MEMO

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Energy Technology

Memo on the problems of applying the carbon leakage criteria in the guidelines on environmental and energy aid for 2014-2020 and policy proposals for suitable amendments to the Commission's draft guidelines

The European Commission's draft for Environmental and Energy Aid Guidelines for 2014-2020 introduces the possibility of granting partial compensation for the additional costs incurred by the funding support for electricity from renewable sources.

EU Member States have chosen different paths to finance the expansion of renewable energy (RE). Accordingly, some Member States finance the expansion of RE from the fiscal budget. In these Member States, electricity intensive enterprises do not contribute directly to the expansion of RE as opposed to electricity intensive enterprises in countries, where the expansion is financed by a fee or through green certificates. To maintain a level playing field it is therefore necessary for the latter Member States to be able to compensate electricity intensive enterprises for the added production costs, resulting from the fees.

Consequently, in the latter countries, electricity intensive enterprises, such as the industrial greenhouses, are already put at a disadvantage compared to other enterprises in the same sector but in other countries with different funding systems. With the Commission's strict selection criteria (article 184), using the carbon leakage criteria, these electricity intensive enterprises are further put at a disadvantage in countries, where the renewable energy expansion is financed by fees. Thus, very few enterprises are able to fulfill the criteria.

Using the strict carbon leakage criteria as a sole criterion means distorting competition between Member States. Whilst the carbon leakage criterion might be an appropriate criterion to use in relation to regulations at the EU level – such as the ETS – it is not suitable as a sole criterion and should not stand alone in relation to national schemes. This means that the Commission's current draft gives de facto preferential treatment to electricity intensive enterprises in Member States, where the expansion of RE is financed over the fiscal budget at the detriment of enterprises based in Member States where the expansion is financed by fees. This cannot be in the interest of the Commission nor the EU at large; *the European common market should provide the framework for competition on equal terms.*

Accordingly, it should be possible to partially compensate enterprises if Member States can demonstrate that the additional costs reflected in higher electricity prices faced by the beneficiaries only result from the support to energy from renewable sources. In this way, enterprises will compete on equal terms and put the different financing schemes on an equal footing.

Policy proposals

Denmark proposes to amend the Commission's draft guidelines in the following ways:

- It is recognized that there are considerations to be made with regard to enterprises subject to carbon leakage, and therefore particularly sensitive to high energy taxes and high PSO-payments. Existing guidelines for certain state aid measures under the scheme for trading greenhouse gas emissions after 2012[1] allow Member States to aid this type of enterprises. It is recognized that such enterprises should be eligible for partial compensation for the higher production costs.

- In order to take into consideration the enterprises that face tough competition in Europe only because of the way the financing system for RES has been designed, it is proposed to introduce a second criterion for these enterprises.

- For such enterprises, in order to make sure, that the choice of beneficiaries is made on the basis of objective and transparent criteria and that the aid is granted in principle in the same way for all competitors in the same sector or relevant market, an electricity intensity criterion is suitable.[2] It is proposed that aid in the form of reductions in funding support for electricity from renewable sources should be allowed if the enterprise is electricity-intensive. An "electricity-intensive enterprise" shall mean a business entity, where more than [1.500] MWh is utilised per [1 million] euro value added or where the electricity is utilised for electricity intensive processes such as mineralogical and metallurgical processes, electrolysis and chemical reduction and where "value added" shall mean the total turnover liable to VAT including export sales minus the total purchases liable to VAT including imports.[3]

- In order to ensure that the aid has an environmental effect, any aid to electricity intensive enterprises which fulfil the electricity intensity-criterion, should be conditional on the conclusion of agreements between the Member State and the beneficiary or associations of beneficiaries to achieve at least the same level of environmental protection as would have been achieved by paying the full PSO-costs. Alternatively, the Member State should be allowed to choose whether to make reductions in funding support for electricity from renewable sources conditional on the conclusion of agreements.

The Commission and the Member States are already accustomed to this element, as it is already included in the Energy Taxation Directive (2003/96/EC) and in the Commission's existing Guidelines on State Aid for Environmental Protection and the Commission's draft guidelines' section on non-harmonised environmental taxes. This rationale is along the same lines as the existing community guidelines on state aid for environmental protection section 1.5.12, article 57, which say that

- "aid may be necessary to target negative externalities indirectly by facilitating the introduction or maintenance of relatively high national environmental taxation" and
- "the necessity will depend on the extent to which the national tax impacts on production costs as well as on the possibility to pass on the tax to consumers and reduce profit margins."
- "Proportionality will depend on the extent to which the beneficiaries can further reduce their consumption or emission, pay a part of the national tax or enter into environmental agreements to reduce pollution."[4]

Similar wording is to be found in the Commissions draft Guidelines on environmental and energy aid for 2014-2020.

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[1] Guidelines on certain State aid measures in the context of the greenhouse gas emission allowance trading scheme post-2012 (2012 / C 158/04)
[2] A similar electricity intensity criterion is used in Sweden
[3] Value added, as defined in the Energy Taxation Directive (2003/96/EC) art. 17
[4] Community Guidelines on State Aid for Environmental Protection (2008 / C 82 / 01)