FRANCE
INDUSTRIE

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Contribution to the EEAG State aid guidelines revision consultation

France Industrie welcomes the review of the guidelines on State aid for environmental protection and energy as it is crucial that competition law provides, in its various branches, significant incentives to achieve the European Green Deal objectives, especially amid the current context of Covid-19 pandemic. France Industrie stress that non-EU competitors (USA, China) will be heavily supported by their Home States in pursuing their environmental transition, therefore becoming a key competitiveness factor, particularly in the industrial sector. Therefore, EEAG should consider the EU's global competitiveness rather than the EU internal market only. Moreover, it should be noted that the fact that certain States or certain companies, European or extra-European, apply a standard lower than European standards would be a source of unfair competition which should be considered.

1/ Consistency with the Green Deal objectives:

The objectives contained in the 2014 guidelines need to be updated and enlarged, to mirror the scope and ambition of the EU Green Deal, especially regarding the reference to key future source of energy, such as hydrogen and sustainable fuels. French Industries are willing to engage in this revolution, but it will require massive CAPEX and OPEX investment in relation to new sources of energy and throughout all necessary industrial stages. It should be stressed that the design and manufacture of environmentally friendly products are explicitly excluded from the 2014 Guidelines. This approach cannot be maintained in the current context, as extremely ambitious targets are set in the perspective of the EU Green Deal. Therefore, State aid granted under the EEAG will be indispensable to support the financing of major industrial projects as it is crucial for European industries to carry out the massive transformative investments required to achieve the EU's climate ambition.

Furthermore, it would be important to include in other State aid frameworks, particularly the one relating to RDI aid, provisions allowing to benefit from additional public funding (bonus) in cases where the RDI concerns activities which would bring a particularly strong environmental benefit and involve an important degree of risk and innovation.

Finally, a renewed evaluation of the criteria for EEAG should be favored as too restrictive options would risk undermining transformation and efficiency efforts of numerous activities and companies which should be considered eligible for state aid.

2/ Need for State intervention and compatibility assessment:

The current guidelines specify that the "*mere existence of market failures is not sufficient to justify State intervention*". This should not preclude the availability of state support in cases where such other measures do not produce effects sufficiently quickly. It should also be indispensable to take into account the support that our non-EU competitors will receive to support their environmental transition, to ensure the necessary level playing field. The existence of a market failure should be assessed in the particularly ambitious framework of the Green Deal agenda, which requires extremely wide, bold and fast developing initiatives and the particularly severe consequences of the COVID crisis, which massively impact our self-funding abilities. The EU Commission has rightly acknowledged that this crisis qualified as a serious disturbance of the EU economy under Article 107(3)b TFEU.

Regarding the compatibility assessment, France Industrie considers that significantly less emphasis should be placed on the counterfactual scenario assessment, given the fact that the Green Deal ambition will require companies to trigger initiatives and projects without any bearing with what would have been done otherwise or in the past. In addition, conducting counterfactual analysis on the company basis while the industrial projects will be collective in nature will no doubt raise complicated (and often unnecessary) questions. Along the same line, we consider that the net extra cost does not constitute an appropriate proportionality indicator, as it is extremely difficult to predict and assess. In this respect, we consider that the reference to predictable intensity percentages would be preferable to the much more complex net extra cost assessment.

3/ Aid intensity:

In the current context of scarcity of company resources induced by the Covid crisis and of particularly strong EU ambitions regarding climate change, a specific increase of available intensities should be provided for, to support particularly ambitious and risky projects, which are required to meet the EU Green Deal targets. In addition, as previously set out, fulfilling the Green Deal ambitions will require extensive corporations throughout and across ecosystems. The bonus currently available to smaller companies only should be extended, in line with what is provided for in other guidelines such as the ones applicable to R&D activities, to allow higher funding as well for large companies when these act in close cooperation projects with SMEs or ETIs.