New State aid rules to support the green deal – the EU answer to IRA

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Agenda

New State aid rules to support the Green deal in a nutshell
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State aid for energy consumers
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Decarbonisation of industry
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New State aid rules to support the Green deal in a nutshell

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What is it about?

- **European Green Deal (2019)**
- **Energy crisis and REPowerEU (2022)**
- **Inflation Reduction Act (2022)**

→ European Commission's response:

- European funding : Green Deal investment plan, RRF, Horizon Europe, etc.
- Revision of State aid rules to support the green transition

Current state of play

General Block Exemption Regulation - GBER :

- Investment aid for publicly accessible recharging or refueling infrastructure for zero and low emission road vehicles
- Investment aid for energy efficiency measures
- Investment aid for high-efficiency cogeneration
- Investment aid for the promotion of energy from renewable sources, etc.

Guidelines on State aid for Climate, Environmental protection and Energy - CEEA

- Categories of aid not covered by GBER : aid in the form of reductions from electricity levies for energy-intensive users, aid for energy infrastructure, aid for clean mobility, etc.
- More flexible conditions : aid for renewable energy, etc.

Temporary Crisis Framework -TCF

- Temporary support to facilitate the roll-out of renewable energy, storage and renewable heat and the decarbonisation of the industrial production processes, aid to compensate the increase of energy prices, liquidity support to energy utilities, etc.

New State aid rules to support the Green deal in a nutshell

Important developments

Revised GBER:

- More flexibility for compatible aid
- Increase notification thresholds
- Increase and streamline the possibilities for aid for energy
- Facilitate aid for IPCEI
- Inclusion of aid to regulate prices for energy
- Prolongation until end 2026

TCTF:

- Extension of aid to support renewable energy, energy storage and industrial decarbonization of products
- Prolongation for aid for transition towards net-zero industry until 31/12/2025
- New aid to accelerate investment (batteries, solar panels, wind turbine, carbon capture, etc.)

Next steps and outlook

Member States:

- Revision of existing schemes within deadlines
- Adoption of new schemes / individual aid
- Compulsory notifications to the EC
- Budget constraints : be creative

Companies:

- Identification of funding at EU / national level
- Support in notification to the EC

European Commission:

- Publication of revised GBER in the OJEU
- Processing MS notifications in reasonable timeline
- Monitoring and further adaptations of current legal frameworks

Renewables & Hydrogen

Renewables & Hydrogen

Background: High ambitions from the EU for the roll-out of renewables

- **European Green Deal:** EU should reduce its net greenhouse gas emissions by at least 55% by 2030, binding annual greenhouse gas emissions targets and roll-out of renewables for Member States
- **Russia's invasion of Ukraine** further revealed the EU's dependencies on imported fossil fuels and reinforces the need to expand non fossil sources of energy
- **REPowerEU** plan is based on three pillars: saving energy, **producing clean energy** and diversifying the EU's energy supplies
  - Member states to increase their national contributions on renewable energy set in their integrated national energy and climate plans (NECPs)
  - Include investment in renewables in their National Recovery and Resilience Plan
- **Hydrogen** is one of the strategic areas of the Commission's New Industrial Strategy

Findings: Existing State aid instruments insufficient to achieve such ambitious objectives?

- Renewable Hydrogen development still needs strong public support measures
  - Until now hydrogen not expressly covered by existing GBER
  - Individual notification or IPCEI
- Markets still not sufficiently mature/predictable to ensure the proper development of other renewables energy sources => remaining market failures
  - **Existing GBER no longer adequate**: low thresholds (15 M€ per project), limited scope (not covering storage projects), admissible costs restricted (extra-investment costs)
  - Guidelines on State aid for Climate, Environmental protection and Energy 2022 (**CEEAG**): compatibility criteria and lengths of the proceedings **not fully in line with the need to accelerate investments in renewables in the proportion required by REPowerEU plan**

Overview of rules for investment aid

	Previous GBER	New GBER (Dec 2026)	TCTF (Dec 2025)
Eligible projects	Renewable energy production and cogeneration projects.	+ **Renewable H2 and storage projects**	Renewable energy production, including H2, and storage projects.
Specific requirements	Aid only awarded to newly installed capacities	For H2: - exclusive production; - capacity of the electrolyser. For storage: only **combined projects**. Covers newly installed or refurbished capacities	For H2: from renewable energy sources in accordance with the methodology of Directive 2018/2001 Covers newly installed or refurbished capacities
Eligible costs	Necessary extra investment costs	**Total investment costs**	**Aid amount**: Competitive bidding process (compulsory for large solar and wind) or administrative definition.
Aid intensity	45% or 30% of the eligible costs, with a possibility of 100% in case of bidding process	45% or 30% of the eligible costs, with a possibility of 100% in case of bidding process	100% if bidding process 45 % if administratively set
Cumulation	No cumulation with operating aid	Cumulation with operating aid possible	Cumulation with operating aid possible
Notification thresholds	EUR 15 M	**EUR 30 M**	No threshold but aid shall be awarded on the basis of a scheme with an estimated volume and budget

Overview of rules for operating aid

	Previous GBER	New GBER (Dec 2026)	TCTF (Dec 2025)
Aid type	Premium in addition to the market price. Derogation from the *add in premium rule* for installations with an installed electricity capacity of less than 500 kW.	Premium in addition to the market price or in the form of a contract for difference. Direct price support covering full costs of operation for small electricity installations (capacity of less than 400kW).	Two-way contracts for difference (in relation to the energy output of the installation and with a contract duration no longer than 20 years after the aided installation starts operations).
Eligible projects	- Electricity from renewable sources (**article 42**), - Energy from renewable energy sources in small scale installations (**article 43**).	- Electricity from RES (except from H2) - H2 production - Small projects - Renewable energy communities	Renewable energy production, including H2, and storage projects.
Aid Amount	Competitive bidding process Under old **article 43** : the difference between total levelized costs and market price.	- Competitive bidding process compulsory for electricity from RES - Funding gap limited to “net extra costs” for other projects	Competitive bidding process or administrative definition.
Cumulation	No cumulation with investment aid.	Cumulation with investment aid possible	Cumulation with investment aid possible
Thresholds	EUR 15 M	**EUR 30 M (individual) / 300 M (annual budget)**	Non applicable

Decarbonisation of industry

Decarbonisation of industry

Decarbonisation options for the industry

Fit for 55: reducing net greenhouse gas (GHG) emissions by at least 55% by 2030 (compared to 1990 levels)

Green Industrial Plan: measures to speed up the net-zero transformation of the EU industry

- Strengthen competitiveness
- Attract investments in the net-zero industrial base and in green industrial innovation

Actions from the Industry: reduce GHG emissions

- Alternative feedstock or material inputs
- Alternative energy sources
- Alternative production processes
- Recycling
- System optimisation
- Carbon capture (CCS/CCU)
- …

New State Aid provisions for the decarbonisation of industry

CEEAG – Section 4.1

- Compared to **EEAG**: additional flexibility | wider range of technologies

TCTF – Article 2.6

- Compared to **TCF**: more flexible criteria | increased aid scale and scope | extended completion periods

New GBER – Article 36

- Compared to **old GBER**: higher aid amount | higher aid intensity

Commonalities between the three provisions:

- Cumulation possible with other investment aid
- Not applicable for fossil fuels
- No expansion of overall production capacity
- No aid for investments undertaken to comply with Union standards that are in force nor with adopted Union standards that are not yet in force, unless these investments are implemented and finalised at least 18 months before the Union standard enters into force (except for TCTF)

Decarbonisation of industry

	CEEAG – Section 4.1	TCTF – Article 2.6	GBER – new Article 36
Notification requirement	Prior notification to Commission	Prior notification to Commission	No prior notification to Commission – brief info *a posteriori*
Adoption	Into force since 27/01/2022 Modification of the existing aid regimes before 31/12/2023	• Aid granted by 31/12/2025 (installation completed and in operation within 36 months) • Retroactive clause for works started as of 9/03/2023 – Exceptions for investments eligible under TCF	To be published in the OJEU
Eligible projects	All technologies contributing to the **reduction of GHG emissions**, incl. aid for the production of low-carbon energy or synthetic fuels produced using low-carbon energy, for energy efficiency including high-efficiency cogeneration, for CCS/CCU, to demand response and energy storage where this reduces emissions, and for the reduction or avoidance of emissions resulting from industrial processes, incl. processing of raw materials	**Investments allowing** to: • reduce by > 40% direct GHG emissions of industrial installation on fossil fuels by means of the electrification of the production processes, or switch to the use of renewable and electricity-based hydrogen or of renewable hydrogen-derived fuels • reduce by > 20% energy consumption in industrial installations • for ETS: reduction in installation's GHG emissions < relevant benchmarks for free allocation	**Investments** in: • equipment and machinery using, and infrastructure transporting, renewable hydrogen • equipment and machinery using hydrogen-derived fuels the energy content of which is derived from renewable sources other than biomass • installations, equipment and machinery producing or using, and dedicated infrastructure, transporting hydrogen produced from electricity • installation of add-on components
Aid amount	**No cap**	**Aid granted on the basis of a scheme with an estimated budget** • 10 % of the total budget available or EUR 200 million/undertaking • Exceptions possible (upon justification)	• **EUR 30 million** / undertaking / investment project • Aid amount < the difference between investment costs directly linked to the achievement of a higher level of environmental protection and operating profit of the investment

Decarbonisation of industry

	CEEAG – Section 4.1	TCTF – Article 2.6	GBER – new Article 36
Incentive	**Necessity of the aid –** counterfactual situation	Aid must induce to undertake an investment	Counterfactual scenario for eligible costs
Eligible costs	**Eligibility of the aid –** MS must give reasons for measures that do not include all technologies and projects that are in competition	**Competitive bidding process** **If project –** difference between costs of the project and cost savings/additional revenues compared to absence of aid over investment lifetime **If equipment, machinery or installations –** their investment costs	Extra investment costs compared to those of a **counterfactual scenario** in the absence of aid **If no counterfactual scenario nor competitive bidding process –** investment costs directly linked to achievement of a higher level of environmental protection
Aid intensity	**Proportionality** Competitive bidding – 100% Exceptions are possible Not obligatory for schemes in the form of reductions in taxes or parafiscal levies)	**If competitive bidding –** 100% budget **If project** < 40% eligible costs +10% points for medium sized undertakings + 20% points for small undertaking + 15% points for certain investments **If equipment, machinery or installations** • < 30 % eligible costs for electrification projects • < 60 % eligible costs other than electrification projects	**If competitive bidding –** 100% investment costs **If no competitive bidding process** • < 40% eligible costs • < 50% eligible costs if investment = 100% reduction of the direct GHG emissions (except biomass) • < 30% eligible costs if investments relating to CCS and/or CCU **If no counterfactual scenario nor competitive bidding process** – aid intensity reduced by 50%
Additional conditions	• **Public consultation** – organised by MS as of 1/07/2023 • **Appropriateness** – presumed • **Avoidance of undue negative effects on competition and trade and balancing**	• Strict conditions regarding the used hydrogen or hydrogen-derived fuels when aid granted for an industrial decarbonisation investment involving the use of renewable hydrogen or the use of renewable hydrogen-derived fuels	• Additional cumulative conditions if investments in CO2 capture and transport • Additional conditions if reducing or avoiding direct emissions

State aid for industrial production

Aid to industrial production in strategic net-zero sectors

Background and overview

- IRA and the EU's competitiveness / market share in green technologies
- Aid to industrial production rarely compatible
  - Regional aid, Chips Act
- Section 2.8 of the TCTF: A major change in the Commission's approach to state aid control
- Investment aid for the production of batteries, solar panels, wind turbines, heat-pumps, electrolysers, and equipment for carbon capture usage and storage (CCUS)
  - Key components and raw materials

Key conditions for compatible aid

- Granted on the basis of a scheme by end of 2025

Maximum aid limits:

			Location of the investment[1]		
			Non-assisted areas	c-Regions	a-Regions
		Max. aid amount per undertaking per MS	EUR 150 Million	EUR 200 Million	EUR 350 Million
Max. aid intensities[2]	For direct grants	Large enterprises	15%	20%	35%
		Medium sized enterprises[3]	25%	30%	45%
		Small enterprises[2]	35%	40%	55%
	For tax advantages, loans or guarantees	Large enterprises	20%	25%	40%
		Medium sized enterprises[2]	30%	35%	50%
		Small enterprises[2]	40%	45%	60%

- Anti-relocation provisions
  - No recent (2y) relocation
  - Commitment to remain for 2y
  - Commission to check if investment would take place elsewhere in EEA
- Specific template (Annex II) to be used

Appropriate response or trigger to a global subsidy race?

Matching aid – paragraph 86

- Individual notifications
- Aid up to the amount of the subsidy the beneficiary would credibly receive outside the EEA
  - Additional limitation: Funding gap (measured against counterfactual investment outside EEA)
- Limited to assisted areas
- More stringent anti-relocation safeguards:
  - Commitment to remain 5y
  - Commission to assess risk of EEA-internal job losses

Outlook

- First decisions by the Commission to be expected soon
- Mixed reaction by industry and Member States – revision of the TCTF already by year end

State aid for energy consumers

State aid for energy consumers

Background

- Record levels for gas and electricity prices since Russia's invasion of Ukraine
- Emergency regulatory measures: Regulation 2022/1854
  - Reduction in electricity consumption
  - Cap on market revenues of certain electricity producers
  - Retail measures (public intervention in electricity price setting)
  - Temporary solidarity contribution on excess profits

⇒ Additional proceeds for national authorities to provide financial support to households and companies heavily affected by high energy prices

TCTF

- Section 2.4 of the TCTF: increased flexibility
- Objective: partially compensate companies for additional costs
- Conditions to be met
  - Various forms of aid (direct grants, loans, etc.)
  - Beneficiaries: companies of all sizes and sectors
  - Eligible costs: comparison of natural gas and electricity costs between eligible and reference period
  - Aid ceiling: 50% of the eligible costs, up to a maximum of €4 million / specific provisions for energy-intensive companies
  - Ex-post verification to avoid overcompensation
  - Cumulation with other State aid

State aid for energy consumers

GBER

- New Articles 19c and 19d: based on Articles 12 and 13 of Regulation 2022/1854
- Conditions to be met
  - Beneficiaries: Only microenterprises and SMEs
  - Reduction of prices applied by suppliers or payments made to companies, directly or via suppliers
  - Maximum 70 % of the beneficiary's consumption of electricity, gas or heat
  - No discrimination between suppliers or beneficiaries
  - Compensation of suppliers if price below cost
  - Pass-on mechanism to the final beneficiary
  - Average unit price at least equal to the average price per unit over the period from 1 January to 31 December 2021

Outlook

- Application of section 2.4 of the TCTF
  - National aid schemes adopted by most of the Member States
  - Until 31 December 2023 but Commission shall assess the need for extension
- Application of Articles 19c and 19d of the GBER
  - Until 31 December 2023 (period where public interventions in price setting are allowed)
  - Granting of aid no later than end of 2024
  - However, by 30 April 2023, the Commission shall carry out a review of Regulation 2022/1854 and may extend the period of application

Thank you for joining us!