



**COMMUNICATION FROM THE COMMISSION**

**amending the Guidelines on certain State aid measures in the context of the system for greenhouse gas emission allowance trading post-2021**

(C/2026/196)

**1. INTRODUCTION**

- (1) On 21 September 2020, the Commission adopted the Guidelines on certain State aid measures in the context of the system for greenhouse gas emission allowance trading post-2021 <sup>(1)</sup> (the 'Guidelines'), applicable for the duration of the fourth trading period of the EU emissions trading system (ETS), from 2021 to 2030.
- (2) Following the Communication on the Competitiveness Compass <sup>(2)</sup>, the Communication on the Clean Industrial Deal <sup>(3)</sup> outlines the way forward for a structural transformation towards electrification and more renewables in the EU, which will eventually bring energy prices down in a lasting way, while also safeguarding the competitiveness of the EU's industries.
- (3) Yet, the sustained rise in electricity prices since 2020 has had a profound impact on certain energy-intensive sectors and subsectors. At the current juncture, for the most exposed energy-intensive sectors and subsectors in the EU, the combined effect of the high energy prices and the rise in emission costs has heightened the risk of carbon leakage, that is to say the risk of companies relocating their production activities to other jurisdictions with weaker or absent emission constraints or of EU products being replaced by more carbon-intensive imports. This increase justifies an increase in the maximum aid intensity by five percentage points for the sectors already deemed to be exposed to a genuine risk of carbon leakage due to indirect emission costs since 2020.
- (4) The methodology for calculating the aid payable per installation under the Guidelines implies that the aid for indirect emission costs increases in line with the EU ETS allowance price. However, the sustained rise in emission costs since the adoption of the Guidelines has significantly heightened the risk of carbon leakage for sectors that are exposed to international competition and have a relatively high indirect emission intensity but were not considered at genuine risk based on the emission cost assumptions prevailing in 2020.
- (5) Against this background and in line with the methodology underpinning the Guidelines, the list of eligible sectors in Annex I to the Guidelines is expanded to take into account that the risk of carbon leakage has genuinely increased for certain sectors. In view of the differentiated indirect emission intensity vis-à-vis the sectors eligible since 2020, an aid intensity of 75 % for the newly eligible sectors is considered proportionate.
- (6) Member States may choose to compensate the newly eligible sectors for indirect emission costs and may already do so for indirect emission costs incurred as from 2025.
- (7) Member States should have the possibility to notify sectors or subsectors, which are not included in Annex I, based on robust and representative evidence demonstrating that, at EU level, those sectors or subsectors meet the eligibility criteria, as referred to in point (18), to be considered eligible for indirect emission cost compensation.

<sup>(1)</sup> OJ C 317, 25.9.2020, p. 5, as supplemented by the Communication from the Commission of 24.11.2021 (OJ C 528, 30.12.2021, p. 1).

<sup>(2)</sup> Communication from the Commission, COM(2025) 30 final, 29.1.2025.

<sup>(3)</sup> Communication from the Commission, COM(2025) 85 final, 26.2.2025.

- (8) The manufacturing of fertilisers and nitrogen compounds (NACE 20.15) and the mining of iron ores (NACE 07.10) constitute sectors for which compensation for indirect emission costs can be provided under the Guidelines. For certain products in these sectors, in particular nitrogen-based fertilisers or their input goods, there will also be an obligation to surrender certificates under the EU carbon border adjustment mechanism ('CBAM') set up by Regulation (EU) 2023/956 of the European Parliament and of the Council <sup>(4)</sup> for indirect emissions <sup>(5)</sup>. These sectors are fully eligible for indirect emissions costs incurred in 2025 under the Guidelines. However, for imports in 2026, CBAM certificates will need to be surrendered for the first time in 2027. Therefore, the Commission will closely monitor the specific situation in 2026 with a view to maintaining eligibility of fertilisers and iron ore mining under the Guidelines while addressing overlaps between the two instruments to address carbon leakage by an appropriate adjustment of the calculation of the maximum aid amount under the Guidelines for the concerned products in these two sectors.
- (9) The CO<sub>2</sub> emission factors and the geographic areas set out in Annex III to the Guidelines are updated for 2026-2030 with the most recent data available. The Commission accordingly notes that, compensation for costs incurred in 2025 is to be calculated based on the values specified for 2021-2025.
- (10) For beneficiaries in some Member States, the decrease in the updated CO<sub>2</sub> emission factors compared to those specified for 2021-2025 is particularly pronounced. For this reason, the Commission considers that a gradual transition is warranted where the CO<sub>2</sub> emission factor set in the amended Annex III decreases significantly following this amendment.
- (11) The Commission should apply the amendments mentioned in points (9) and (10) to costs incurred as from 1 January 2026.
- (12) In 2026, the Commission intends to amend Annex II to specify the electricity consumption efficiency benchmarks for the newly eligible sectors. Available information does not indicate any fundamental changes to the production processes, and a degressivity factor is applied to the existing electricity consumption efficiency benchmarks. Therefore, the Commission considers that, in principle, no updates of existing electricity consumption efficiency benchmarks are needed.
- (13) Commission Delegated Regulation (EU) 2024/873 <sup>(6)</sup> adjusted the approach to the free allocation of allowances based on product benchmarks with exchangeability of fuel and electricity, in line with Article 10a(6) of Directive 2003/87/EC <sup>(7)</sup>. Therefore, as from 1 January 2026, the Guidelines should be adjusted for the products concerned to ensure that producers do not receive double compensation for the same emissions through both free allocation and indirect emission cost compensation. In principle, this should be ensured by deducting the value of freely received allowances that can be allocated to indirect emissions from the amount of indirect emission cost compensation under the Guidelines. However, as the adoption of updated product benchmark values for 2026-2030 and the determination of the average EU CO<sub>2</sub> emission factor for this period are still pending, the amendments will be introduced later, in 2026.

<sup>(4)</sup> Regulation (EU) 2023/956 of the European Parliament and of the Council of 10 May 2023 establishing a carbon border adjustment mechanism (OJ L 130, 16.5.2023, p. 52, ELI: <http://data.europa.eu/eli/reg/2023/956/oj>).

<sup>(5)</sup> This is the case when such products are listed in Annex I to that Regulation, but not in Annex II to that same Regulation.

<sup>(6)</sup> Commission Delegated Regulation (EU) 2024/873 of 30 January 2024 amending Delegated Regulation (EU) 2019/331 as regards transitional Union-wide rules for harmonised free allocation of emission allowances (OJ L, 2024/873, 4.4.2024, ELI: [http://data.europa.eu/eli/reg\\_del/2024/873/oj](http://data.europa.eu/eli/reg_del/2024/873/oj)).

<sup>(7)</sup> Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (OJ L 275, 25.10.2003, p. 32, ELI: <http://data.europa.eu/eli/dir/2003/87/oj>).

- (14) As regards the requirements in Section 5 of the Guidelines on energy audits and management systems, the Commission recalls that point 55 of the Guidelines sets out minimum requirements. In view of the medium- to long-term benefits expected from such investments in terms of decarbonisation, furthering the clean transition and supporting the competitiveness of the EU, Member States are encouraged to go beyond these requirements. It should also be possible for Member States to include a requirement for beneficiaries to invest in new or modernised assets that contribute to reducing the costs of the electricity system, as an alternative to the existing options.
- (15) As part of its review of Directive 2003/87/EC and Regulation (EU) 2023/956, the Commission will work towards ensuring adequate measures (guidelines or another form) for indirect ETS cost compensation for the period beyond 2030.

## 2. AMENDMENTS TO THE GUIDELINES

- (16) The Guidelines are amended as follows:

- (17) Point (15)(10) is replaced by the following:

“CO<sub>2</sub> emission factor”, in tCO<sub>2</sub>/MWh, means the weighted average of the CO<sub>2</sub> intensity of electricity produced from fossil fuels in different geographic areas. The weight reflects the production mix of the fossil fuels in the given geographic area. The CO<sub>2</sub> factor is the result of the division of the CO<sub>2</sub> equivalent emission data of the energy industry divided by the gross electricity generation based on fossil fuels in TWh. For the purposes of these Guidelines (\*), the areas are defined as geographic zones (a) which consist of submarkets coupled through power exchanges; or (b) within which no declared congestion exists and, in both cases, hourly day-ahead power exchange prices within the zones showing price divergence in euro (using daily ECB exchange rates) of maximum 1 % in a significant number of all hours in a year. Such regional differentiation reflects the significance of fossil fuel plants for the final price set on the wholesale market and their role as marginal plants in the merit order. The mere fact that electricity is traded between two Member States does not automatically mean that they constitute a supranational region. Given the lack of relevant data at sub-national level, the geographic areas comprise the entire territory of one or more Member States. On this basis, the following geographic areas can be identified: Spain and Portugal; Lithuania, Latvia and Estonia; Germany and Luxembourg; Bulgaria and Romania; and all other Member States separately. The corresponding maximum regional CO<sub>2</sub> factors, which apply as maximal values when the notifying Member State has not established an assessment of the market-based CO<sub>2</sub> factor pursuant to point (11), are listed in Annex III. A Member State may ask the Commission to calculate the CO<sub>2</sub> emission factor based on data available in 2026 and may notify the resulting CO<sub>2</sub> emission factor as an amendment to its scheme. This updated CO<sub>2</sub> emission factor can apply to costs incurred as from 2026. This updated CO<sub>2</sub> emission factor has no effect on the CO<sub>2</sub> emission factor of other Member States as listed in Annex III. In order to ensure equal treatment of sources of electricity and avoid possible abuses, the same CO<sub>2</sub> emission factor applies to all sources of electricity supply (auto generation, electricity supply contracts or grid supply) and to all aid beneficiaries in the Member State concerned. If the maximum regional CO<sub>2</sub> emission factor listed in Annex III is at least 15 % lower than the maximum regional CO<sub>2</sub> emission factor previously listed in that Annex or the approved market-based factor before 1 January 2026, Member States concerned may notify a transitional period to move from the previously applicable maximum regional CO<sub>2</sub> emission factor to the updated maximum regional CO<sub>2</sub> emission factor under these Guidelines for year *t*, starting in 2026, in equal annual steps of reduction. The updated maximum regional CO<sub>2</sub> emission factor listed in Annex III shall apply for year *t* = 2030 at the latest;

(\*) These Guidelines do not qualify as legislative instruments and therefore do not have to be incorporated into the EEA Agreement by the EEA Joint Committee. The EFTA Surveillance Authority is responsible for setting the relevant rules applicable for EFTA States, including the methodology for setting the CO<sub>2</sub> factors.’

- (18) Point (21) is replaced by the following:

‘To limit the risk of competition distortion within the internal market, the aid must be limited to sectors that are exposed to a genuine risk of carbon leakage due to significant indirect costs that are actually incurred as a consequence of greenhouse gas emission costs being passed on in electricity prices. For the purpose of these Guidelines, a genuine risk of carbon leakage is considered to exist if the beneficiary is active in a sector listed in Annex I. A sector or subsector that is not listed in Annex I but meets the criteria to be included in that Annex (\*), may also be considered eligible provided that Member States demonstrate this with data that is representative of the sector or subsector at Union level, verified by an independent expert and based on a time period of at least the three most recent years for which data is available. If Member States intend to extend their respective schemes to include any new sector or subsector, they must notify any such amendment to the Commission. Member States may provide in their schemes a commitment to include in the future all additional sectors or subsectors whose eligibility has been demonstrated by another Member State and approved by the Commission, and to inform the Commission of any such inclusions.

(\*) These criteria are a trade intensity above 20 % and an indirect emission intensity above 0,32 kg CO<sub>2</sub>/EUR, resulting in an indirect carbon leakage indicator above 0,064. The methodology is described in further detail in Commission staff working document SWD(2020) 190 final.’

- (19) Point (27) is replaced by the following:

‘The aid is proportionate and has a sufficiently limited negative effect on competition and trade if it does not exceed 80 % of the indirect emission costs incurred for the sectors listed in Table 1 of Annex I and 75 % for the sectors listed in Table 2 of Annex I or any further sectors considered eligible pursuant to the procedure set out in point (21). The electricity consumption efficiency benchmark ensures that support to inefficient production processes remains limited and maintains the incentive for dissemination of most energy-efficient technologies.’

- (20) Point (31) is replaced by the following:

‘Given that for some sectors the aid intensity of 80 % for the sectors listed in Table 1 of Annex I and 75 % for the sectors listed in Table 2 of Annex I or any further sectors considered eligible pursuant to the procedure set out in point (21) might not be sufficient to ensure that there is adequate protection against the risk of carbon leakage, when needed, Member States may limit the amount of the indirect costs to be paid at undertaking level to 1,5 % of the gross value added of the undertaking concerned in year t. The gross value added of the undertaking must be calculated as turnover, plus capitalised production, plus other operating income, plus or minus changes in stocks, minus purchases of goods and services (which shall not include personnel costs), minus other taxes on products that are linked to turnover but not deductible, minus duties and taxes linked to production. Alternatively, it can be calculated from gross operating surplus by adding personnel costs. Income and expenditure classified as financial or extraordinary in company accounts is excluded from value added. Value added at factor costs is calculated at gross level, as value adjustments (such as depreciation) are not subtracted (\*).

(\*) Code 12 15 0 within the legal framework set out by Regulation (EC) No 295/2008 of the European Parliament and of the Council of 11 March 2008 concerning structural business statistics (OJ L 97, 9.4.2008, p. 13).’

- (21) Point (55)(a) is replaced by the following:

‘(a) implement recommendations of the audit report, to the extent that the pay-back time for the relevant investments does not exceed 3 years or the pay-back time referred to in Article 10a(1), 3rd subparagraph of Directive 2003/87/EC, whichever is longer, and that the costs of their investments is proportionate; or alternatively’.

(22) Point (55)(c) is replaced by the following:

- ‘(c) invest a significant share of at least 50 % of the aid amount in projects that lead to substantial reductions of the installation’s greenhouse gas emissions and well below the applicable benchmark used for free allocation in the EU Emissions Trading System; or alternatively’.

(23) In point (55) a new sub-point (d) is added after sub-point (c):

- ‘(d) invest at least 50 % of the aid amount in new or modernised assets that can be measurably shown to make an additional contribution to reducing the costs of the electricity system, reflecting market and system needs in that Member State, without resulting in an increase of fossil fuel consumption. Eligible investment activities can include, for example, the development of renewable energy generation capacities, energy storage solutions, measures to increase demand-side flexibility, energy efficiency improvements that impact electricity demand, and the development of electrolyzers for the production of renewable or low-carbon hydrogen. Investments aimed at electrification are also eligible. Member States may establish a more limited list of eligible investments, but investments to increase demand-side flexibility must be eligible.’

(24) Point (67) is replaced by the following:

‘From 1 January 2026 to 31 December 2030, updated CO<sub>2</sub> emission factors and geographic areas will be applied. In 2026, the Commission will supplement these Guidelines with electricity consumption efficiency benchmarks covering the sectors added to the amended sector eligibility list in Annex I and the adjustment to address overlaps for the manufacturing of fertilisers and nitrogen compounds and mining of iron ores sectors between aid under these Guidelines and the obligation to surrender certificates under Regulation (EU) 2023/956 of the European Parliament and of the Council (\*) for indirect emissions (\*\*). Consequently, Member States are required to amend, where necessary, their respective schemes in order to bring them in line with these Guidelines as amended.’

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(\*) Regulation (EU) 2023/956 of the European Parliament and of the Council of 10 May 2023 establishing a carbon border adjustment mechanism (OJ L 130, 16.5.2023, p. 52, ELI: <http://data.europa.eu/eli/reg/2023/956/oj>).

(\*\*) This is the case when such products are listed in Annex I to that Regulation, but not in Annex II to that same Regulation.’

(25) A new point (69) is added:

‘The Commission proposes the following appropriate measures to Member States under Article 108(1) of the Treaty on the Functioning of the European Union:

- (a) Member States amend, where necessary, existing aid schemes in order to bring them in line with these Guidelines as amended no later than 30 June 2026;
- (b) Member States give their explicit, unconditional agreement to the appropriate measures proposed in point (a) above within two months from the date of publication of the amendment to these Guidelines in the *Official Journal of the European Union*. In the absence of any reply, the Commission will assume that the Member State in question does not agree with the proposed measures.’

(26) Annex I is replaced by the following:

'ANNEX I

**Sectors deemed to be exposed to a genuine risk of carbon leakage due to indirect emission costs**

Table 1

	NACE code (*)	Description
1.	14.11	Manufacture of leather clothes
2.	24.42	Aluminium production
3.	20.13	Manufacture of other inorganic basic chemicals
4.	24.43	Lead, zinc and tin production
5.	17.11	Manufacture of pulp
6.	17.12	Manufacture of paper and paperboard
7.	24.10	Manufacture of basic iron and steel and of ferro-alloys
8.	19.20	Manufacture of refined petroleum products
9.	24.44	Copper production
10.	24.45	Other non-ferrous metal production
11.		The following subsectors within the plastics sector (20.16):
	20.16.40.15	Polyethylene glycols and other polyether alcohols, in primary forms
12.		All product categories in the casting of iron sector (24.51)
13.		The following subsectors within the glass fibre sector (23.14):
	23.14.12.10	Glass fibre mats
	23.14.12.30	Glass fibre voiles
14.		The following subsectors within the industrial gases sector (20.11):
	20.11.11.50	Hydrogen
	20.11.12.90	Inorganic oxygen compounds of non-metals

(\*) Insofar as the statistical classification of a specific economic activity into a NACE code has been affected by the most recent NACE update (Commission Delegated Regulation (EU) 2023/137 of 10 October 2022 amending Regulation (EC) No 1893/2006 of the European Parliament and of the Council establishing the statistical classification of economic activities NACE Revision 2 (OJ L 19, 20.1.2023, p. 5, ELI: [http://data.europa.eu/eli/reg\\_del/2023/137/oj](http://data.europa.eu/eli/reg_del/2023/137/oj))), Member States may choose to either use the amended classification or rely on the classification in force at the time of adoption of the Guidelines.

Table 2

	NACE code (*)	Description
1.	07.29	Mining of other non-ferrous metal ores
2.	07.10	Mining of iron ores
3.	20.17	Manufacture of synthetic rubber in primary forms
4.	20.60	Manufacture of man-made fibres
5.	20.16	Manufacture of plastics in primary forms (**)
6.	13.10	Preparation and spinning of textile fibres
7.	23.31	Manufacture of ceramic tiles and flags
8.	20.12	Manufacture of dyes and pigments
9.	13.95	Manufacture of non-wovens and articles made from non-wovens, except apparel
10.	23.14	Manufacture of glass fibres (**)
11.	27.20	Manufacture of batteries and accumulators
12.	20.14	Manufacture of other organic basic chemicals
13.	20.15	Manufacture of fertilisers and nitrogen compounds
14.	10.41	Manufacture of oils and fats
15.	11.06	Manufacture of malt
16.	16.21	Manufacture of veneer sheets and wood-based panels
17.	23.11	Manufacture of flat glass
18.	23.13	Manufacture of hollow glass
19.	24.31	Cold drawing of bars
20.	24.34	Cold drawing of wire
21.		The following subsector within the other chemical products n.e.c. sector (20.59):
	20.59.56.70	Mixed alkylbenzenes, mixed alkylnaphthalenes other than HS 2707 or 2902
22.		The following subsector within the other non-metallic mineral products n.e.c. sector (23.99):
	23.99.19.10	Slag wool, rock wool and similar mineral wools (excluding glass wool) and mixtures thereof, in bulk, sheets or rolls

(\*) Insofar as the statistical classification of a specific economic activity into a NACE code has been affected by the most recent NACE update (Commission Delegated Regulation (EU) 2023/137 of 10 October 2022 amending Regulation (EC) No 1893/2006 of the European Parliament and of the Council establishing the statistical classification of economic activities NACE Revision 2 (OJ L 19, 20.1.2023, p. 5, ELI: [http://data.europa.eu/eli/reg\\_del/2023/137/oj](http://data.europa.eu/eli/reg_del/2023/137/oj)), Member States may choose to either use the amended classification or rely on the classification in force at the time of adoption of the Guidelines.

(\*\*) This applies to the sector except for any sub-sectors already listed in Table 1.'

(27) Annex III is replaced by the following:

'ANNEX III

**Maximum regional CO<sub>2</sub> emission factors in different geographic areas (tCO<sub>2</sub>/MWh)**

Geographic area	Applicable CO <sub>2</sub> emission factor
Spain, Portugal	0,47
Lithuania, Latvia, Estonia	0,76
Germany, Luxembourg	0,73
Bulgaria, Romania	0,91
Belgium	0,37
Czechia	0,89
Denmark	0,54
Ireland	0,44
Greece	0,58
France	0,43
Croatia	0,51
Italy	0,44
Cyprus	0,72
Hungary	0,50
Malta	0,40
Netherlands	0,44
Austria	0,33
Poland	0,78
Slovenia	0,75
Slovakia	0,58
Finland	0,62
Sweden	0,60'

(28) The Commission will apply the principles set out in this Communication from 22 December 2025. The Commission will apply the principles set out in points (17) and (27) from 1 January 2026. Member States may refer to Annex I and points (27) and (31) as amended for costs incurred as of 1 January 2025.