european aluminium association

Environment and Energy Guidelines 2014-2020
European Commission
DG Competition
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EAA Response to the EU Commission's public consultation on the Environment and Energy Aid Guidelines (EEAG) 2014-2020

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1. Introduction

The European Aluminium Association (EAA) and its members welcome the opportunity to contribute to the ongoing discussions on the revision of Environmental and Energy State Aid Guidelines 2014-2020 and support the European Commission's initiative to clarify how State aid rules apply.

In the following comments, EAA wishes to highlight a number of key principles that should be reviewed or reinforced to improve the functioning of energy markets, while taking into account Europe's competitiveness and the achievement of a global level playing field.

These guidelines are of paramount importance also in a context characterised by declining EU production, high energy and regulatory costs, and the need to provide certainty and an adequate framework for Member States' efforts to contribute to the EU objective of re-industrialisation.

A series of issues have been raised regarding the application of the State aid rules to:

(i) National schemes designed to finance and incentivise investment in renewable energy sources ("RES schemes"); and
(ii) National taxes on energy established for the protection of the environment ("energy taxes").

Some of these national schemes provide for reductions and/or exemptions ("derogations") for energy-intensive industries in order to maintain the ability of such industries to compete internationally.

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2. Key issues

- While the main aim of controlling state aids is to reduce market distortions within the EU single market, **competition policy must be better connected to other EU policies such as industrial and energy policies** and fully recognise that some EU industry is competing vs. other regions of the World which do not bear similar regulatory costs deriving from climate and environmental policies. Maintain a level playing field globally that allows the EU to secure growth and jobs should be introduced as a valid objective for allowing aid.

- **Industry's global competitiveness** should be used as an overall rationale i.e.: "objective of common interest" for exemption of additional costs embedded in energy prices. Decarbonisation schemes across EU Member States are severely impacting the competitiveness of the aluminium industry by creating costs not borne by competitors, especially due to the cumulative cost impact of various EU and national policy measures. The guidelines must **permit measures to offset the cost burden imposed on the most exposed electro-intensive industries**, **while minimising distortions of competition within the Union**.

- An exemption regime for extra costs embedded in energy prices exists but only in some countries and is currently being challenged from a legal point of view. **Exemptions** from renewables and other decarbonisation support schemes **should be based on appropriate criteria** such as:

    - Inability of the energy-intensive industry to pass-on costs resulting from tax/charge schemes i.e.: being submitted to a **global pricing setting mechanism** (LME),
    - and/or the sectors' **trade intensity**,

  This should be the appropriate test for approving exemptions.

- **To avoid further fragmentation of the European energy and electricity tax framework, as well as legal uncertainty, the EEAG must be consistent with existing legislation and EU policy goals**. In particular, the provisions of the Energy Taxation Directive (Directive 2003/96/EC) that admits certain tax exemptions and reductions for energy-intensive industries, should be the reference. The range of exemption possibilities provided by the ETD should therefore be incorporated directly in the EEAG to ensure compatibility of State aid rules with the EU secondary legislation.

- In the ETD Member States may exempt industries from taxation burdens down to a minimal EU wide rate. However, in the draft EEAG, industry has to pay minimum 20% of these costs based on the **proportionality principle**. Paragraphs 176(b) and 186(b) caps aid at 80% by reference to "proportionality". However, the payment of a minimum amount to fund renewables will not function as an incentive for

industry and capping the aid will not help achieving any environmental objective. The minimum payment would lead to a significant loss of competitiveness especially for aluminium and other non-ferrous metals industries that already provide a large range of resource efficient solutions for key EU markets, as well as services to the grid (such as agreed 'cool-down' periods), which are extremely costly while contributing significantly to the balancing tasks of the grid. These services ensure the maintenance of constant stable consumption and provide flexibility and should alone allow for a full exemption under the principle of proportionality. **Aid intensities of 100% (i.e. no cap on exemptions) should be permitted to ensure equal level playing field.**

3. The aluminium case demonstrates the need for an in-depth revision of guidelines

The recent CEPS study[1], commissioned by DG Enterprise concludes that aluminium plants fully exposed to EU and national climate and energy policies have seen their production costs rocket up to € 228 per tonne of final product – 11% of total production costs and are globally the least competitive.

Aluminium smelters that are less exposed to EU energy and climate policies – i.e. those which are still shielded by pre-existing but soon-to-expire long-term energy contracts and are not affected ETS or other legislation-driven costs – face EU regulatory costs of €27 per tonne and are among the most competitive globally.

For most exposed smelters, the majority in the EU, the **regulatory costs incurred by EU-based producers mainly originate from the passing-through of energy costs and surcharges to support renewable and related grid costs (42%)**, second only to the Emissions Trading Scheme (ETS) indirect costs embedded in electricity bills (49%).

Aluminium being globally priced on the LME, the industry's margins are jeopardised by **costs affecting only EU-based operations for an electro-intensive sector which cannot pass-through costs.** This can be the case also for downstream semi-fabrication. **The impact of RES is heavy for the whole aluminium value chain creating additional threat to the survival of a primary aluminium**

[1] CEPS/Economisti Associati "ASSESSMENT OF CUMULATIVE COST IMPACT FOR THE ALUMINIUM INDUSTRY", Final report November 2013: http://www.alueurope.eu/wp-content/uploads/2011/08/REV-CEPS-EA-Final-Report-Aluminium-Cumulated-Cost-Assessment.pdf

industry in Europe, and severely impacting the competitiveness of plants - and especially SMEs – of the downstream semi-fabrication.

The costs of RES support schemes in general and for aluminium producers in particular depend on member states' implementation of the RES directive and the national context. Uncertainty has a negative impact on the industry's investments, due to the regulatory risk associated with exemptions to RES and other support schemes.

EU regulatory costs for primary aluminium production in Euros per tonne[2]

Policy area	Specific policy	Non-exposed EU smelters (long term contracts)	Smelters fully exposed to EU regulatory costs
Climate change	ETS indirect	**€0**	**€110.92**
	Transmission	**€0**	**€48.67**
	Renewable Energy Sources (RES)	**€5.3**	**€46.09**
	Subtotal		**€94.76**
Environmental policies	Emissions, pollution prevention, waste…	**€20.68**	**€20.68**
Products	The EU's chemical legislation (REACH)	**€1.34**	**€1.34**
TOTAL		**€27.32**	**€227.7**

The European Aluminium Association (EAA) was founded in 1981 and represents the aluminium industry in Europe. It encompasses primary aluminium producers, downstream manufacturers, producers of recycled aluminium and national aluminium associations representing the manufacturers of rolled and extruded products in 18 European countries.

[2] op.cit. page 1