressing this risk, under the preferred option A4.

[1] The compensation amount under the preferred options has been estimated by multiplying the indirect emissions for each sector by a price of 25 EUR/ton and by 75%, which is the preferred aid intensity. The compensation amount has then been increased for sectors which face a high share (>1.5%) of indirect carbon costs over their GVA after compensation, to bring this share down to 1.50% - as defined under the preferred option B3. Under the assumption that all Member States would compensate the sectors to the maximum foreseen by the Guidelines, the maximum annual budget under the preferred set of options would amount to 2.73 bio EUR – compared to 3.07 bio EUR under option A0. This amount covers all eligible sectors, but not the additional subsectors due to lack of data on indirect emission costs at Prodcom level.

[2] This estimation is computed on the same assumptions as above, and by allocating the indirect costs to countries following the proportion of GVA at factor among Member States and EFTA states.

	GVA impacted = 67 Bio EUR only in sectors at medium-high or medium risk (compared to 115 bio EUR under baseline scenario, including 2.6 Bio EUR from sectors at low-medium risk and 37 bio EUR from sectors at low risk of carbon leakage due to indirect ETS costs)	
Indirect benefits		
Wider macroeconomic benefits (preservation of economic activity and impact on indirect employment)		If the risk of carbon leakage would materialize, it would also have an indirect impact on employment and economic activity for undertakings in the supply chain.
Stimulate energy efficiency innovation and research, and preserve incentives to electrification		By incorporating energy efficiency benchmark in the compensation formula, the most efficient production process will be taken into account. By compensating only partially the indirect costs (75%), the initiative creates incentives to reduce electricity consumption. Also, the initiative covers subsectors with production processes characterised by fuel and electricity substitutability. Finally, the conditionality requirements for large undertakings will contribute to the reduction of indirect ETS costs for those undertakings.

II. Overview of costs – Preferred set of options with respect to baseline					
Type of costs		**Citizens**	**Business**	**Member States (and EFTA States)**	**European authorities**
Direct costs	Budget for compensation			Estimation of the maximum annual budget = 2.73 bio EUR (compared to 3.07 bio EUR under the baseline scenario) - Estimation of annual budget to be spent based on current schemes = 1.432 bio EUR (compared to 1.473 bio EUR under baseline) - limited to the minimum necessary to reach the objectives	
	Administrative costs		Similar as under baseline scenario	Similar as under baseline scenario and additional administrative checks of beneficiaries' compliance with conditionality requirements	
	Compliance costs (i.e. costs to comply with substantive obligations or requirements contained in the ETS Guidelines)		No additional costs for SMEs. Large undertakings will have to bear separate investment costs to fulfil the conditionality requirements, which will		

This opinion concerns a draft impact assessment which may differ from the final version.

			either be profitable investments or receive separate investment aid.		
	Costs related to the establishment of the benchmarks				The benchmark update is estimated roughly 300.000 EUR, to be spread over 5 years (since midterm revision after 5 years and new benchmarks for the following 5 years)
Enforcement costs	Information & monitoring			Similar as under baseline scenario	Similar as under baseline scenario
	Inspections and sanctions			Similar as under baseline scenario	
	Complaint handling			Similar as under baseline scenario	Similar as under baseline scenario