MINISTRY OF INDUSTRY, BUSINESS AND FINANCIAL AFFAIRS

NOTE

18 November 2021
2021-15005
vibtof

Danish response to the Commission's invitation to comment on the targeted review of the General Block Exemption Regulation (revised rules for State aid promoting the green and digital transition)

The Danish government appreciates the opportunity to comment on the European Commission's draft regulation on amending Regulation (EU) No 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty ("the General Block Exemption Regulation") (hereinafter "GBER").

General comments
In general, the Danish Government is positive towards the draft revised GBER. The GBER is an important tool in the efforts to promote projects to help reach the EU and Denmark's climate objectives. The Danish Government grants a large amount of aid in accordance with the provisions of the GBER reg. aid for environmental protection. Therefore, we welcome the proposed amendments to the GBER, as the scope of the regulation with the amendments will be expanded to include more environmental and climate initiatives, including PtX and CCS projects. The amendments also clarify a number of provisions, which have caused doubt in regards of interpretation so that the GBER will be easier to use.

Clarifications and updates
In general, the new clarifications are positive. However, the Danish Government has identified specific provisions in the draft regulation, which can cause doubt or difficulties in the practical application. These provisions - which mainly concerns the specific provisions on environmental protection - are described below.

Specific comments
Below, we will give our comments to specific provisions in the draft GBER.

Art. 1 (1) (y) – The definition of renewable hydrogen
There is no definition of renewable hydrogen in the current GBER. The proposed definition of renewable hydrogen is in accordance with a delegated act from DG Energy in accordance with Art. 28 of the VEII, where the timetable for its adoption is uncertain. The extension of the

GBER to include aid for the promotion of renewable hydrogen will thus be less useful, as long as the precise definition of renewable hydrogen is uncertain. A long-term solution for national electricity systems, which achieves status as close to 100 per cent. RE-based, should also be included in the Commission's proposal for VEIII, and thus also in GBER.

Art. 1 (7) – Extension of the TAM registration obligation
According to the current rules, Member States must publish a serie of information on each individual granting of aid above EUR 500,000 on a central state aid website - the so-called TAM (Transparency Award Module), cf. the GBER art. 9 (1) (c). This limit will be reduced to EUR 100,000, if the amendments are adopted.

While the Danish Government welcomes the increased transparency of granted aid that the amendment will entail, it is noted that such amendment is expected to lead to increased administrative costs for the Member States and businesses. Potentially, this might make the GBER less attractive to apply.

Art. 1 (21) – Investment aid to environmental protection, including climate protection
In the draft proposal, a provision is added to Art. 36 (1)(a), stating that: *"This Article shall also not apply to investments in equipment, machinery and industrial production using fossil fuels, except those using natural gas.*"

We are concerned that the provision may slow down the development of good environmental projects, e.g. in areas where it is not yet possible to operate installations with green energy (e.g. shipping), or where the current use of fossil fuels is completely independent of the main purpose of the project, such as optimization of the use of resources in the context of circular economy. The above is unfortunate, as it will cause distortion in the development of new environmental technology, which then only can take place in areas, where the energy supply is already green.

More specifically, we have a challenge with the general exemption of '*investments in equipment, machinery and industrial production using fossil fuels, except those using natural gas*' in art. 1(a), in the context of our Eco-Innovation Program (MUDP). The program is – under the GBER - financially supporting demonstration projects, and these demonstration projects might be using a fossil fuel other than natural gas. Looking at the history of the supported projects, for example projects cleaning air pollution from ships, where non-fossil fuels are not yet available, would not be possible, despite high eco-innovation of the projects and importance to reduce air pollution from shipping. Another example is resource efficiency in the context of circular economy, where a demonstration project is integrated into an existing production processes with a fossil fueled energy supply, but the demonstration element itself is completely indifferent to actual the fuel type. In both cases the proposed GBER exemption of fossil fuels would halt the demonstration projects and their eco-innovation value.

Thus, in some areas it will not be possible to support important efforts that, for example, support the transition to a circular economy (e.g. facilities that enable the recycling of waste or tributaries) or the use of technology that reduces pollution where fossil fuels some time will be the only option.

We agree that we must move away from the use of fossil fuels, but there should be no restrictions on the granting of state aid for the development and demonstration of solutions that reduce pollution through the use of fossil fuels or optimize resource processes in principle independent of the energy source.

A solution may be to exclude development and demonstration activities from the para. 1a requirement - or find an alternative way to promote the shift away from fossil fuels. This could be done with a simple add-on to the proposal: "*This Article shall also not apply to investments in equipment, machinery and industrial production using fossil fuels, except those using natural gas <u>and for demonstration purposes</u>.*"

<u>Art. 1 (28) (e) – Investment aid to energy from i.a. renewable energy sources</u>

According to the current rules, the eligible costs of investment aid to promote energy from renewable energy sources are the difference between the investment costs of the project being supported and the investment costs in the counterfactual scenario where no state aid is granted, cf. the GBER Art. 41 (6). The aid intensity according to the applicable rules is 45% of the eligible costs, cf. art. 41 (7) (a). If the proposed changes are adopted, the method of calculating the eligible costs will be changed so that the eligible costs are instead all the investment costs - regardless of the counterfactual scenario. However, the aid intensity is reduced to 30% of the eligible costs. The Danish Government welcomes the simplification of the method for calculating the eligible costs.

However, it is important to ensure that the simultaneously proposed lower aid intensity does not entail that it generally becomes less attractive to carry out eligible projects using the new rules.

<u>Art. 1 (29) (c) – The opportunity to grant operating aid</u>

According to the current rules, it is possible to grant operating aid without a competitive tendering procedure for wind energy if the projects receiving aid concern plants with an installed capacity of a maximum of 6 MV or installations with less than 6 production units. If the proposed changes are adopted, it will no longer be possible to allocate operating aid to major projects without a competitive tendering procedure. The provisions that are proposed to be deleted (art. 42, paragraphs 8, 9 and 10) are currently applied to provide support for the test turbines at the two national test centers in Høvsøre and Østerild.

Art. 1 (31) – aid to energy-intensive companies
The Commission proposes an amendment to the existing GBER, cf. art. 44, namely that GBER should include specific requirements for aid to energy-intensive companies. Such amendment to article 44 will indirectly limit the possibility for Member States to design and adopt energy taxes.

In order to avoid tensions with the ongoing negotiations on the revision of the Energy Tax Directive (directive 2003/96 EF) (ETD), the Danish Government recommends that such revision of GBER art. 44 awaits the outcome of these negotiations.

The purpose of the revision of the ETD is to reflect the EU's climate and energy/y policy frameworks or the EU's legal commitment to an at least 55% reduction in greenhouse gas emissions by 2030 and a climate-neutral continent by 2050. These objectives are similarly of a very high priority of the Danish government, and in this respect, we find it to be crucial to ensure coherence between the ETD and the relevant framework of State aid (including the GBER).