

European Aluminium represents the entire value chain of the aluminium industry in Europe. We welcome the European Commission's review of the EEAG. It represents a unique opportunity to improve and update the current regime to reflect the latest EU regulatory and policy developments stemming from the low carbon transition affecting the competitiveness of our sector, ranging from EU energy, climate and environmental legislation to global trade and competition law developments over the last decade<sup>1</sup>.

Also, Covid-19 crisis shines a light on Europe's dependence on strategic raw materials from other regions. Europe should urgently reflect on how to reinforce its strategic autonomy in global value chains, preserve existing industrial assets and reshoring the production in Europe instead of relying on carbon-intensive imports. Reduced European production will only increase our dependency on primary imports with a significantly higher carbon footprint. The aluminium value chain should thus be at the forefront of strategic eco-systems, both in the recovery plan and in the transition to a climate-neutral and circular economy.

Industries in Europe need today more than ever an enabling state aid framework to be more energy-efficient, competitive, circular, and sustainable in order to deliver and invest in climate neutrality while operating in a free and fair-trade environment.

### Summary of key policy asks

- **Preserve the approach adopted in paragraphs 188 and 189 of the current EEAG, wherein relief granted is proportionate to the specific exposure of each sector at the level of undertaking/activity.** In particular, the **reduction of RES surcharges** has been vital for preserving competitiveness and preventing carbon leakage in our industry. **The reduction of RES surcharges by 85% for industry, with the possibility of limiting the costs to 0.5% of GVA for the most electro-intensive undertakings, should thus be maintained.**
- The guidelines should also specify that **in the case of an integrated undertaking with activities in numerous sectors, the GVA should be calculated at the sub-undertaking level.**
- **Maintain the principles embedded in EEAG that aid to renewables must be granted in a cost-effective manner based on competitive bidding.**
- **Extend the EEAG's scope to reflect recent case law on existing surcharges related to the energy transition. This must carefully consider all future costs as a result of the path towards higher emission reduction targets for 2030 and the 2050 climate neutrality objective.**
- **The new EEAG must provide long-term certainty on regulatory costs related to electricity consumption so that solutions such as long-term low carbon PPAs can become more attractive.**
- **Important Projects of Common European Interest (IPCEI)<sup>2</sup> and breakthrough innovation:** The Commission IPCEI criteria should be amended to allow funding for the operational costs incurred by the use of low-carbon production processes.
- **Support for circular value chains and sorting infrastructure:** The current Guidelines do not reflect the higher ambition for climate and circularity under the Green Deal and recently released Circular Economy 2 Action Plan. Aid should go beyond waste management systems and focus higher up the waste hierarchy to support innovative circular solutions.
- **Operating aid is not the only measure that can ensure the deployment of renewables: Investment aid can**

<sup>1</sup> See [OECD Report](#): "Measuring distortions in international markets: the aluminium value chain" (7 January 2019)

<sup>2</sup> See [here](#) EC Communication on Criteria for the analysis of the compatibility with the internal market of State aid to promote the execution of important projects of common European interest

be a more viable option that offers certainty to investors.

- In the review, the Commission should explore the possibility of demand-side measures to incentivise low carbon products.

## EU State Aid Policy in the low carbon transition & Covid-19 Recovery

Aluminium demand has been rising steadily and is expected to continue rising towards 2050<sup>3</sup>. Aluminium's unique properties make it the material of choice to fully decarbonize our economy. But without a level playing field preserving the competitiveness of the European industry, increased demand in Europe risks to be met by imports from other regions, with higher carbon footprint and less stringent/no climate regulations in place.

Furthermore, aside from “domestic demand”, it should not be disregarded that European aluminium production<sup>4</sup> is hampered from competing against non-European producers in order to meet the steadily increasing global demand. **Adequate compensation under the ETS State Aid Guidelines<sup>5</sup> for indirect costs and improved EEAG are simply indispensable.** State aid rules are thus a key tool to create the right framework for preventing carbon leakage and enabling European industry to remain competitive vs its global competitors, while meeting EU’s and global climate and sustainability objectives agreed under the Paris Agreement and the 2030 Agenda.

The EEAG currently in force acknowledge electro-intensity and exposure to international trade as key criteria for granting aid. **In particular, the possibility for targeted Renewable Energy Sources (RES) charge reductions<sup>6</sup> has played a crucial role in limiting carbon leakage for our sector, given that Aluminium smelters are particularly sensitive to any increase in the cost of electricity<sup>7</sup>.** Electricity costs tend to account for up to 40% of a primary aluminium smelter’s total production costs.

Therefore, **the reduction of RES surcharges has been vital for preserving competitiveness and preventing carbon leakage in our industry. The reduction of RES surcharges by 85% for industry, with the possibility of limiting the costs to 0.5% of GVA for the most electro-intensive undertakings, should thus be maintained<sup>8</sup>.**

Furthermore, the immediate economic and social impact of the COVID-19 crisis on global material value chains and the EU’s internal market must be thoroughly assessed in the review, particularly in the context of the re-adjusted EU policy priorities part of the Recovery Plan<sup>9</sup>. In this respect, **stimulating demand for strategic and low carbon materials like aluminium for the acceleration of e-mobility, the buildings’ “renovation wave” and a circular economy based on the closed-loop usage of our material resources, should be carefully considered.** Possible tools could be the **use of public procurement measures or new public funds to incentivise the purchase of a higher degree of green and local (EU/EEA) production from entities receiving aid temporarily and across the aluminium value chain**, thus addressing the shortage of demand and boosting the recovery of the overall economy. This could

<sup>3</sup> Source [European Aluminium, Vision 2050](#)

<sup>4</sup> European meaning the EU28 + EFTA countries

<sup>5</sup> See [here](#) our response to the European Commission’s consultation on the draft ETS State Aid Guidelines (March 2020)

<sup>6</sup> See section 3.7.2, points 188 and 189 of the [Guidelines on State aid for environmental protection and energy 2014-2020](#)

<sup>7</sup> A recent [study](#) by EWI concluded that a cost increase of 1 cent per kWh reduces the GVA of an aluminium smelter by 24%, or 15 million Euros, whereas abolishing the reductions to the regulatory charges paid by aluminium smelters (including RES support) would consume the entirety of these consumers’ GVA and turn it negative

<sup>8</sup> See section 3.7.2, points 188 and 189 of the [Guidelines on State aid for environmental protection and energy 2014-2020](#)

<sup>9</sup> See [here](#) European Aluminium Policy Recommendations for an EU sustainable industrial recovery plan (May 2020)

also be part of the Commission's reflection on **how to integrate incentives for the adoption of greener technologies and practices, including circular material materials like Aluminium, in future rescue measures.**

Overall, the EEAG review is an opportunity to strike a balance between several EU policy objectives under the EU Green Deal, the new EU Industrial Ecosystems and Recovery Plan: **to support European industry's decarbonisation, to protect its global competitiveness and to ensure a global level playing field while also further promoting a fair and open multilateral trade system<sup>10</sup> in the context of recovering from the global health crisis and economic slowdown.**

## The improvements needed

Access to affordable and clean energy in a cost competitive and fair manner as the EU economy decarbonises remains a key challenge for our sector, which faces fierce global competition from producers in other regions enjoying access to cheap electricity largely due to the absence of similar regulatory costs as the ones levied in the EU (indirect carbon costs, RES charges, taxes etc.).

More specifically, the costs related to the ongoing energy transition are not merely limited to RES surcharges. In fact, the energy transition has led to Europe's most electro-intensive industrial consumers being burdened with numerous other costs, which threaten their global competitiveness. To address this issue, **the European Commission has evaluated (and approved) targeted reductions to numerous other electricity surcharges outside the scope of the EEAG by evaluating with the Treaty provisions on the internal market under Article 107 (3).** For this reason, in order to ensure consistency and legal certainty, **this new State Aid Case Law should be integrated into the new EEAG.**

Finally, in view of the increased climate ambition for 2030, we believe that it will be vital for our sector to **strengthen the provisions on aid to be considered compatible with EU law when targeted at energy-intensive companies operating in Europe that are exposed to international trade** and are key for preserving jobs, competitiveness and the sustainable growth of our economies;

Against this background, we invite the Commission to integrate the following elements in the new EEAG:

- **Preserve the approach adopted in paragraphs 188 and 189 of the current EEAG, wherein relief granted is proportionate to the specific exposure of each sector at the level of undertaking/activity.** Such approach removes any risks of overcompensation or market distortion. The rules in Section 3.3.2.1 of EEAG on aid for electricity from renewables must also be preserved, while related exemptions should be limited in size and scope.
- Related to the point above, the guidelines should specify that **in the case of an integrated undertaking with activities in numerous sectors, the GVA should be calculated at the sub-undertaking level.** This is necessary to ensure accuracy, since the use of the GVA of the undertaking as a whole (instead of the specific sub-undertaking's GVA) would artificially inflate the GVA, leading to disproportionate aid amounts or an erroneous understatement of the electro-intensity<sup>11</sup>;
- **Keep in mind that operating aid is not the only measure that can ensure the deployment of renewables:** Investment aid can be a more viable option that offers certainty to investors. Other measures include

<sup>10</sup> This was also stressed by the in the [final report](#) of the Industry 2030 high level industrial roundtable (28 June 2019) which recommends the next European Commission to develop a "carbon-leakage 2.0" plan and consider the access of industry to affordable renewable electricity in the EEAG review

<sup>11</sup> Such approach is currently used by Germany (see the [EEG 2014 Act](#), Articles 64(5), 103(3) and 103(4)).

improving market conditions for renewables, reducing cost of capital (i.e. state-guaranteed loans), improving administrative environment to reduce red-tape costs, etc.

- **Maintain the principles embedded in EEAG that aid to renewables must be granted in a cost-effective manner based on competitive bidding. This in turn would ensure the market integration of renewables and a gradual phase-out of operating aid as grid-competitiveness is also gradually achieved.** As a principle, aid should not determine overcompensation and must no longer be granted when it is not needed.
- **Extend the EEAG's scope to reflect recent case law on existing surcharges related to the energy transition. This must carefully consider all future costs as a result of the path towards higher emission reduction targets for 2030 and the 2050 climate neutrality objective.** The increasing share of intermittent renewables has caused the need for flexible capacity. For example, abiding by the recently adopted Electricity Market Design (EMD) Regulation and existing Guidelines, the Commission has allowed Member States to adopt capacity remuneration mechanisms (CRMs) to support such capacity. For this reason, the scope of Section 3.7.2 of the EEAG should be extended in order to also encompass the following reductions:
  - **Alleviation from surcharges levied for funding Capacity Mechanism:** full capacity mechanism surcharges put energy intensive consumers at a significant competitive disadvantage when competing globally, which could eventually lead to their bankruptcy or relocation. This would in turn reduce the public acceptance of the capacity mechanism, given that the remaining consumers would face increased charges as a result of the bankrupted/relocated consumer no longer contributing. At the same time, given the variable nature of electricity generation from renewable energy sources, controllable capacity (e.g. conventional generation, demand response, storage) will continue to play a crucial role in ensuring security of supply. Section 3.9.1. of the EEAG confirms that generation adequacy is an objective of common interest. As a consequence, reductions in capacity mechanism surcharges<sup>12</sup> must also be considered as contributing to an objective of common interest to the extent that they are necessary to maintain a stable financing basis for the capacity mechanism. Therefore Section 3.7.2. of the EEAG should be broadened to also encompass such reductions.
  - **Reductions in funding support for high-efficiency cogeneration (HE-CHP):** The European Commission expressly recognised in recent case law the similarities between reductions in RES charges and reductions in HE-CHP charges as well as the similarities between the justifications for each type of reduction and the objective of common that they pursue. In several approved schemes it recognised that targeted reductions can also indirectly contribute towards the same objective of common interest, *"in cases where such reductions are necessary in order to secure the financing base for the HE-CHP support scheme"*<sup>13</sup>.
  - **Reductions in the funding of Public Service Obligations (PSOs):** Similarly, in recent case law<sup>14</sup> the Commission also approved reductions of PSOs related to the ensuring equal electricity price in non-interconnected areas and social tariffs. Here it recognised that *"to prevent electricity consumers particularly affected by the costs of funding high-efficiency cogeneration, tariff equalisation and social tariffs, i.e. companies that are both electro-intensive and at risk of international competition, from becoming insolvent or relocating outside the European Union, reductions in charges imposed on*

<sup>12</sup> The Commission is also currently investigating (SA.51502) whether a reduction in capacity mechanism surcharges can be considered compatible with the internal market under Article 107(3)(c) TFEU. Although the Commission has not yet reached a final decision on the compatibility of such reductions, the decision to initiate the formal investigation procedure (C(2019)2504 final, recitals 72 and 73) mentions that Section 3.7.2. of the EEAG "can be used as guidance", particularly with regard to the eligibility criteria and proportionality of the aid.

<sup>13</sup> Commission Decision 2017/1797 on aid scheme SA.42393, recital 125; Commission no-objection decision concerning SA.38635 (C(2017) 3406 final), recitals 132 et seq. Such reductions have already been approved in several Member States, including Germany (SA.42393), Italy (SA.38635), France (SA.36511), Greece (SA.52413) and Poland (SA.52530).

<sup>14</sup> See Decision 2019/767 on SA.36511

*electricity consumption may prove necessary*". Here the Commission based its Decision using the criteria set out in paragraphs 188 and 189 of the EEAG, thus acknowledging the need to balance on the one hand the particular burden on companies and risk of relocation with the need to ensure a sufficient contribution to the measure.

- **Reduction (or exemption) from charges caused by the integration of new decarbonisation technologies or policies stemming from the EU green deal (e.g. energy storage, new infrastructure, smart grids).**
- **Continue to facilitate the participation of industrial consumers in demand-response schemes.** This will help to facilitate the corporate sourcing of renewable electricity, and more capacity available to demand-response schemes.
- **The new EEAG must provide long-term certainty on regulatory costs related to electricity consumption so that solutions such as long-term low carbon PPAs can become more attractive.** A key issue is that the current guidelines have a time span that is much shorter than a RES PPA or the payback period of investments. Therefore, the EEAG should include long-term guidance when it comes to regulated components to increase the effectiveness of the rules. This would clarify and improve legal certainty of existing legislation across Europe related to long-term competitive contracts such as Power Purchase Agreements (PPAs) and be a solution to help the market to take-off<sup>15</sup>.
- **Important Projects of Common European Interest (IPCEI)<sup>16</sup> and breakthrough innovation:** The Commission IPCEI criteria should be amended to allow funding for the operational costs incurred by the use of low-carbon production processes. The scope should be extended to support, under a set of defined conditions, innovation for the decarbonisation of existing products, including electricity supply. In this respect, a report published by DG ENER last year detailed the significant challenges that large corporate consumers face in consuming renewable electricity<sup>17</sup>. For this reason, public support via IPCEI could for example facilitate the uptake of renewable PPAs (including self-generation) by industrial consumers<sup>18</sup>. Also, state aid should be allowed for relevant breakthrough technologies beyond CCS.
- **Support for circular value chains and sorting infrastructure:** The current Guidelines do not reflect the higher ambition for climate and circularity under the Green Deal and recently released Circular Economy 2 Action Plan. Aid should go beyond waste management systems and focus higher up the waste hierarchy to support innovative circular solutions, high quality recycling facilities and resource efficient industrial production processes. Further down the waste hierarchy, flexibility should be allowed for aid targeting innovative collection and sorting infrastructure and investments in high quality recycling facilities. Such measures would generate benefits in terms of resource efficiency, energy consumption and carbon emissions, thus in line with the EU Green Deal Objectives.
- **Explore the possibility of demand-side measures to incentivise low carbon products:** EU State Aid policy should stimulate the demand of low carbon products and incentivise their production. Building on the project-based approach in the renewable energy industry, contracts for difference or similar instruments could be considered to de-risk investments and make low-carbon products competitive with carbon-intensive ones.

<sup>15</sup> See thereto also p. 23 of the [Final Report of the Industry 2030 high level industrial roundtable](#) (28 June 2019)

<sup>16</sup> See [here](#) EC Communication on Criteria for the analysis of the compatibility with the internal market of State aid to promote the execution of important projects of common European interest

<sup>17</sup> See [here](#) "Competitiveness of corporate sourcing of renewable energy", 2019

<sup>18</sup> The Strategic Forum for Important Projects of Common European Interest (see [here](#)) set up by the European Commission has identified 'Low CO2 Emissions Industry' as a strategic value chain and called for the establishment of IPCEIs in this field

## Final considerations

The EEAG, together with the State Aid guidelines for the compensation of the indirect EU ETS costs are key instruments to support the deployment of renewables and decarbonisation while safeguarding the competitiveness of electro-intensive sectors.

In the review, the European Commission should recognise aluminum's value and key role in facilitating the achievement of the EU's energy and climate objectives. **A reformed and growth friendly EU state aid policy will be key in this respect by ensuring access to affordable renewable electricity for our sector**, starting from promoting the **long-term stability and certainty of power costs**, thus protecting European jobs, know-how and the overall sustainability of our economy against global competition.

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