European Commission

Directorate-General for Competition – Unit A3

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HT.100352 Clean Industry State Aid Framework

Views from the Confederation of Swedish Enterprise

The European Commission has published a draft of a new state aid framework to support the Clean Industrial Deal – Clean Industrial Deal State Aid Framework (CISAF). The European Commission has opened a public consultation, where the Swedish Enterprise has the following comments to make.

Summary

- Swedish Enterprise advocates for a strict state aid regime. The proposed framework could preferably be replaced by adjustments to the General Block Exemption Regulation, preceded by an impact assessment.
- Increased technology neutrality is requested, where fossil-free rather than renewable should be the boundary. We request greater clarity regarding investments in nuclear power.
- The proposal imposes unnecessary restrictions on the time for project completion.
- We propose new provisions to create incentives for building more flexibility capacity, to create a more robust electricity system. Too much of the financing burden for flexibility is placed on electricity consumers.
- We are sceptical of investment state aid for mass production of certain clean products. We propose adjustments to state aid levels. We completely reject matching state aid, which can lead to a state aid race, and at the very least, we want the amount of state aid to be limited.

General comments

Swedish Enterprise advocates for a strict state aid regime. State aid should primarily be considered when there is a market failure, which may be the case with insufficient investments in research and development or climate measures. State aid may also be necessary to strengthen infrastructure or to ensure public utility services and Swedish total defence capability. However, state aid should typically not be used for investments in the production of goods and services where there is a functioning market and conditions to produce on market terms.

CISAF effectively replaces the forward-looking provisions in the Temporary Crisis and Transition Framework (TCTF). CISAF is proposed to be valid until 2030. It can therefore no longer be considered a temporary framework but must be regarded as a more permanent part of the state aid framework. By comparison, the General Block Exemption Regulation (GBER) is also time-limited and expires at the end of 2026 but is nevertheless not considered temporary but rather a central part of state aid rules, and it can probably be assumed that the framework will be extended and remain in place for the foreseeable future. For the framework to be useful for Member States and companies, a sufficient validity period is fundamental. It gives Member States time to consider, prepare, and notify state aid schemes, as well as implement them. For companies, it provides greater predictability over how the framework will look, and they can adapt their actions accordingly. A validity until 2030 is therefore considered reasonable.

CISAF being a more permanent part of the state aid rules would have justified a proper impact assessment of the proposals. The Commission refers to the provisions in TCTF, and there are significant similarities with these, as well as the decision-making practice that has been developed. However, TCTF was also not preceded by any impact assessment, and no evaluation of the state aid granted within the framework of TCTF has been made, other than a presentation of overall statistics in the Commission's newsletter *Competition State Aid Brief*. It is therefore at least unclear on what basis the Commission proposes these new rules, what assessments are made, and how the alleged benefits are weighed against the risks of distorted competition.

In Chapter 3 of CISAF, the Commission does indeed discuss the concepts of incentive effect, necessity, appropriateness, and proportionality. With relatively general arguments, mainly stating that the pace of the green transition must increase, that the market cannot finance necessary investments on its own, and that other measures are insufficient, the Commission argues that it can be assumed that the above principles can be considered fulfilled.

It also argues that "based on relevant experience and considering the purpose of the measures," it can be assumed that the measures will not lead to any significant negative consequences for competition and trade. It is problematic that the Commission so sweepingly dismisses the risk of competition distortions, when it is evident that there are significant differences in the use of state aid, both generally and within the framework of TCTF, between different member states. Investments in both fossil-free energy production and the decarbonization of industry are central parts of many companies' operations and central parts of the competition between companies. The production of certain products that are important for the net-zero economy takes place in fierce global competition, where state aid is one of the factors that has influenced how competitive conditions have developed globally.

It is also unclear how these rules should relate to other similar provisions. For example, there are several articles in the GBER that can be used for the type of investments that should be able to receive state aid within the framework of CISAF, particularly in *Section 7 – state aid for environmental protection*. An example is *Article 41 - Investment state aid for the promotion of energy from renewable sources, renewable hydrogen, and high-efficiency cogeneration*, as well as *Article 42 - Operating state aid for the promotion of electricity from renewable sources*, which seems to correspond to what is proposed in Section 4 of CISAF. It would have been significantly better if these articles had been updated instead of now having dual frameworks for the same purpose. Many of the conditions in CISAF, especially in Section 4, should be able to be handled by a national authority, as they do not require any assessment beyond whether the conditions included are met.

The increased use of CISAF for more state aid schemes will also increase the number of cases the Commission has to assess. This means that cases will take longer to get approved compared to a process within the framework of the GBER. Additionally, it takes up resources at the Commission that could otherwise be used to ensure compliance with the rules, something that has been neglected since the COVID-19 pandemic. Between March 2022 and June 2024, the Commission made 506 state aid decisions within the framework of TCTF or directly under the treaty according to the principles of TCTF, which has obviously taken up significant resources.

Technology neutrality and nuclear power

In the CISAF draft, the Commission has to some extent aimed for increased technology neutrality, as in some respects it has not only limited state aid opportunities to renewable technologies but in some cases states that all fossil-free technologies are included, such as in the case of flexibility services.

Swedish Enterprise, however, believes that this is insufficient, and that increased technology neutrality is needed in the sense that state aid for fossil-free should be the starting point rather than only for renewables. Technology neutrality has value in itself, as otherwise, it becomes market steering that, without such limitation, can use the most efficient solution. Furthermore, it is necessary, given the urgency to achieve significant reductions in carbon dioxide emissions, not only to promote the emergence of new renewable energy or use renewable energy in the decarbonization of industrial emissions. All fossil-free technologies are needed to some extent. Additionally, it is clear that all fossil-free technologies must be embraced to achieve a robust energy system that can deliver electricity reliably at competitive prices with limited volatility.

Specifically regarding nuclear power, the Commission writes that "With full respect for Member States' right to determine their energy mix, the Commission will conduct a swift assessment of state aid for nuclear supply chains and technologies, including small modular reactors, to ensure legal certainty for such state aid, in accordance with the treaty or any applicable guidelines, and with respect for technological neutrality." No further guidance regarding state aid for investments in nuclear power is thus provided, and the Commission's assessments will continue to be made directly against the treaty. Member States are therefore given no further guidance on what is possible but are referred to the Commission's decision-making practice.

Although this is somewhat expected, as the Commission's decision-making practice is not yet extensive, it is nevertheless regrettable that the Commission does not take the opportunity to facilitate and clarify for Member States and businesses how state aid and state aid schemes for nuclear power can be designed in a way that can be considered compatible with the internal market. Nuclear power is included as one of many fossil-free technologies and is thus included, for example, in the section on flexibility services, but is not given the same favourable treatment as renewable energy described in Section 4.

Regarding state aid for new storage capacity, point (32) (b) states that state aid can be given to biomass fuels, but only if they obtain at least 75% of their content from a directly connected facility producing RFNBOs, biofuels, bioliquids, biogas, or biomass, on an annual basis. The Swedish Enterprise questions this requirement, which seems unnecessarily restrictive.

Time for project completion

Several of the provisions include a limitation on the time within which certain or all projects must be completed, counted from the time the state aid is granted. The Commission proposes this time limit to be set at 36 months. It is unclear what basis the Commission has for this time limit, and more facts are needed to finally determine a specific time limit that should apply to many different types of investments. Since Member States are to set up effective sanctions if the time limit is exceeded, Swedish Enterprise considers it unacceptable if this time limit is set so narrowly that well-managed projects risk exceeding the limit. This should only be applicable in the rare cases where the state aid recipient has clearly not fulfilled their commitments.

Companies typically have an equally strong interest in completing a project as quickly as possible, as it can be crucial for the investment to be profitable. This type of limit can therefore be questioned if it is needed at all, and if it is to be included, it should be set so that there are margins that ensure projects affected by delays due to external factors or court appeals are not impacted by this limit. The Commission should therefore consider extending the time limit and adding conditions that state if the completion is delayed due to circumstances beyond the control of the state aid recipient, the time limit should be duly extended.

State aid for Carbon Capture, Storage, and Utilization (CCSU)

The proposed provisions on state aid for CCSU in point (84) set an alternative requirement that the captured carbon dioxide must be chemically bound in a product so that it is not released into the atmosphere during normal use, including normal use after the product's lifespan. Here, it could be considered to broaden the scope to include products that bind carbon dioxide for a significant period, but not permanently. This could broaden the application and make more technologies and business models relevant, contributing to a reduction in carbon dioxide in the atmosphere. Therefore, an addition is proposed as follows:

(a) concern the installation of carbon capturing equipment to the extent that the captured CO2 is (i) utilised in such a way that it has become ***~~permanently~~*** *chemically bound in a product* ***for at least 50 years*** *so that it does not enter the atmosphere under normal use* ***during that period****, including any normal activity taking place after the end of the life of the product, or (ii) used for the production of synthetic fuels in accordance with applicable EU law;*

Proposals for addressing increased intermittent production capacity

Given that the Commission maintains that Chapter 4 is limited to state aid for investments and production of renewable energy, it risks exacerbating the problem of increasingly weather-dependent electricity production. The business sector needs access to electricity in a reliable manner and at affordable prices. The increasingly fluctuating price levels, as intermittent electricity production increases as a share of total electricity production, make it more difficult to plan production and increase the risk of prices becoming so high that certain production becomes unprofitable at times. It also makes it more difficult to invest in new intermittent electricity production, as prices drop when these can produce, and conversely rise when they cannot produce. The Swedish Enterprise therefore proposes the following addition to point (32)

(aa) support to investments for the production of electricity from variable renewable sources should incentivize secure, affordable energy and therefore be accompanied with support for flexibility or electricity storage complying with this section and section 4.2. The estimated capacity volume and budget for aid for electricity storage should correspond to aid schemes to accelerate the rollout of renewable energy under 4.1.

Definition of fuels eligible for state aid

Section 4 includes provisions that allow Member States to grant state aid for the production of renewable fuels of non-biological origin (RFNBO), as well as the storage of RFNBO, biofuels, biogas (including biomethane), and biomass fuels given certain conditions.

It should be considered whether the scope is sufficient or if intermediate products also need to be explicitly included. Such products can constitute energy carriers of sufficient quality to be used for motor operation without further processing, thereby serving as an energy source.

Financing of state aid schemes for non-fossil flexibility services

The Commission proposes in point (65) that "The concerned member state must confirm that the program promotes the opening of the program for cross-border participation of the resources that can provide the required technical performance, where a cost-benefit analysis is positive." Swedish Enterprise believes that this requirement is potentially problematic and inappropriate. It can be difficult to determine and continuously monitor whether flexibility in other countries will be available when needed. Fundamentally, it should be ensured that the flexibility financed by a specific Member State also fully benefits that Member State. If this can nevertheless be resolved, technically and legally, it may be in the Member State's interest to seek broader participation to achieve the goal of increased flexibility, whereby the provision's requirement is unnecessarily restrictive.

The Commission proposes in point (66) that "to provide effective incentives to adapt consumption to price indicators, consumers who contribute to creating flexibility needs should participate in the costs of the measure, based on their consumption during periods that give rise to the need for flexible resources. If local technical criteria are applied, the additional costs of applying these criteria should be allocated to electricity consumers in the relevant areas. The Commission considers that such a contribution can be considered proportionate when it is at least equal to 90% of the costs of the measure."

Swedish Enterprise believes that it is unreasonable to place such a unilateral responsibility on the demand side for the shortcomings of the electricity system. The incentives that have existed so far, and which by all accounts will continue to exist within the EU, lead to increasingly variable electricity production. It is not reasonable to continue driving this development while simultaneously requiring consumers to adapt to such a system. It hampers the competitiveness of the business sector, particularly the energy-intensive industry. Measures are therefore needed to stimulate increased production of base power that is not weather-dependent, as well as incentives and conditions for storage and flexibility. We therefore believe that the entire point (66) should be deleted.

Increased technology neutrality in decarbonization measures

In point (73), it is stated that "Investments aiming at the decarbonisation of industrial heat will prioritise (non-biomass-based) renewable energy sources [...]". For increased technology neutrality, we believe that all fossil-free alternatives should be promoted. The wording should therefore be, "Investments aiming at the decarbonisation of industrial heat will prioritise non-fossil [...]". A change should also be made in point (75) (b), as follows: the energy is produced from **non-fossil sources** **~~renewable sources including biomass~~**.

Point (82) describes decarbonization measures using hydrogen. Here too, we believe that the provision should be made more technology neutral. It should therefore be worded as follows: "For aid schemes covering investments relying wholly or partly on the use of hydrogen, Member States must impose conditions ensuring that projects use **non-fossil hydrogen**." The subsequent text can be deleted.

One of the options for state aid intensities for projects below [200] million euros is to use a fixed percentage of the total investment costs, as described in point (90). The following maximum state aid levels are specified:

(a) [50]% for investments enabling the use of hydrogen;
(b) [30]% for investments in carbon capture equipment;
(c) [35]% for investments in renewable energy production, energy storage, or electrification investments that only use fully renewable electricity;
(d) [20]% for all other technologies.

There is no explanation for why these levels are proposed and why there is such a large difference in state aid levels between different technologies. This does not appear to be a technology-neutral design. Appropriate state aid levels in fixed figures are a complex issue that requires a solid factual basis. Relevant aspects are particularly what an effective project with good conditions typically needs to be realized, but also which type of project can most effectively achieve an emission reduction. There is no intrinsic value in supporting certain technologies; rather, the overarching goal of achieving emission reductions in the most effective way should be the focus. That said, Swedish Enterprise cannot propose any other specific levels but requests more information for these assessments.

The Commission sets certain requirements to ensure that the decarbonization of industrial emissions does not lead to increased emissions from the energy production used for this purpose. Point (98) addresses indirect emissions through electrification. Alternative (a) can be used if "Projects can only be located in bidding zones where the average share of renewable electricity exceeded 90% in the previous calendar year, or the emission intensity of electricity was lower than 18 gCO_2eq/MJ." Since Sweden is probably the only country that can fully meet the requirement of low emission intensity, the requirement seems too restrictive. Since the focus here is on avoiding carbon dioxide emissions, "renewable electricity" should be replaced with "fossil-free electricity," which also makes the provision more technology-neutral.

State aid for manufacturing capacity in clean technologies

The state aid rules described in Chapter 6 is investment aid to create incentives to build new or expand existing production capacity of certain clean products relevant to the transition to a net-zero economy. The proposal includes batteries, solar panels, wind turbines, heat pumps, electrolysers, and equipment for carbon capture, usage, and storage.

Swedish Enterprise is fundamentally sceptical of state aid within the framework of this article. Typically, state aid for pure mass production of established goods where there is a large global production and competition should not occur. Such state aid does not address any market failure. There is a large and increasing global supply of many of these products. For some products, there seems to be overcapacity in global production, leading to squeezed prices and difficulties in achieving profitability even for existing producers. Using investment aid to create additional production in such a situation can be particularly problematic, as it does not affect the fundamental conditions for the investment to compete globally over time.

If this type of state aid provisions nevertheless is to be included in the framework, it is desirable that the provision becomes more technology neutral. The current limitation to a few designated technologies needs to be supplemented with additional relevant technologies, or, as we would suggest, replaced with a general wording. This should be assessed by the Commission in each individual case based on the information provided by the Member States, where the Member State can argue for the appropriateness of the design chosen. The wording in point (122) (a) thus becomes:

(a) the production, including with secondary raw materials, of relevant equipment for the transition towards a net-zero economy, ***~~namely [batteries, solar panels, wind turbines, heat-pumps, electrolysers, and equipment for carbon capture usage and storage (CCUS)] [see also the corresponding question in the survey on other possible technologies listed in the Net Zero Industry Act62];~~***

Swedish Enterprise finds it unfortunate that there are also provisions here that distort competition between Member States, where countries with designated assisted areas, particularly a-areas, are given advantages over others. There is no clear correlation between countries with assisted areas and those without, and the extent to which they use state aid as a policy instrument. As shown in the Commission's *Competition State Aid Brief* from February 2025, Hungary, Romania, and Italy have granted the most state aid within the framework of TCTF relative to their respective GDPs – these are countries that wholly or partly have a-areas and can thus attract significantly more state aid compared to, for example, Sweden.

Given that the diversified state aid schemes remain in the proposal, Swedish Enterprise advocates lowering the state aid level for a-areas from 35% to 25%. We also note that the maximum levels in euros have been halved compared to the corresponding provision in TCTF – this is very good and should be maintained.

The proposal also includes provisions to prevent investments that do not become permanent or state aid that relocates production capacity from one Member State to another. These are, of course, important provisions that should be included. However, it does not address the fact that the possibility of obtaining significant amounts of state aid can cause new investments to be located in a specific Member State wholly or partly due to the increased state aid opportunities available there. This means that industrial investments risk being located in places that do not have the best market conditions, leading to suboptimal resource allocation and reduced efficiency in the EU economy.

Ad hoc state aid (matching aid)

The Commission has changed the title of what should continue to be referred to as matching aid, i.e., the possibility of obtaining extraordinarily high state aid levels if the company can receive equivalent state aid in a third country. Swedish Enterprise opposes the provision in its entirety, as this is the most harmful provision for fair competition and a well-functioning market. It can incentivize companies to play different countries against each other to obtain the highest possible state aid levels, creating a state aid race that can be very damaging in the long run. It departs from the fundamental principles of necessity, appropriateness, and proportionality that state aid rules are based on.

The Commission has also changed the provision and, as far as we can assess, made it more flexible. There are now increased opportunities to implement a measure in an individual member state containing assisted areas. While it is welcome that countries with assisted areas are given less extensive advantages, there is a risk that increased flexibility will lead to the tool being used more frequently by Member States that have both the resources and the political will to use this tool, such as Germany and France. Swedish Enterprise has no solution to this problem.

However, to reduce the harmful effects of this provision, it should at least be considered to introduce some form of limitation on the amount of state aid that can be granted. In other parts of Section 6, there are limits both in terms of the percentage of eligible costs and in fixed amounts in euros. Given that it is conceivable that it is primarily large global investments that may trigger the use of this provision, using a cap in euros may seem less appropriate. Swedish Enterprise therefore proposes that the provision in (134) be supplemented so that the amount of state aid is determined by the lowest of the following alternatives: (i) the amount of state aid that the recipient can show they could obtain for a corresponding investment in a third country outside the EEA; and (ii) the minimum amount needed to incentivize the recipient to make the investment in the relevant area within the EEA rather than at the alternative location outside the EEA (funding gap); **and (iii) 15% of the eligible costs according to (128)**.

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