

Client Brief

COMPETITION | STATE AIDS | ROMANIA

JULY 2014

STATE AID SCHEME FOR ELECTRO-INTENSIVE INDUSTRIES: PARTIAL EXEMPTION FROM THE PAYMENT OF GREEN CERTIFICATES

A new State aid scheme¹ targets electro-intensive industries, by partially relieving them from the payment of the green certificates which they would normally have to pay in relation to their electricity consumption.

This new scheme will enter into force on 1 August 2014² and will be applicable for a period of ten years.

Eligibility criteria

The main specific criterion to be fulfilled by an undertaking in order to benefit from this aid scheme consists in carrying out an activity listed in Appendix 3 of the *European Commission's Guidelines on State aid for environmental protection and energy 2014 - 2020*³.

This list includes 65 NACE codes⁴ corresponding to sectors which are considered to be at risk in terms of their competitive position because of the costs related to renewable energy, since these sectors are electro-intensive and exposed to international trade.

The other general conditions to be met by applicants for this aid are:

- they are registered in accordance with Law no. 31/1990 on trading companies;

¹ Government Decision no. 495/2014 on the establishment of a State aid scheme exempting certain categories of end-consumers from the enforcement of Law no. 220/2008 on the establishment of the promotion system for energy generation from renewable energy sources.

² Subject to its approval by the European Commission.

³ European Commission Communication - Guidelines on State aid for environmental protection and energy 2014-2020, 2014/C 200/01.

⁴ *Exempli gratia*, some of the NACE codes included in the list are:

Manufacture of oils and fats
Sawmilling and planing of wood
Manufacture of veneer sheets and wood-based panels
Manufacture of pulp
Manufacture of paper and paperboard
Manufacture of basic pharmaceutical products
Manufacture of flat glass
Shaping and processing of flat glass
Manufacture of tubes, pipes, hollow profiles and related fittings, of steel

Manufacture of glass fibres
Manufacture of industrial gases
Manufacture and processing of other glass, including technical glassware
Manufacture of ceramic insulators and insulating fittings
Manufacture of lime and plaster
Manufacture of bricks, tiles and construction products, in baked clay
Manufacture of cement

- they do not register outstanding debts to the State general consolidated budget;
- they carry out energy audits with accredited experts, both before and after the implementation of the energy efficiency measures⁵;
- they maintain their activity in Romania and do not lay off, during the implementation of the State aid scheme, more than 25% of the number of employees they had when the State aid was granted;
- they carry out and finance educational and training programs⁶.

Nature of the aid

As per *Law no. 220/2008 regarding the promotion of renewable energy generation*, electricity consumers fund electricity from renewable sources by paying, in addition to the electricity price, a number of green certificates depending on their electricity consumption.

The beneficiaries of this new State aid scheme shall have to pay only for a part of the number of green certificates which they would normally have to pay. The percentage of the green certificates which is covered by the exemption depends on the electro-intensity of the beneficiary's activity.

Thus, the payment obligation of the beneficiaries of this State aid scheme is reduced to the following percentages:

Percentage of the number of green certificates which must be paid by the beneficiary	Electro-intensity of the beneficiary's activity
15%	greater than 20%
40%	10%-20%
60%	5-10%.

Electro-intensity is established pursuant to a formula taking into account the undertaking's electricity consumption, the price of electricity and the undertaking's turnover.

The exemption starts to apply the year when the exemption approval was obtained.

Procedural rules

In order to benefit from the scheme, an *exemption approval application* must be submitted to the Ministry of Economy.

Upon obtaining the approval, beneficiaries must notify it to the National Energy Regulatory Authority (ANRE) and to their electricity suppliers. In this case, the concerned electricity supplier is exempted, in turn, from the obligation to purchase the number of green certificates covered by the exemption, for the electricity delivered to this customer.

⁵ After the initial audit, subsequent audits are performed every four years, except for the final energy audit which must be performed in the last year of the validity of the scheme. Beneficiaries of this State aid scheme must report annually the status of the implementation of energy efficiency measures.

⁶ They conclude partnerships with educational institutions for programs such as: training at the workplace, scholarships etc.; they finance high school and university-level laboratories; they finance training programs for students and teachers.

Background of this new State aid scheme

Law no. 220/2008 regarding the promotion of renewable energy generation provides for a support scheme consisting of a green certificate system in order to supplement the revenues of renewable sources electricity generators.

Pursuant to this system, these generators receive a number of green certificates for a certain quantity of green electricity delivered into the network. Electricity suppliers, in turn, must purchase a number of green certificates depending on the quantity they supply to end customers.

The sale of green certificates to suppliers provides these generators with an income which supplements the income achieved from the sale of electricity. The electricity and green certificates markets are separate and operate independently.

This new State aid scheme was deemed necessary because the cost of green certificates is burdensome for electro-intensive industries. This scheme is in line with the European Commission's new *Guidelines on State aid in the field of environmental protection and energy for 2014-2020*, mentioned above.

The said *Guidelines* provide the compatibility criteria for environmental and energy individual aids and aid schemes, which are subject to approval by the European Commission. In this context, the *Guidelines* establish basic rules for assessing Member States' legislation exempting certain energy-intensive industries from some of the costs related to green energy.

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