

ECI Response to the European Commission consultation on the Review of the EU State Aid Guidelines for Climate Environment protection and Energy (CEEAG)

The European Copper Institute (ECI) welcomes the opportunity to provide comments on the proposed revision of the EU State Aid Guidelines for Climate Environment protection and Energy (CEEAG). ECI represents the copper industry in Europe and its membership is made of leading copper mining companies and smelters / refiners.

The revised CEEAG and the broader EU state aid framework for energy-intensive industries will be instrumental for enabling the industrial transformation that is needed to achieve carbon neutrality while maintaining an industrial base in Europe.

The copper industry has a significant role to play in enabling the EU's transition towards a carbon neutral continent. Thanks to its excellent electrical and thermal conductivity, as well as other properties, copper is used across the electricity system and for heat exchange, including applications such as windmills, power grids, solar panels, electric vehicles, charging infrastructure, building automation, energy storage, solar thermal, wastewater heat recovery, heat pumps and batteries. Overall, copper-enabled decarbonising technologies can abate approximately 75% of the EU GHG emissions¹.

The copper industry is also inevitably an **electro-intensive industry** – the cost of energy, mainly electricity, represents up to 30% of the operating costs of copper production. The cost of electricity is therefore a key component for our competitiveness and is an important factor in deciding on continued investments into existing installations. The copper industry is equally a **price-taker** in the global commodity markets. This means that any cost increases brought about by regulatory measures cannot be passed on to consumers without losing market share to non-EU producers who do not face the same costs.

As an energy-intensive industry and a price-taker, the European copper industry needs continued support under the revised CEEAG and the ETS state aid guidelines to be able to contribute to the climate transition while remaining competitive. We are ready to contribute to the costs of the transition, but as demand for copper increases thanks to its role in decarbonisation technologies, these costs must be proportionate given the high level of competition we face.

CEEAG Scope

We welcome the extension of the CEEAG to cover most decarbonisation technologies and the support for new areas like recycling, resource efficiency and deployment of public charging infrastructure for electric vehicles. We also welcome the inclusion of aid for the reduction and removal of greenhouse gas emissions in industry given that such aid is essential for enabling industrial decarbonisation.

¹ Copper estimate based on the EU 2050 “High-RES” scenario, of the EU 2050 energy roadmap, plus additional assumptions about the uptake of emerging technologies. https://ec.europa.eu/energy/sites/ener/files/documents/2012_energy_roadmap_2050_en_0.pdf
GHG estimate based on DecarbEurope. <https://decarburope.org/>

Aid in the form of reductions from electricity levies for energy intensive users (section 4.11)

We welcome the continuation of reductions from electricity levies for energy intensive users (EIUs). As outlined above, our industry is particularly sensitive to any increase in electricity costs, given that copper production is inevitably electro-intensive and as a sector we are price-takers on global markets.

As the Commission acknowledges in the explanatory note accompanying the proposed CEEAG revision, it is likely that Member States will continue to finance the transition towards carbon neutrality through levies. It is likely that these levies will remain high or increase in the coming years, as the National Energy and Climate Plans (NECPs) have confirmed the intention of Member States to ramp up renewables generation in the run up to 2030, while many existing support schemes will remain in place for the coming decade. These levies will therefore remain an important cost for EIUs, such as the copper industry.

The existing reductions in electricity levies have proven necessary to preserve the competitiveness of the EU's energy intensive industries. **We believe that any reduction in aid intensity and scope from the current system is counter-intuitive** at a time when EIUs such as the copper industry are expected to become more electro-intensive and make significant investments in decarbonisation technologies; while at the same time the deployment of RES is expected to rise dramatically given the policies introduced by the European Green Deal and the 'Fit for 55' package. In parallel, the price of CO₂ will also rise, which will put further pressure on the competitiveness of the European copper industry.

In this context, we provide the following comments on the draft guidelines:

1. Minimum level of own contribution by sectors

The revised CEEAG increases the minimum level of own contribution of sectors from 15% to 25% of the eligible electricity levies. While we do not find this increase justified considering the above, we welcome the continued possibility given to Member States to limit the cost of levies to a percentage of gross value added (GVA). We however note that the percentage has been increased from 0.5% of GVA for the most exposed sectors under the current EEAG to 1.5% of GVA.

In our view, **this is only reasonable if the 1.5% of GVA applies to the combined sum of all environmental fees and levies**, including at least RES surcharge reductions, Public Service Obligations and high efficiency co-generation. In this context, we want to stress that compensation for indirect CO₂ emission costs faced by the copper industry is not sufficient under the ETS state aid guidelines and it is important that this is kept in mind when revising the CEEAG, in order to ensure that the guidelines do not further undermine the competitiveness of our sector.

2. Capacity mechanisms

The possibility for targeted reductions from levies financing capacity mechanisms should also be foreseen. Capacity mechanisms are becoming

increasingly necessary in order to facilitate greater levels of RES penetration and therefore should be considered as “levies on electricity consumption which finance an energy policy objective” as per paragraph 354, from which Member States can provide targeted reductions under the draft guidelines.

3. Eligibility of industrial gases (such as oxygen) and recycling pre-processes

a) Oxygen

We are concerned about the proposed removal of the industrial gas sector – in particular oxygen – from the list of sectors eligible for reductions from electricity levies for EIUs. This will have a negative impact on the competitiveness of the EU copper industry.

Oxygen production is an integral part of the copper production process, and while oxygen production is often outsourced to industrial gas producers, it forms an integrated site with copper production and is in many cases an integrated part of the value chain of our sector.

The use of oxygen enrichment of combustion air for copper smelting is considered the best available technology to improve energy efficiency of copper production, while also helping decrease direct carbon emissions. The production of oxygen represents up to 24-40% of total electricity use in copper smelters². If not exempted, the electricity levies for the cost of oxygen production represent 8-23 % of the profit margin of EU copper producers.

Considering the important role of industrial gases (mainly oxygen and hydrogen) in the decarbonization of industrial processes such as copper production, withdrawal of sector 20.11 from the list would not only increase the risk of carbon leakage but also inhibit the copper sector’s continued decarbonization efforts.

Not providing compensation to those copper companies that outsource their oxygen production could also create a distortion of competition within our sector, as those that outsource would be at risk of relocation due to insourced oxygen being eligible. **We therefore suggest that the trade intensity of the industrial gas producers’ customers (i.e., the copper site) should be used to prevent such competition distortion.**

b) Recovery of sorted materials

In paragraph 192 the Commission encourages circularity and support for replacement of primary raw material with secondary raw materials as an improvement of resource efficiency. This is fully in line with the business model the copper industry is developing, with a focus on closing the loop and recycling. However, the recycling processes or the processes of separation are also energy intensive processes and should be recognized as such under the guidelines.

² Lauri Pesonen, 2017, "Understanding electrical energy use at copper smelters"

The recovery of sorted Materials (NACE 38.32) should therefore be included in the list of eligible sectors under the revised CEEAG. The exclusion of this sector could lead to a reduction in copper recycling volumes or to an increase in the CO₂ intensity of the recycling process in the following steps of the value-chain.

4. Minimum cumulative level of levies (paragraph 356)

We believe that the introduction of a minimum cumulative level of levies per MWh is not appropriate. The cost of these levies varies significantly across Member States and the introduction of a single minimum threshold would therefore be arbitrary. The introduction of a minimum level would also represent a competitive disadvantage for European EIUs.

5. Conditionality (paragraphs 364 and 365)

The draft CEEAG propose that to benefit from reductions granted under Section 4.11, the beneficiaries must be subject to energy efficiency audits and to one out of three other conditionality requirements.

The copper industry has a natural incentive to improve its energy efficiency given the high energy intensity of the copper production processes. The industry has therefore already made significant improvements in energy efficiency. In this context, we believe that past efforts should be considered when assessing compliance with new conditionality requirements, to make sure that conditionality measures do not penalize companies that have already invested in best available technologies.

One of the three options for the additional conditionality requirements is the implementation of the recommendations of the energy audit report. In this regard, we believe that **an independent body or instrument should be established to allow for an appeal process in case of non-conformity with the audit recommendations.** Auditors may not always have an adequate understanding of complex industry processes, so where the installation disagrees with the audit results, it should have the possibility to appeal to an independent body.

6. Reference to the EU Taxonomy regulation (paragraphs 69 and 113)

The proposed guidelines note that the Commission will pay particular attention to Art. 3 of the EU Taxonomy Regulation, i.e. substantial contribution criteria and ‘do not significant harm’ principle, when weighting the positive effects of the aid against the negative effects on competition and trade. We believe it is premature to include this reference to the EU Taxonomy, given that the Taxonomy framework is still under development and it is currently not clear how the framework will work in practice.

7. Definition of ‘demonstration project’ (paragraph 24)

The proposed definition of ‘demonstration project’ as “*a project demonstrating a technology as a first of its kind in the Union [...]*” is of concern, given that a strict interpretation of the term “first of its kind” would mean that only one project per technology could be recognized as a demonstration project. We suggest to amend this

to “a project demonstrating a technology as a first of its kind in a Member State, provided that projects using the same technology are developed in no more than five Member States in total [...].”

ABOUT ECI

The European Copper Institute represents the world’s leading mining companies and smelters. We are the voice of the copper industry in Europe.

Contact us: Anna-Maria Karjalainen, Director Clean Energy Transition
Annamaria.karjalainen@copperalliance.org / +32 (0)473 3350 66