

REGULATION
on state aid for environmental protection

This Regulation transposes the COMMISSION REGULATION (EC) No 800/2008 as of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation), in the chapters related to state aid for environmental protection; information fiches for aid for environmental protection from the Commission Regulation (EC) No 794/2004 as of 21 April 2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty and the Community guidelines on State aid for environmental protection (2008/C 82/01).

Section 1

Goal and scope

1. Under art.5 para. (1) let.e) from the Law no 139 as of 15 June 2012 on state aid, aid for environmental protection may be compatible with the normal competitive environment.
2. The provisions of this Regulation shall be applied taking account of the “polluter pays” principle, which means that the costs of measures to deal to prevent pollution should be borne by the polluter who causes the pollution, or should pay for the damages provoked by the pollution.
3. The provisions of this Regulation shall be applied taking account of the “internalization of costs” principle, means the principle that all costs associated with the protection of the environment should be included in the undertakings' production costs.
4. The observance of the “polluter pays” principle is the main rule, and the state aid represents the second option.
5. Granting aid for environmental protection may be justified if aid measures will result in a higher level of environmental protection than would occur without the aid and to ensure that the positive effects of the aid outweigh its negative effects in terms of distortion of competition, taking account of the “polluter pays” principle.
6. This Regulation shall be applied for the aid for environmental protection in all economic sectors including steel processing, shipbuilding, motor vehicles, synthetic fibers, transport.
7. The provisions of this Regulation shall be applied to state aid measures for environmental protection in agriculture, only for undertakings active in the processing and marketing of products, except for those provided for in Annex 1 to Regulation on notification form, examination procedure and decision making on state aid.
8. This Regulation does not cover financing environmental protection measures related to relating to air, road, railway, inland waterway and maritime transport infrastructure. The provisions of this Regulation shall not be applied to aid for R&D&I in the environmental domain. Such aid is covered by the Regulation on state aid for R&D&I. However, the market diffusion stage of eco-innovation (acquisition of an eco-innovation asset) is covered by this Regulation.

Section 2

Notions

9. In the meaning of this Regulation, the notions used mean the following:

environmental protection means any action designed to remedy or prevent damage to physical surroundings or natural resources, to reduce the risk of such damage or to lead to more efficient use of natural resources, including energy-saving measures and the use of renewable sources of energy;

reference investment means technically comparable investment, having the same production capacity, offering a lower degree of environment protection (corresponding with the mandatory standard, if there is one) and which could have been carried out without state aid. This reference investment must be a credible alternative to the investment under assessment. In case of renewable energy sources, it is generally considered that the reference is a central functioning on gaseous fuel, with the same production capacity, and in case of combined energy production, usually it is used a central with a separate production of electricity and heating;

energy-saving measure means any action which enables undertakings to reduce the amount of energy used in particular in their production cycle;

standard means:

- a) a mandatory standard setting the levels to be attained in environmental terms by individual undertakings, or
- b) the obligation to use the best available techniques;

best available techniques means the most effective and advanced stage in the development of activities and methods of operation which indicate the practical suitability in terms of certain techniques to serve as a reference in determining the emission limit values;

eco-innovation means all forms of innovation activities resulting in significantly improving environmental protection. Eco-innovation includes new production processes, new products or services, and new management and business methods, whose use and implementation is likely to prevent or substantially reduce the risks for the environment, pollution. The following are not considered innovations:

- a) minor changes or improvements;
- b) an increase in production or service capabilities through the addition of manufacturing or logistical systems which are very similar to those already in use;
- c) changes in business practices, workplace organization or external relations that are based on organizational methods already in use in the undertaking;
- d) changes in management strategy;
- e) mergers and acquisitions;
- f) ceasing to use a process;
- g) simple capital replacement or extension;

h) changes resulting purely from changes in factor prices, customization, regular seasonal and other cyclical changes;

i) trading of new or significantly improved products;

renewable energy sources means the following renewable non-fossil energy sources: wind, solar, geothermal, wave, tidal, hydropower installations, biomass, landfill gas, sewage treatment plant gas and biogases;

biofuels means liquid or gaseous fuel for transport produced from biomass;

sustainable biofuels means biofuels fulfilling the ecological sustainability criteria, respectively no wood shall be cut or any swamp drained for the production thereof;

energy from renewable energy sources means energy produced by plants using only renewable energy sources, as well as the share in terms of calorific value of energy produced from renewable energy sources in hybrid plants which also use conventional energy sources;

high efficiency cogeneration means production in cogeneration system ensuring primary energy savings of at least 10%, compared to reference values for separate production of electricity and heating;

district heating means the supply of heat, either in the form of steam or hot water, from a central source of production through a transmission and distribution system to multiple buildings, for the purpose of heating;

energy-efficient district heating means district heating which, with regard to generation, either complies with the criteria for high-efficiency cogeneration or, in the case of heat-only boilers, meets the reference values for separate heat production set out in the relevant legislation;

environmental tax means a tax whose specific tax base has a clear negative effect on the environment or which seeks to tax certain activities, goods or services so that the environmental costs may be included in their price and/or so that producers and consumers are oriented towards activities which better respect the environment;

operating benefits means, for the purposes of calculating eligible costs, in particular cost savings or additional ancillary production directly linked to extra investment for environmental protection and, where applicable, benefits accruing from other support measures whether or not they constitute State aid (operating aid granted for the same eligible costs, feed-in tariffs or other support measures);

operating costs means, for the purposes of calculating eligible costs, in particular additional production costs flowing from the extra investment for environmental protection;

tangible assets means, for the purposes of calculating eligible costs, investments in land which are strictly necessary in order to meet environmental objectives, investments in buildings, plant and equipment intended to reduce or eliminate pollution and nuisances, and investments to adapt production methods with a view to protecting the environment;

intangible assets means, for the purposes of calculating eligible costs, spending on technology transfer through the acquisition of operating licenses or of patented and non-patented know-how where the following conditions are fulfilled:

a) the intangible asset concerned must be regarded as a depreciable asset,

b) it must be purchased on market terms, from an undertaking in which the acquirer has no power of direct or indirect control,

c) it must be included in the assets of the undertaking, and remain in the establishment of the recipient of the aid and be used there for at least five years. This condition does not apply if the intangible asset is technically out of date. If it is sold during those five years, the yield from the sale must be deducted from the eligible costs and all or part of the amount of aid must, where appropriate, be reimbursed;

internalization of costs means the principle that all costs associated with the protection of the environment should be included in the polluting undertakings' production costs;

polluter pays principle means that the costs of measures to deal with pollution should be borne by the polluter who causes the pollution, unless the person responsible for the pollution cannot be identified or cannot be held liable under current legislation or may not be made to bear the costs of remediation;

pollution means the damage caused by the polluter by directly or indirectly damaging the environment, or by creating conditions leading to such damage, to physical surroundings or natural resources;

polluter means someone who directly or indirectly damages the environment or who creates conditions leading to such damage;

contaminated site means a site where there is a confirmed presence, caused by man, of dangerous substances of such a level that they pose a significant risk to human health or the environment taking into account current and approved future use of the land;

negative externalities means the cost of remediating negative effects brought to the environment which is transferred to the society (deterioration of air quality, soil, water, damage to human health in polluted area etc.), by the undertakings, which, operating only for their own economic interest when deciding to use a certain production technology, do not consider these effects;

market failure means the situation in which the market, without any intervention from exterior, has no efficient economic results. Under these conditions, the intervention of the state, in particular in the shape of state aid, may improve the market supply at the level of prices, output and use of resources;

high-tech means the highest technology available. In the meaning of waste management, the notion defines a process in which the use of a waste for manufacturing an end product represents a common practice, economically profitable.

Section 3

Assessment of state aid for environmental protection

10. The authorization of environmental aid is based on two types of assessments:

a) standard assessment involving aid under a certain threshold or aid granted to installations with a production capacity below a certain threshold. This aid may be considered compatible with a normal competition environment where it fulfils criteria provided for in sections 4-21 from this Regulation;

b) detailed assessment (provided for in sections 22 and 23 of this Regulation) for measures involving aid above that threshold or aid granted to installations with a production capacity above that threshold.

Section 4

Compatibility of aid subject to a detailed assessment

11. The provisions of this Section shall apply to aid measures which are deemed *a priori* to be related to the remediation of a specific market failure, which negatively affects the environmental protection. These aid measures are allowed when fulfilling specific criteria of granting, which ensure the observance of incentive effect, proportionality of aid and the limited negative effect on competition.

12. In certain circumstances the state aid for the following measures may be justified:

- a) aid for undertakings exceeding the standards which increase the environmental protection level in the absence of standards;
- b) aid for purchasing new transport vehicles exceeding the standards, or which increase the environmental protection level in the absence of standards;
- c) aid for early adaption to future standards;
- d) aid for environmental studies;
- e) aid for energy saving;
- f) aid for the production of renewable electricity;
- g) aid for cogeneration;
- h) aid for energy-efficient district heating;
- i) aid for waste management;
- j) aid for the remediation of contaminated sites;
- k) aid for the relocation of undertakings;
- l) aid in the form of reductions of or exemptions from environmental taxes.

13. The aid value shall be determined based on additional investment costs necessary for a higher degree of environmental protection, compared to an installation observing the compulsory standard or a production method observing the environment at a lower level, in the absence of compulsory standards.

14. An investment ensuring only the alignment to current compulsory standards shall not be eligible to receive state aid.

15. The aid may cover totally or partially only the additional costs generated by the investment ensuring the exceeding of the environment protection level imposed by current national standards.

Section 5

Establishing the eligible costs for granting state aid for environmental protection investments

16. The provisions of this Section shall be applicable to all categories of aid for environmental protection investments, for the purpose of setting the eligible costs for the aid.

17. Eligible costs must be limited to extra investment costs necessary to achieve a higher level of environmental protection than required by the standards and will be calculated in two steps:

a) the cost of the investment directly related to environmental protection will be established by reference to the counterfactual situation, where appropriate;

b) operating benefits will be deducted and operating costs will be added.

18. Where the investment aid is granted in a bidding process on the basis of clear, transparent and nondiscriminatory criteria, effectively ensuring that the aid is limited to the minimum necessary for achieving the maximum achieving the environmental gain, the aid intensity may amount to up to 100 % of the extra costs.

19. The bidding process must be non-discriminatory and must provide for the participation of a sufficient number of undertakings and the budget allocated must be a binding constraint in the sense that not all participants can receive aid.

20. The aid must be granted on the basis of the initial bid submitted by the bidder, thus excluding subsequent negotiation.

21. Where the cost of investing in environmental protection can be easily identified in the total investment cost, this precise environmental protection-related cost constitutes the eligible costs.

22. Where the cost of investing in environmental protection cannot be easily identified, the extra investment costs must be established by comparing the investment with the counterfactual situation, respectively with an investment comparable from the technical point of view, having the same production capacity and provides a lower degree of environmental protection (corresponding to mandatory standards, if they exist) and that would be realized without aid ("reference investment").

23. Eligible costs must be calculated net of any operating benefits and operating costs related to the extra investment for environmental protection and arising during the first five years of life of the investment concerned. Such operating benefits must be deducted and such operating costs may be added to the extra investment costs.

24. In the case of investments aiming at obtaining a level of environmental protection higher than the standards, the extra investment costs necessary for achieving a higher level of environment protection than the standards, constitutes the eligible costs. The costs of investments necessary for achieving the level of environmental protection required by the standards shall not be eligible.

25. Where no standards exist, eligible costs consist of the extra investment costs necessary to achieve a higher level of environmental protection than that which the undertaking or undertakings in question would achieve in the absence of any environmental aid.

26. Eligible investments may take the form of tangible and/or intangible assets investments.

Section 6

Aid for undertakings which go beyond standards or

which increase the level of environmental protection in the absence of standards

27. The investments benefiting from aid shall fulfil one of the following conditions:

- a) the investment shall enable the beneficiary to increase the level of environmental protection resulting from its activities by exceeding applicable standards;
- b) the investment shall enable the beneficiary to increase the level of environmental protection resulting from its activities in the absence of standards.

28. Aid may not be granted where improvements are to ensure that companies comply with standards already adopted but not yet in force.

29. The aid intensity shall not exceed 50 % of the eligible costs, as defined in Section 5 of this Regulation.

30. The value of aid intensity may reach 100% from eligible investment costs, if the aid is granted in a real competitive bidding process, in compliance with p.18 from the present Regulation.

31. Where the investment is related to purchasing an eco-innovation asset or launching an eco-innovation project, the value of aid intensity may increase by 10 percentage points, in the following cumulative conditions:

- a) the eco-innovation asset or project shall be new or improved substantially compared to the high technology from the related industrial sector;
- b) the expected environmental benefit must be significantly higher than the improvement resulted from the general evolution of the art level in comparable activities. When quantitative parameters can be used to compare eco-innovative activity to standard activities, “significantly high” means that marginal improvement expected as a result of eco-innovative activity, in terms of reduced medium risk, or reduced pollution, or improved efficiency of energy or resources, should be at least two times higher than marginal improvement expected as a result of general evolution of non-innovative comparable activities. When a quantitative comparison is not possible, the method used for the evaluation of this criterion should be written in details, which could guarantee for a standard which is comparable to that of the proposed method;
- c) the innovative character of these assets or projects involves a clear degree of risk, in technological, market or financial terms, which is higher than the risk generally associated with comparable non-innovative assets or projects.

32. Where the aid is to be granted to SMEs, the aid intensity may be increased by 10 percentage points for medium-sized enterprises and by 20 percentage points for small enterprises, as set out in the table.

33. In transport industry, aid may be granted for undertakings exceeding standards or increasing environment protection level in absence of standards, under conditions provided for in Section 6 of this Regulation.

34. By derogation from p.33 of this Regulation, aid for acquisition of new transport vehicles for road, railway, inland waterway and maritime transport complying with adopted standards is permissible, when such acquisition occurs before their entry into force and where the new standards, once mandatory, will not apply retroactively to already purchased vehicles.

	Intensity of Aid for undertakings which go beyond standards or which increase the level of environmental protection in the absence of standards, <i>except for eco-innovation</i>	Intensity of Aid for undertakings which go beyond standards or which increase the level of environmental protection in the absence of standards, <i>except for eco-innovation</i>
Small enterprises	70%	80%
Medium sized enterprises	60%	70%
Large enterprises	50%	60%

Section 7

Aid for early adaptation to future standards

35. Aid shall be granted for complying with new standards which increase the level of environmental protection, if they were adopted but are not yet in force. The aid shall be granted provided that the investment is finalized at least one year before the entry into force of the standard.

36. The maximum aid intensity shall be presented as follows:

	Aid intensity when the finalization of investments occurs:	
	At least 3 years before the entry into force of the standard	Between 1 and 3 years before the entry into force of the standard
Small enterprises	25%	20%
Medium sized enterprises	20%	15%
Large enterprises	15%	10%

Section 8

Aid for environmental studies

37. Aid to companies for studies directly linked to investments for the purpose of exceeding environmental standards under the conditions set out in Section 6 of this Regulation, achieving energy saving under the conditions set out in Section 9 of this Regulation, producing renewable energy under the conditions set out in Section 10 of this Regulation, will be considered compatible with the common competition environment if the following conditions are fulfilled:

- a) The aid intensity shall not exceed 50 % of the study-related costs;
- b) Where the study is undertaken on behalf of an SME, the aid intensity may be increased by 10 percentage points for medium-sized enterprises and by 20 percentage points for small enterprises, as set out in the table:

	Aid for environmental studies
Small enterprises	70%
Medium sized enterprises	60%

Large enterprises	50%
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38. The above mentioned conditions will also apply in cases where the investment for the study is not undertaken.

Section 9

Aid for energy saving

39. Investment aid enabling undertakings to achieve energy savings will be considered compatible with the common competition environment, if the following conditions are fulfilled:

- a) The aid intensity shall not exceed 60 % of the eligible investment costs;
- b) Where the aid is to be granted to SMEs, the aid intensity may be increased by 10 percentage points for medium-sized enterprises and by 20 percentage points for small enterprises, as set out in the table:

	Aid for energy saving
Small enterprises	80%
Medium sized enterprises	70%
Large enterprises	60%

40. The value aid may increase to 100% from the eligible investment costs where the aid is granted in a genuinely competitive bidding process as defined in p.18 from this Regulation.

41. Eligible costs must be limited to extra investment costs necessary to achieve energy savings beyond the level required by current standards if they exist.

42. The operating aid for energy saving shall be granted only if the following conditions are fulfilled:

- a) the aid is limited to compensating for net extra production costs resulting from the investment, taking account of benefits resulting from energy saving. Production costs shall be calculated excluding any aid received and including a normal profit level. In determining the amount of operating aid, any investment aid granted to the undertaking in question in respect of the new plant must be deducted from production costs;
- b) the aid is subject to a limited duration of maximum five years.

Section 10

Aid for renewable energy sources

43. Investment and operating aid for the promotion of energy production from renewable sources will be considered compatible with the common competition environment if there is no mandatory standard concerning the share of energy from renewable sources for individual undertakings and the aid for investment and/or operating aid for the production of biofuels shall be allowed only with regard to sustainable biofuels.

44. The aid intensity must not exceed 60 % of the eligible investment costs.

45. Where the investment aid for renewable energy sources is to be given to SMEs, the aid intensity may be increased by 10 percentage points for medium-sized enterprises and by 20 percentage points for small enterprises, as set out in the table:

	Investment aid –renewable energy sources
Small enterprises	80%
Medium sized enterprises	70%
Large enterprises	60%

46. The value of aid intensity may increase to 100% from the eligible investment costs where the investment aid is granted in a genuinely competitive bidding process as defined in p. 18 from this Regulation.

47. For renewable energy, eligible investment costs must be limited to extra investment costs borne by the beneficiary compared with a conventional power plant or with a conventional heating system with the same capacity in terms of the effective production of energy.

48. Eligible costs must be calculated net of any operating benefits and operating costs related to extra investment for renewable sources of energy and arising during the first five years of the life of this investment, as set out in Section 5 of this Regulation.

49. Operating aid for the production of renewable energy may be justified in order to cover the difference between the cost of producing energy from renewable energy sources and the market price of the form of energy concerned regardless of the fact whether the renewable energy is produced for the purposes of subsequently selling it on the market or for the purposes of the undertaking's own consumption.

50. Operating aid may be granted to compensate for the difference between the cost of producing energy from renewable sources, including depreciation of extra investments for environmental protection, and the market price of the form of energy concerned.

51. Operating aid may then be granted until the plant has been fully depreciated.

52. Any further energy produced by the plant will not qualify for any aid.

53. The aid may cover a normal return on capital.

54. Any investment aid granted to the undertaking in respect of the new plant must be deducted from production costs when determining the amount of operating aid.

Section 11

Aid for cogeneration

55. The aid for cogeneration will be considered compatible with the common competition environment provided that the following conditions are fulfilled:

a) *aid for investment* shall be granted for:

- establishing a new high-efficiency cogeneration unit (with primary energy savings of 10% compared to separate production);

- improvement of an existing cogeneration unit or conversion of an existing power generation unit into a cogeneration unit resulting in primary energy savings compared to separate production;

b) *operational aid* shall be granted to the existing high-efficiency cogeneration unit making primary energy saving compared to separate production.

56. The aid intensity must not exceed 60 % of the eligible investment costs.

57. Where the aid for cogeneration is to be given to SMEs, the aid intensity may be increased by 10 percentage points for medium-sized enterprises and by 20 percentage points for small enterprises, as set out in the table:

	Aid for cogeneration
Small enterprises	80%
Medium sized enterprises	70%
Large enterprises	60%

58. The value of aid intensity may increase to 100% from the eligible investment costs where the aid is granted in a genuinely competitive bidding process as defined in p. 18 from this Regulation.

59. Eligible costs must be limited to extra investment costs necessary to realize a high-efficiency cogeneration plant as compared to the reference investment and must be calculated net of any operating benefits and operating costs related to the extra investment and arising during the first five years of the life of this investment, as set out Section 5 of this Regulation.

60. Operating aid for high-efficiency cogeneration may be granted in accordance with the rules for operating aid for renewable energy laid down in Section 10 of this Regulation.

61. Operating aid for cogeneration may be granted to:

a) undertakings distributing electric power and heat to the public where the costs of producing such electric power or heat exceed its market price. The decision as to whether the aid is necessary will take account of the costs and revenue resulting from the production and sale of the electric power or heat;

b) for the industrial use of the combined production of electric power and heat where it can be shown that the production cost of one unit of energy using that technique exceeds the market price of one unit of conventional energy. The production cost may include the plant's normal return on capital, but any gains by the undertaking in terms of heat production must be deducted from production costs.

Section 12

Aid for energy-efficient district heating

62. Environmental investment aid in energy-efficient district heating installations (to the exclusion of district heating infrastructure which does not fall within the scope of the present Regulation) will be considered compatible with the common competition environment, provided that it is granting for establishment of energy-efficient district heating leading to primary energy saving or is related to using and distributing waste heat for district heating.

63. Where the aid shall be intended exclusively for general component of a district heating plant, energy-efficient district heating plants using renewable energy sources or cogeneration shall be regulated by the norms set in Section 10, respectively Section 11 of this Regulation.

64. The aid intensity must not exceed 50 % of the eligible investment costs.

65. Where the investment aid for energy-efficient district heating is to be given to SMEs, the aid intensity may be increased by 10 percentage points for medium-sized enterprises and by 20 percentage points for small enterprises, as set out in the table:

	Aid for energy-efficient district heating
Small enterprises	70%
Medium sized enterprises	60%
Large enterprises	50%

66. The value of aid intensity may increase to 100% from the eligible investment costs where the investment aid is granted in a genuinely competitive bidding process as defined in p. 18 from this Regulation.

67. Eligible costs must be limited to extra investment costs necessary to realize energetically-efficient district heating as compared to the reference investment and must be calculated net of any operating benefits and operating costs related to the extra investment and arising during the first five years of the life of this investment, as set out Section 5 of this Regulation.

Section 13

Aid for waste management

68. Environmental investment aid for the management of waste of other undertakings, including activities of re-utilization, recycling and recovery, will be considered compatible with the common competition environment provided that such management is in accordance with the principle according to which waste management shall contain the three components: recovery, recycling, reutilization, and the waste the production of which is unavoidable shall be treated and eliminated safely.

69. Investment aid for waste management shall fulfil the following conditions:

- a) the investment is aimed at reducing pollution generated by other undertakings ("polluters") and does not extend to pollution generated by the beneficiary of the aid;
- b) the aid does not indirectly relieve the polluters from a burden that should be borne by them, or from a burden that should be considered a normal cost for the polluters;
- c) the investment goes beyond the "high technology" or uses conventional technologies in an innovative manner;
- d) without aid, the materials treated would otherwise be disposed of, or be treated in a less environmentally friendly manner;
- e) the investment increases the collection of materials not only the demand for the materials to be recycled.

70. The aid intensity must not exceed 50 % of the eligible investment costs.

71. Where the investment aid for waste management is to be given to SMEs, the aid intensity may be increased by 10 percentage points for medium-sized enterprises and by 20 percentage points for small enterprises, as set out in the table:

	Aid for waste management
Small enterprises	70%
Medium sized enterprises	60%
Large enterprises	50%

72. Eligible costs must be limited to extra investment costs necessary to realize an investment leading to waste management compared to the reference investment, that is to say, a conventional production not involving waste management with the same capacity.

73. The cost of such reference investment must be deducted from the eligible cost.

74. Eligible costs must be calculated net of any operating benefits and operating costs related to the extra investment for waste management and arising during the first five years of the life of this investment, as set out in Section 5 of this Regulation. If the investment is concerned solely with environmental protection without any other economic benefits, no additional reduction will be applied in determining the eligible costs.

Section 14

Aid for the remediation of contaminated sites

75. Investment aid to undertakings repairing environmental damage by remediating contaminated sites will be considered compatible with the common competition environment provided that it leads to an improvement of environmental protection.

76. The environmental damage concerned covers damage to the quality of the soil or of surface water or groundwater.

77. Where the polluter is clearly identified, that person must finance the remediation in accordance with the "polluter pays" principle, and no State aid may be granted.

78. Where the polluter is not clearly identified or cannot bear the costs, the person responsible for carrying out the working may benefit from an aid in this respect.

79. Aid for the remediation of contaminated sites may amount to up to 100 % of the eligible costs.

80. The total amount of aid may not exceed the actual expenditure incurred by the undertaking.

81. The eligible costs are equal to the cost of the remediation work less the increase in the value of the land.

82. All expenditure incurred by an undertaking in remediating its site, whether or not such expenditure can be shown as a fixed asset on its balance sheet, ranks as eligible investment in the case of the remediation of contaminated sites.

Section 15

Aid for the relocation of undertakings

83. Investment aid for relocation of undertakings to new sites for environmental protection reasons will be considered compatible with the common competition environment provided that the following conditions are met:

a) the change of location must be dictated by environmental protection or prevention grounds and must have been ordered by the administrative or judicial decision issued by a competent public authority or agreed between the undertaking and the competent public authority;

b) the undertaking must comply with the strictest environmental standards applicable in the new region where it is located.

84. The beneficiary can be:

a) an undertaking established in an urban area or in a special area of conservation which lawfully carries out an activity that creates significant pollution and must, on account of that location, move from its place of establishment to a more suitable area; or

b) an establishment or installation with dangerous substances in big quantities which can generate major accidents.

85. The aid intensity must not exceed 50 % of the eligible investment costs.

86. The aid intensity may be increased by 10 percentage points for medium-sized enterprises and by 20 percentage points for small enterprises, as set out in the table:

	Aid for the relocation of undertakings
Small enterprises	70%
Medium-sized enterprises	60%
Large enterprises	50%

87. In order to determine the amount of eligible costs in the case of relocation aid, all the benefits will take into account, in particular: the yield from the sale or renting of the plant or land abandoned; the compensation paid in the event of expropriation; any other gains connected with the transfer of the plant, gains resulting from an improvement in the technology used and gains associated with better use of the plant; investments relating to any capacity increase.

88. In order to determine the amount of eligible costs, the following shall be taken into account: the costs connected with the purchase of land or the construction or purchase of new plant of the same capacity as the plant abandoned; any penalties imposed on the undertaking for having terminated the contract for the renting of land or buildings, if the administrative or judicial decision ordering the change of location results in the early termination of this contract.

Section 16

Aid in the form of reductions of or exemptions from environmental taxes

89. Aid in the form of reductions or exemptions from environmental taxes shall be compatible with the common competition environment, provided the aid contributes at least indirectly to the improvement of environment protection level, and the reductions or exemptions from environmental taxes shall not undermine the general objective pursued, that is environment protection.

90. Evaluation of the tax schemes which include state aid elements in the form of reductions or exemptions from environmental taxes shall generally pursue the way in which the necessity and the proportionality of the aid is observed, as well its effects on the economic sectors at issue.

91. Where notifying a state aid measure, the provider shall carry out and provide the Competition Council with an assessment which shall include, on the one hand, the analysis of the sector(s) or categories of beneficiaries which are subject to exemptions/reductions of environmental taxes, and, on the other hand, the situation of main beneficiaries from each sector at issue, as well as the way in which the application of the tax may contribute to the improvement of environmental protection.

92. Sectors benefiting from exemptions or reductions of environmental taxes must be described correctly and there must be provided a list with the main beneficiaries, namely including the turnover, market shares and the tax base value.

93. The aid shall be deemed necessary if the provider of the aid demonstrates that the following conditions are fulfilled:

- a) choosing of beneficiaries shall be grounded on objective and transparent criteria, and shall be granted in the same way for all the competitors from the same relevant sector/market, if they are in a similar factual situation;
- b) without reduction, the environment tax shall lead to a substantial increase of the production costs for each sector of category of individual beneficiaries;
- c) this substantial increase of the production costs may not be transferred to consumers without determining significant decreases in sales. For this purpose, the provider may offer estimations on the elasticity of prices to product from the sector at issue on the relevant geographic market, as well estimations on losses of sales and/or reduced profits for undertakings from the sector/category at issue.

94. The aid shall be deemed proportional if one of the following conditions shall be:

- a) the scheme sets criteria to guarantee that any undertaking registering low environment performance shall benefit from a lower tax reduction, proportional to its environment performance;
- b) beneficiaries of the state aid shall pay minimum 20% from the environment tax.

Section 17

Aid measures making the object of a comparative assessment

95. Individual aid based on authorized schemes involving substantial values or which have a high competition distortion potential, make the object of a comparative assessment enabling the Competition Council to decide if such aid is compatible with the common competition environment.

96. The following aid measures shall make the object of a comparative assessment:

Type of measure	Detailed assessment
Aid for all investments (regardless of the type)	equivalent in MDL of 7,5 mln MDL per undertak
Operational aid for energy saving	equivalent in MDL of 5 mln MDL per undertak

	for a period of 5 years
Operational aid for renewable energy sources production and/or for combined production of renewable heat	the resulting renewable electricity generation capacity exceeds 125 MW
operating aid for the production of biofuel	the resulting production exceeds 150000 t per year
operating aid for cogeneration	the resulting cogeneration electricity capacity exceeding 200 MW.

97. For the purpose comparative assessment of the notified aid measure, the Competition Council shall use, in addition to the standard assessment criteria provided for in Sections 4-16 of this Regulation, the comparative assessment provided for in Section 11 of the Regulation on notification form, examination procedure and decision making on state aid, which consists in evaluating the positive and negative effects of the aid measure, respectively increasing the environment protection level compared to the distorted competition effects.

98. The provider shall provide the Competition Council with all available information related to the assessment. These can be: impact studies, assessment on use of other policy options than the state aid, older aid measures which were applied and whose effects could have been quantified and which could have serve as example for the notified case, the way to comply with the “polluter pays” principle, etc.

99. In its assessment, the Competition Council shall take account of the following elements: value of the aid granted to the undertaking, frequency of state aid grated in the past to the undertaking, duration of the requested aid, risk of cross-subsidization of undertaking’s activities, undertaking’s financial situation, assessment of the sector to which the undertaking belongs, overcapacity in the sector concerned, the regular behavior of the undertaking from the sector, which reached the same environment protection level without aid, beneficiary’s market power and any other elements enabling the Competition Council to carry out detailed assessment of the aid mean’s opportunity.

100. Aid for environment must not contribute to the maintenance on the market of inefficient undertakings.

101. Based on the above mentioned elements, the Competition Council shall balance both negative and positive effects of the aid mean and shall decide whether the resulted distortions affect significantly the competition, insofar the measure may not be authorized, or if the competition distortion is not significant, and the effects on environment protection are so high that the aid measure may not be authorized.

Section 18

Aid cumulation

102. The aid ceilings fixed under this Regulation shall apply regardless of whether the support for the aided project is financed entirely from State resources or external resources.

103. Aid authorized under this Regulation may be combined with other State aid within the meaning of art. 5 from the Law no 139 as of 15 June 2012 on the state aid or with other forms of financing from external resources provided that such cumulation does not lead to an aid intensity higher than that laid down in this Regulation.

104. Where the costs eligible for aid for environmental protection is eligible in whole or in part for aid for other purposes, the common portion will be subject to the most favorable aid ceiling under the applicable rules.

105. Aid for environmental protection may be cumulated with de minimis aid in respect of the same eligible costs if such cumulation would not result in an aid intensity exceeding that fixed in this Regulation.

Section 19

Final and transitional provisions

106. This regulation will be applied to state aid for environment protection notified after its entry into force, and to state aid which was notified prior to its entry into force, but the decision of the Competition Council Plenum is subsequent to this date or the Competition Council Plenum has not issued a decision yet.

107. Recording and reporting of the state aid granted in compliance with the provisions of this Regulation shall be carried out according to the State Aid Register.

108. The provisions of this Regulation shall be applied with the observance of the provisions of the Law on Competition no183 as of 11 July 2012, Law no 139 as of 15 June 2012 on state aid and in accordance with the enactments adopted by the Competition Council Plenum.

Annex

*to the REGULATION on state aid
for environmental protection*

SPECIAL NOTIFICATION FORM

ON STATE AID FOR ENVIRONMENTAL PROTECTION

This special notification form must be used for the notification of any aid regulated by the Regulation on state aid for environmental protection.

1. Basic characteristics of the notified measure

Fill in the relevant section of the Special notification form, which comply with the character of the notified measure. Find below a fundamental guide.

(A) Specify the type of aid and fill in the corresponding sub-sections from the Section 3 (Compatibility of aid pursuant art.5 para.3 from the Law no 139 as of 15 June 2012 on state aid) from this Special notification form:

- aid for undertakings exceeding the standards which increase the environmental protection level in the absence of standards, *fill in Section 3.1;*
- aid for purchasing new transport vehicles exceeding the standards, or which increase the environmental protection level in the absence of standards, *fill in Section 3.1;*
- aid for early adaption to future standards, *fill in Section 3.2;*
- aid for environmental studies, *fill in Section 3.3;*
- aid for energy saving, *fill in Section 3.4;*
- aid for the production of renewable electricity, *fill in Section 3.5;*

- aid for cogeneration, *fill in Section 3.6*;
- aid for energy-efficient district heating, *fill in Section 3.7*;
- aid for waste management, *fill in Section 3.8*;
- aid for the remediation of contaminated sites, *fill in Section 3.9*;
- aid for the relocation of undertakings, *fill in Section 3.10*;
- aid in the form of reductions of or exemptions from environmental taxes, fill in Section 6.

Bellow shall be filled in: **Section 4** “Incentive effect and need for aid”, **Section 7** “Criteria for detailed assessment”, **Section 8** “Additional information for detailed assessment” and **Section 10** “Reporting and monitoring”.

(B) Explain the basic characteristics (objective, the likely effects of the aid, aid instrument, aid intensity, beneficiaries, budget etc.) of the notified measure

(C) May the aid be cumulated with the other aid?

Yes No

If yes, fill in Section 9 “Cumulation” from this Special notification form.

(D) Is the aid granted for promoting the enforcement of an important project of national interest?

Yes No

If yes, fill in **Section 5** from this Special notification form.

(E) If the notified aid is based on an approved scheme, provide details on the respective scheme (case number, date of authorization by the Competition Council Plenum)

(F) Please confirm that, if an aid/bonus is granted to small enterprises, the beneficiaries comply with the legal definition of small enterprises.

Yes No

(G) Please confirm that, if an aid/bonus is granted to medium-sized enterprises, the beneficiaries comply with the legal definition of medium-sized enterprises.

Yes No

(H) If appropriate, specify the exchange rate used in view of notification:

(I) Enumerate all the documents provided as annexes to this form and indicate the numbers of documents in relevant sections of this special notification form.

2. Objective of aid

(A) Taking account of the objectives of common interest set in the Regulation on state aid for environmental protection, specify environmental objectives pursued by the notified measure. Provide a detailed description of each type of aid to be granted within the notified measure.

(B) If the notified measure was applied in the past, specify the results thereof as to environment protection (case number, date of authorization by the Competition Council Plenum and if possible, annex the evaluation reports of the measure).

(C) For a new measure, please specify the estimated results and the period of achieving them.

3. Compatibility of aid pursuant art.5 para.(3) let.(c) from the Law no 139 as of 15 June 2012 on state aid

If more beneficiaries participate in the project notified as individual aid, provide the information below for each of these.

3.1. Aid for undertakings exceeding the national standards or which increase the environmental protection level in the absence of national standards.

3.1.1.The nature of supported investments, applicable standards

(A) Specify if the aid is granted for:

Investments enabling the beneficiary to increase the environment protection level resulted from its activities by exceeding national standards;

OR

Investments enabling the beneficiary to increase the environment protection level resulted from its activities in the absence of national standards.

(B) Provide details, if appropriate, including information on relevant national standards:

3.1.2.Aid intensities and bonuses

For aid schemes, the aid intensity must be calculated for each beneficiary.

(A) What is the maximum intensity of the aid applicable to the notified measure?

(B) Is the aid granted in a competitive bidding process?

Yes No

If yes, provide details on the competitive bidding process and attach a copy of the announcement of participating to the bid or its draft.

(C) Bonuses:

Do the project receiving support benefit form a bonus?

Yes No

If yes, specify bellow.

- Shall a bonus for the SME be applied within the notified measure?

Yes No

If yes, specify the level of applicable bonus:

- Shall a bonus for eco-innovation be applied within the notified measure?

Yes No

If yes, describe the way in which the following conditions shall be fulfilled:

- Eco-innovation product or project is new or substantially improved compared to high technology in the industrial sector in question from the country;
- The expected benefit for environment is significantly higher than the improvement resulted from the general evolution of high technology in comparable activities;
- The innovative character of these products or projects imply a clear degree of risk, in technological or financial terms, which is higher than the risk generally associated with the products or projects without comparable innovative character.

Provide details proving the compliance with the above-mentioned conditions:

Specify the applicable bonus level:

(D) In case of an aid measure, specify the total intensity of the aid for which it benefits from the support within the notified scheme (taking into account bonuses) (%):

3.1.3. Eligible costs

(A) Confirm the following: shall eligible costs be limited to the extra investments costs needed for achieving a higher environment protection level than the one required by national standards?

Yes No

(B) Confirm:

- Precise costs related to environment protection constitute eligible costs, where the environment protection investment costs may be easily identified;

OR

- Extra investments costs shall be set by comparing the investments with the contra factual situation in absence of aid, that is with the reference investment;

AND

- Eligible costs must be calculated net of any operating benefits and operating costs related to the extra investment for environmental protection and arising during the first five years of the life of the investment concerned.

(C) What is the shape of eligible costs?

- investment in tangible assets;

investment in intangible assets;

(D) For investment in tangible assets, specify the shape(s):

investments in land, strictly necessary for fulfilling environment objectives;

investments in buildings, intended to reduce or to eliminate pollution and damage;

investments in plant and equipment intended to reduce or eliminate pollution and nuisance;

investments to adapt production methods with a view to protecting the environment.

(E) For investment in intangible assets (technology transfer through the acquisition of operating licenses or of patented and non-patented know-how), confirm that all of them fulfil the following conditions:

are being deemed as assets which can be depreciated;

are being purchased under market conditions from an undertaking in which the beneficiary does not have any power of direct or indirect control;

it must be included in the assets of the undertaking, and remain in the establishment of the recipient of the aid and are used there for at least five years.

Additionally, confirm that if intangible assets are sold during these five years:

the yield from the sale must be deducted from the eligible costs;

and

all or part of the amount of aid must, where appropriate, be reimbursed.

(F) For investments related to obtaining of a higher protection level than the national standards, confirm the validity of applicable affirmations:

if the undertaking adapts to the standards which are more restrictive than the national standards in the domain, the eligible costs constitute the extra investment costs necessary for achieving the environment protection level requested by the standard to which the undertaking adapts;

If the undertaking adapt or exceeds standards which are more severe than the national standards, eligible costs constitute extra investments necessary for achieving the environment protection level higher than the level requested by national standards;

where no standards exist, eligible costs consist of the extra investment costs necessary to achieve a higher level of environmental protection than that which the undertaking or undertakings in question would achieve in the absence of any environmental aid.

(G) For aid schemes, provide a detailed calculation methodology, compared with the counterfactual situation, which shall be applied to all individual aid based on the notified scheme, and provide evidence in this respect:

For individual aid measures, provide a detailed calculation of eligible costs related to the notified investment project compared to the counterfactual situation, and provide evidence in this respect:

3.1.4. Specific norms on aid for purchasing new transport vehicles exceeding national standards, or which increase the environmental protection level in the absence of national standards

For aid for purchasing new transport vehicles exceeding the standards, or which increase the environmental protection level in the absence of standards, additional to sections 3.1.1. – 3.1.3:

(A) Confirm that purchase of new transport vehicles for road, railway, inland waterway and maritime transport complying with adopted national standards occurred before their entry into force and where the new standards, once mandatory, will not apply retroactively to already purchased vehicles.

Yes No

Provide details:

(B) For upgrading operations for environment protection in transport sector, confirm:

existent transport means are upgraded in the meaning of adjusting to ecologic standards which were not in force on the date when the transport means in question were placed in service

OR

the transport means in question shall not be subject to any environment standards.

3.2. Aid for early adaption to future national standards;

3.2.1. Fundamental conditions

(A) Confirm that the investment shall be enforced and finalized at least one year before the entry into force of the standard.

Yes No

If yes, for aid schemes, provide details related to the way this condition is observed:

If yes, for individual aid, provide details and relevant evidence:

(B) Provide details related to relevant national standards, including relevant data for ensuring the observance of the condition provided for in p. (A):

3.2.2. Aid intensities

Which is the basic maximum intensity applicable to the notified measure?

- for small enterprises:

- for medium sized enterprises:

- for large enterprises:

3.2.3. Eligible costs

(A) Confirm the following: Eligible costs must be limited to extra investment costs necessary to achieve a higher level of environmental protection than required by national standards compared to the existent environment protection level requested prior to entry into force of this standard:

Yes No

(B) Specify the following:

Precise costs related to environment protection constitute eligible costs, where the environment protection investment costs may be easily identified;

OR

Extra investments costs shall be set by comparing the investments with the contra factual situation in absence of aid, that is with the reference investment;

AND

Eligible costs must be calculated net of any operating benefits and operating costs related to extra investment for environmental protection and arising during the first five years of the life of the investment concerned.

(C) What is the shape of eligible costs?

investment in tangible assets;

investment in intangible assets

(D) For investment in tangible assets, specify the shape(s):

investments in land, strictly necessary for fulfilling environment objectives;

investments in buildings, intended to reduce or to eliminate pollution and damage;

investments in plant and equipment intended to reduce or eliminate pollution and nuisance;

investments to adapt production methods with a view to protecting the environment.

(E) For investment in intangible assets (technology transfer through the acquisition of operating licenses or of patented and non-patented know-how), confirm that all of them fulfil the following conditions:

are being deemed as assets which can be depreciated;

are being purchased under market conditions from an undertaking in which the beneficiary does not have any power of direct or indirect control;

must be included in the assets of the undertaking, and remain in the establishment of the recipient of the aid and be used there for at least five years.

Additionally, confirm that if intangible assets are sold during these five years:

the yield from the sale must be deducted from the eligible costs;

AND

all or part of the amount of aid must, where appropriate, be reimbursed.

(F) For aid schemes, provide a detailed calculation methodology, compared with the counterfactual situation, which shall be applied to all individual aid based on the notified scheme, and provide evidence in this respect:

For individual aid measures, provide a detailed calculation of eligible costs related to the notified investment project compared to the counterfactual situation, and provide evidence in this respect.

3.3.*Aid for environmental studies*

3.3.1. *Studies linked directly to investments related to achieving standards which exceed national standards or which increase the environmental protection level in the absence of national standards*

(A) Specify if the aid is granted for studies linked directly to investments related to achieving standards which exceed national standards or which increase the environmental protection level in the absence of national standards.

Yes No

If yes, specify, to which of the following objectives the investment is useful:

Enables the beneficiary to increase environment protection level resulted from its activities by exceeding applicable national standards;

OR

Enables the beneficiary to increase environment protection level resulted from its activities in the absence of national standards.

(B) Provide details, if appropriated also, information related to relevant national standards:

(C) If the aid shall be granted for studies linked directly to investments related to achieving standards which exceed national standards, specify the standards in question and attach a copy:

(D) Describe the types of studies to benefit from the support:

3.3.2.*Studies linked directly to investments related to energy saving*

(A) Confirm that the aid shall be granted studies linked directly to investments related to energy saving.

Yes No

(B) Specify the type(s) of energy saving sources to be supported within the investment related to environment study and provide details:

3.3.3.*Studies linked directly to investments related to renewable energy production*

(A) Confirm that the aid shall be granted to studies linked directly to investments related to renewable energy production.

Yes No

If yes, provide details regarding the way in which the objective of relevant investment, observes the definition of renewable energy source provide for in p.9 from the Regulation on state aid for environment protection.

(B) Specify the type(s) of renewable energy to be sustained within the investment linked to environment study and provide details:

3.3.4. Aid intensities and bonuses

(A) Which is the maximum intensity of the aid applicable to the notified measure?

(B) Shall a bonus for SMEs be applied within the notified measure?

Yes No

If yes, specify the level of the applicable bonus:

3.4. Aid for energy saving

3.4.1. Fundamental conditions

(A) Confirm that the notified measure observes the definition of energy saving provided for in p.9 from the Regulation on state aid for environment protection.

Yes No

(B) Specify the type(s) of measures benefiting from support which determine energy saving, as well the level of energy saving to be achieved, and provide details:

3.4.2. Aid for investments

3.4.2.1. Aid intensity and bonuses

(A) Which is the maximum intensity of the aid applicable to the notified measure?

(B) Bonuses:

Shall a bonus for SMEs be applied within the notified measure?

Yes No

If yes, specify the level of the applicable bonus:

Yes No

(C) Shall the aid be granted within a competitive bidding process?

Yes No

If yes, provide details on the competitive bidding process and attach a copy of the announcement of participating to the bid or its draft.

(D) For aid measure, specify the total aid intensity for projects benefiting form support within the notified scheme (taking into account the bonuses) (%)

3.4.2.2. Eligible costs

(A) Confirm that the eligible costs must be limited to extra investment costs necessary to achieve the energy saving above the level required by national standards:

Yes No

(B) Specify the following:

Precise costs related to energy saving constitute eligible costs, where the environment protection investment costs may be easily identified;

OR

The part related directly to energy saving shall be set by comparing the investments with the counterfactual situation in absence of the aid, that is with the reference investment;

AND

Eligible costs must be calculated net of any operating benefits and operating costs related to extra investment for energy saving and arising during the first five years of the life of the investment concerned for the SMEs, during the first four years for large enterprises.

(C) If the undertaking adapt or exceeds standards which are more severe than the national standards, confirm which of the following statement is valid:

If the undertaking adapts to standards in absence of national standards, eligible costs constitute extra investments necessary for achieving the environment protection requested by standards to which the undertaking adapt;

if the undertaking adapts to the standards which are more severe than the national standards or exceeds national standards, the eligible costs constitute extra investment costs necessary for achieving the environment protection level higher than the level requested by national standards;

where no standards exist, eligible costs consist of extra investment costs necessary to achieve a higher level of environmental protection than that which the undertaking or undertakings in question would achieve in the absence of any environmental aid.

(D) What is the shape of eligible costs?

investments in tangible assets;

investments in intangible assets;

(E) For investments in tangible assets, specify the shape(s):

investments in land, strictly necessary for fulfilling environment objectives;

investments in buildings, intended to reduce or to eliminate pollution and damage;

investments in plant and equipment intended to reduce or eliminate pollution and nuisance;

investments to adapt production methods with a view to protecting the environment.

(F) For investments in intangible assets (technology transfer through the acquisition of operating licenses or of patented and non-patented know-how), confirm that all of them fulfil the following conditions:

are being deemed as assets which can be depreciated;

are being purchase under market conditions from an undertaking in which the beneficiary does not have any power of direct or indirect control;

must be included in the assets of the undertaking, and remain in the establishment of the recipient of the aid and be used there for at least five years.

Additionally, confirm that if intangible assets are sold during these five years:

the yield from the sale must be deducted from the eligible costs;

AND

all or part of the amount of aid must, where appropriate, be reimbursed.

(G) For aid schemes, provide a detailed calculation methodology, compared with the counterfactual situation, which shall be applied to all individual aid based on the notified scheme, and provide evidence in this respect:

For individual aid measures, provide a detailed calculation of eligible costs related to the notified investment project compared to the counterfactual situation, and provide relevant evidence in this respect;

3.4.3.Operational aid

(A) Provide information/calculations to prove that the aid is limited to compensating for net extra production costs resulting from the investment, taking account of benefits resulting from energy saving.

(B) Which is the duration of operational aid measure?

(C) Is the aid digressive?

Yes No

Which is the aid intensity for:

- aid digressive (specify the digressive levels for each year):

- non-digressive aid

3.5. Aid for renewable energy sources

3.5.1.Fundamental conditions

(A) Confirm that the aid shall be granted exclusively for promoting the renewable energy sources, as they are defined in the Regulation on state aid for environment protection.

Yes No

(B) For biofuels promotion, confirm that the aid shall be granted exclusively for promoting sustainable biofuels under the Regulation mentioned above.

Yes No

(C) Specify the type(s) of renewable energy sources to be supported within the notified measure and provide details:

3.5.2. Aid for investments

3.5.2.1 Aid intensity and bonuses

(A) Which is the maximum intensity of the aid applicable to each renewable energy source to be supported within the notified measure?

(B) Shall a bonus for SMEs be applied within the notified measure?

Yes No

If yes, specify the level of the applicable bonus:

(C) Shall the aid be granted within a competitive bidding process?

Yes No

If yes, provide details on the competitive bidding process and attach a copy of the announcement of participating to the bid or its draft.

(D) For aid scheme, specify the total aid intensity for projects benefiting from support within the notified system (taking into account the bonuses) (%).

3.5.2.2. Eligible costs

(A) Confirm the following: eligible costs must be limited to extra investment costs borne by the beneficiary compared with a conventional power plant or with a conventional heating system with the same capacity in terms of the effective production of energy.

Yes No

(B) Confirm the following:

precise costs regarding the renewable energy constitute eligible costs, where environment protection investment costs may be easily identified;

OR

extra investment costs shall be established by comparing the investments with the counterfactual situation in absence of aid, that is with the reference investment;

AND

Eligible costs must be calculated net of any operating benefits and operating costs related to the extra investment for renewable energy sources and arising during the first five years of the life of the investment concerned.

(C) What is the shape of eligible costs?

- investments in tangible assets;
- investments in intangible assets;

(D) For investments in tangible assets, specify the shape(s):

- investments in land, strictly necessary for fulfilling environment objectives;
- investments in buildings, intended to reduce or to eliminate pollution and damage;
- investments in plant and equipment intended to reduce or eliminate pollution and nuisance;
- investments to adapt production methods with a view to protecting the environment.

(E) For investments in intangible assets (technology transfer through the acquisition of operating licences or of patented and non-patented know-how), confirm that all of them fulfil the following conditions:

- are being deemed as assets which can be depreciated;
- are being purchase under market conditions from an undertaking in which the beneficiary does not have any power of direct or indirect control;
- must be included in the assets of the undertaking, and remain in the establishment of the recipient of the aid and be used there for at least five years.

Additionally, confirm that if intangible assets are sold during these five years:

- the yield from the sale must be deducted from the eligible costs;

AND

- all or part of the amount of aid must, where appropriate, be reimbursed

(F) For aid schemes, provide a detailed calculation methodology, compared with the counterfactual situation, which shall be applied to all individual aid based on the notified scheme, and provide evidence in this respect:

For individual aid measures, provide a detailed calculation of eligible costs related to the notified investment project compared to the counterfactual situation, and provide relevant evidence in this respect;

3.5.3.Operational aid

Depending on the choice of the option for operational aid assessment, fill in the relevant part from the Section below.

3.5.3.1. Option 1

(A) During the notified measure, provide the following information to prove that operational aid shall be granted to cover the difference between the cost of energy production from renewable sources and the market price of the energy form in question:

- detailed analysis of the costs related to energy production for each of relevant renewable sources:
- detailed analysis of the market price of the energy form in question:

(B) Prove that the aid shall be granted only until the date the plant shall be depreciated integrally in compliance with the accounting standards and provide a detailed analysis of the depreciation of each type of environment protection investments:

For aid schemes, specify the way to ensure the observance of this condition:

For individual aid, provide a detailed analysis to prove the observance of this condition:

(C) While setting operational aid value demonstrate the way each of the investment aid granted to the undertaking in question for a new plant shall be reduced from the production costs:

(D) Shall the aid allow for a normal return as well?

Yes No

If yes, provide details and information/calculation to show the level of normal return and substantiate why the chosen level is appropriate:

(E) For aid for biomass renewable energy production, where the operational aid would exceed the investment amount, provide details/evidence (based on calculation examples for aid schemes or detailed calculation for individual aid) to demonstrate that the aggregate costs borne by undertakings after the depreciation of plans remain superior to the energy market price:

(F) Specify support mechanisms (taking account of the above described requirements), in particular calculation methods of the aid amount:

- for aid schemes based on a (theoretic) example of an eligible project:

Below, confirm that the calculation methodology described above shall be applied to all individual aid based on the notified aid scheme:

Yes No

- for individual aid provide a detailed calculation of the aid amount (taking account of the above described requirements).

(G) What is the duration of the notified measure?

Generally, the Competition Council shall limit the authorization up to 6 years. If yes, do you commit to notify again the measure during a period of 6 years?

Yes No

3.5.3.2. Option 2

(A) Provide a detailed presentation of the ecologic certificate or the bidding system (including inter alia, information on discretionary powers, role of the administrator, mechanism for price setting, mechanism for financing, mechanism for sanctioning and mechanism for redistribution):

(B) What is the duration of the notified measure?

(C) Provide data/calculation showing the aid is essential for ensuring the viability of renewable energy sources:

(D) Provide data/calculation showing the aid does not determine on the whole the excessive compensation for renewable energy:

(E) Provide data/calculation showing the aid does not constitute deterring element for renewable energy producers to become more competitive:

3.5.3.3. Option 3

(A) What is the duration of the operational aid measure?

(B) During the notified measure, provide the following information to prove that operational aid shall be granted to cover the difference between the cost of energy production from renewable sources and the market price of the energy form in question:

- detailed analysis of the costs related to energy production for each of relevant renewable sources:
- detailed analysis of the market price of the energy form in question

(C) Is the aid digressive?

Yes No

Which is the aid intensity for:

- digressive aid (specify the digressive levels for each year
- non-digressive aid.

3.6. Aid for cogeneration

3.6.1. *Fundamental conditions*

Confirm that aid for cogeneration shall be granted exclusively to cogeneration units complying with the high-efficiency cogeneration definition provided for in the Regulation on state aid for environment protection

Yes No

3.6.2. *Investment aid*

Confirm that:

- the new cogeneration unit shall generate a primary energy saving compared to separate production, in compliance with the definition provided for in the Regulation on state aid for environment protection;

improvement of an existing cogeneration unit or conversion of an existing power generation unit into a cogeneration unit shall result in primary energy savings compared to initial situation.

Provide details and evidence demonstrating the observance of the above mentioned conditions:

3.6.2.1. Aid intensities and bonuses

(A) Which is the maximum intensity of the aid applicable to the notified measure?

(B) Bonuses

Shall a bonus for SMEs be applied within the notified measure?

Yes No

If yes, specify the level of the applicable bonus:

Yes No

(C) Shall the aid be granted within a competitive bidding process?

Yes No

If yes, provide details on the competitive bidding process and attach a copy of the announcement of participating to the bid or its draft.

(D) For aid measure, specify the total aid intensity for projects benefiting from support within the notified scheme (taking into account the bonuses) (%)

3.6.2.2. Eligible costs

(A) Confirm the following: eligible investment costs must be limited to extra investment costs necessary for building a high-efficiency cogeneration plant:

Yes No

(B) Confirm the following:

precise costs regarding the cogeneration constitute eligible costs, where cogeneration investment costs may be easily identified;

OR

Investment costs related directly to cogeneration shall be set by comparing investments with the contra factual situation in absence of aid that is with reference investment;

AND

Eligible costs must be calculated net of any operating benefits and operating costs related to the extra investment for renewable energy sources and arising during the first five years of the life of the investment concerned.

(C) What is the shape of eligible costs?

- investment in tangible assets;
- investment in intangible assets;

(D) For investment in tangible assets, specify the shape(s):

- investments in land, strictly necessary for fulfilling environment objectives;
- investments in buildings, intended to reduce or to eliminate pollution and damage;
- investments in plant and equipment intended to reduce or eliminate pollution and nuisance;
- investments to adapt production methods with a view to protecting the environment.

(E) For investment in intangible assets (technology transfer through the acquisition of operating licenses or of patented and non-patented know-how), confirm that all of them fulfil the following conditions:

- are being deemed as assets which can be depreciated;
- are being purchased under market conditions from an undertaking in which the beneficiary does not have any power of direct or indirect control;
- must be included in the assets of the undertaking, and remain in the establishment of the recipient of the aid and be used there for at least five years.

Additionally, confirm that if intangible assets are sold during these five years:

- the yield from the sale must be deducted from the eligible costs;

AND

- all or part of the amount of aid must, where appropriate, be reimbursed.

(F) For aid schemes, provide a detailed calculation methodology, compared with the counterfactual situation, which shall be applied to all individual aid based on the notified scheme, and provide evidence in this respect:

For individual aid measures, provide a detailed calculation of eligible costs related to the notified investment project compared to the counterfactual situation, and provide relevant evidence in this respect.

3.6.3.Operational aid

(A) Confirm that the present cogeneration unit complies with the definition of cogeneration provided for in Section 2 from the Regulation on state aid for environment protection?

Yes No

(B) Confirm also that the operation aid for high-efficiency cogeneration shall be exclusively granted to:

- Undertakings distributing electricity and heating to population, where the cost for electricity or heating production exceed the market price thereof;

□ Industrial use of combined production of electricity and heating, where it is demonstrated that, by using the technique in question, the production cost of one energy unit using the technology in question is higher than the market price of one conventional energy unit.

Provide details and evidence on observance of relevant condition(s).

3.6.3.1. Option 1

(A) Provide the following information to prove that operational aid shall be granted to cover the difference between the cost of cogeneration energy production from and the market price of the energy form in question:

- detailed analysis of the costs related to energy production in cogeneration units:
- detailed analysis of the market price of the energy form in question

(B) Prove that the aid shall be granted only until the date the plant shall be depreciated integrally in compliance with the accounting standards and provide a detailed analysis of the depreciation of each type of environment protection investments:

For aid schemes, specify the way to ensure the observance of this condition:

For individual aid, provide a detailed analysis to prove the observance of this condition:

(C) While setting operational aid value, demonstrate the way each of the investment aid granted to the undertaking in question for a new plant shall be reduced from the production costs:

(D) Shall the aid allow for a normal return as well?

Yes No

If yes, provide details and information/calculation to show the level of normal return and substantiate why the chosen level is appropriate:

(E) For aid supporting high-efficiency biomass cogeneration plants, where the operational aid would exceed the investment amount (based on calculation examples for aid schemes or detailed calculation for individual aid) to demonstrate that the aggregate costs borne by undertakings after the depreciation of plans remain superior to the energy market price:

(F) Specify support mechanisms (taking account of the above described requirements), in particular calculation methods of the aid amount:

- for aid schemes based on a (theoretic) example of an eligible project:

Below, confirm that the calculation methodology described above shall be applied to all individual aid based on the notified aid scheme:

Yes No

- For individual aid provide a detailed calculation of the aid amount (taking account of the above described requirements)

(G) What is the duration of the notified measure?

Generally, the Competition Council shall limit the authorization up to 6 years. If yes, do you commit to notify again the measure during a period of 6 years?

Yes No

3.6.3.2. Option 2

(A) Provide a detailed presentation of the ecologic certificate or the bidding system (including *inter alia*, information on discretionary powers, role of the administrator, mechanism for price setting, mechanism for financing, mechanism for sanctioning and mechanism for redistribution):

(B) What is the duration of the notified measure?

(C) Provide data/calculation showing the aid is not essential for ensuring the viability of energy production in cogeneration plants:

(D) Provide data/calculation showing the aid does not determine on the whole overcompensation for energy production in cogeneration plants:

(E) Provide data/calculation showing the aid does not constitute deterring element for renewable energy producers to become more competitive:

3.6.3.3. Option 3

(A) What is the duration of the operational aid measure?

(B) During the notified measure, provide the following information to prove that operational aid shall be granted to cover the difference between the cost of energy production in cogeneration plants and the market price of the energy form in question:

- detailed analysis of the costs related to energy production in cogeneration plants:
- detailed analysis of the market price of the energy form in question

(C) Is the aid digressive?

Yes No

Which is the aid intensity for:

- digressive aid (specify the digressive levels for each year)
- non-digressive aid

3.7. Aid for energy-efficient district heating;

3.7.1. Fundamental conditions

Confirm that:

- Environment investment aid for energy-efficient district heating result in primary energy savings

AND

Beneficiary district heating plant complies with the definition of energy-efficient district heating provided for in Section 2 of the Regulation on state aid for environment protection.

AND

Combined operation of heat generation and distribution of heat will result in primary energy savings

OR

The investment shall end in using an distributing waste heating for district heating.

For aid schemes, specify the way to ensure the observance of this condition:

For individual aid, provide relevant details and proofs:

3.7.2. Aid intensity and bonuses

(A) Which is the maximum intensity of the aid applicable to the notified measure?

(B) Shall a bonus for SMEs be applied within the notified measure?

Yes No

If yes, specify the level of the applicable bonus:

(C) Shall the aid be granted within a competitive bidding process?

Yes No

If yes, provide details on the competitive bidding process and attach a copy of the announcement of participating to the bid or its draft:

(D) For aid measure, specify the total aid intensity for projects benefiting from support within the notified scheme (taking into account the bonuses) (%)

3.7.3. Eligible costs

(A) Confirm the following: eligible costs must be limited to extra investment costs necessary for an investment resulting in an energy-efficient district heating compared to reference investment:

Yes No

(B) Confirm the following:

precise costs regarding the energy-efficient district heating constitute eligible costs, where cogeneration investment costs may be easily identified;

OR

Extra investment costs shall be set by comparing investments with the contra factual situation in absence of aid, that is with reference investment;

AND

Eligible costs must be calculated net of any operating benefits and operating costs related to the extra investment for renewable energy sources and arising during the first five years of the life of the investment concerned

(C) What is the shape of eligible costs?

- investments in tangible assets;
- investments in intangible assets;

(D) For tangible assets, specify the shape(s):

- investments in land, strictly necessary for fulfilling environment objectives;
- investments in buildings, intended to reduce or to eliminate pollution and damage;
- investments in plant and equipment intended to reduce or eliminate pollution and nuisance;
- investments to adapt production methods with a view to protecting the environment

(E) For intangible assets (technology transfer through the acquisition of operating licenses or of patented and non-patented know-how), confirm that all of them fulfil the following conditions:

- are being deemed as assets which can be depreciated;
- are being purchase under market conditions from an undertaking in which the beneficiary does not have any power of direct or indirect control;
- must be included in the assets of the undertaking, and remain in the establishment of the recipient of the aid and be used there for at least five years.

Additionally, confirm that if intangible assets are sold during these five years:

- the yield from the sale must be deducted from the eligible costs;

AND

- all or part of the amount of aid must, where appropriate, be reimbursed.

(F) For aid schemes, provide a detailed calculation methodology, compared with the counterfactual situation, which shall be applied to all individual aid based on the notified scheme, and provide evidence in this respect:

For individual aid measures, provide a detailed calculation of eligible costs related to the notified investment project compared to the counterfactual situation, and provide relevant evidence in this respect

3.8. Aid for waste management

3.8.1. General conditions

Confirm the observance of the following conditions:

- Aid shall be granted for the management of waste occurring from other undertakings, including activities of re-utilization, recycling and recovery complying with the hierarchical classification of waste management principles;
- the investment is aimed at reducing pollution generated by other undertakings ("polluters") and does not extend to pollution generated by the beneficiary of the aid;
- the aid does not indirectly relieve the polluters from a burden that should be borne by them pursuant the law, or from a burden that should be considered a normal cost for the polluters;
- the investment goes beyond the "high technology" or uses conventional technologies in an innovative manner;
- without aid, the materials treated would otherwise be disposed of, or be treated in a less environmentally friendly manner;
- the investment does not result only in increase of the demand for the materials to be recycled without an increased level of collecting the materials at issue.

Provide details and evidence demonstrating the observance of the above mentioned conditions:

3.8.2. Aid intensities

(A) Which is the maximum intensity of the aid applicable to the notified measure?

(B) Shall a bonus for SMEs be applied within the notified measure?

Yes No

If yes, specify the level of the applicable bonus:

Yes No

(C) For aid measure, specify the total aid intensity for projects benefiting from support within the notified scheme (taking into account the bonuses) (%)

3.8.3. Eligible costs

(A) Confirm if eligible investment costs must be limited to the extra investment costs necessary for an investment related to waste management borne by beneficiary compared with the reference investment that is with the conventional output which does not imply waste management and which has the same capacity:

Yes No

(B) Confirm the following:

- Precise costs regarding the waste management constitute eligible costs, where waste management investment costs may be easily identified;

OR

Extra Investment costs shall be set by comparing investments with the contra factual situation in absence of aid, that is with reference investment;

AND

The cost of such reference investment shall be reduced from eligible costs;

Eligible costs must be calculated net of any operating benefits and operating costs related to the extra investment for waste management and arising during the first five years of the life of the investment concerned

(C) What is the shape of eligible costs?

investments in tangible assets;

investments in intangible assets;

(D) For tangible assets, specify the shape(s):

investments in land, strictly necessary for fulfilling environment objectives;

investments in buildings, intended to reduce or to eliminate pollution and damage;

investments in plant and equipment intended to reduce or eliminate pollution and nuisance;

investments to adapt production methods with a view to protecting the environment.

(E) For intangible assets (technology transfer through the acquisition of operating licenses or of patented and non-patented know-how), confirm that all of them fulfil the following conditions:

are being deemed as assets which can be depreciated;

are being purchased under market conditions from an undertaking in which the beneficiary does not have any power of direct or indirect control;

must be included in the assets of the undertaking, and remain in the establishment of the recipient of the aid and be used there for at least five years.

Additionally, confirm that if intangible assets are sold during these five years:

the yield from the sale must be deducted from the eligible costs;

AND

all or part of the amount of aid must, where appropriate, be reimbursed.

(F) For aid schemes, provide a detailed calculation methodology, compared with the counterfactual situation, which shall be applied to all individual aid based on the notified scheme, and provide evidence in this respect:

For individual aid measures, provide a detailed calculation of eligible costs related to the notified investment project compared to the counterfactual situation, and provide relevant evidence in this respect

3.9. Aid for the remediation of contaminated sites

3.9.1. General conditions

Confirm that the following conditions shall be fulfilled:

Investment aid for undertakings repairing damages to environment by remediating the contaminated sites determines improvement of environment protection.

Describe in details the relevant improvement of environment protection, including, if appropriate, and if any information available on the site, contamination type, description of activity causing contamination, as well the recommended rehabilitation procedure:

The polluter responsible for site contamination may not be identified or may not be committed to bear the costs.

Provide details and evidence demonstrating the fulfilment of the above mentioned condition:

3.9.2. Aid intensities and eligible costs

(A) Which is the maximum intensity of the aid applicable to the notified measure?

(B) Confirm that in any case the aid amount shall not exceed the effective cost of rehabilitation:

Yes No

(C) Specify the cost of rehabilitation:

(D) Confirm that in case of land value increase, it shall be deduced from eligible costs:

Yes No

Provide details on the way this shall be ensured:

(E) For aid schemes, provide a detailed calculation methodology, compared with the counterfactual situation, which shall be applied to all individual aid based on the notified scheme, and provide evidence in this respect:

For individual aid measures, provide a detailed calculation of eligible costs related to the notified investment project compared to the counterfactual situation, and provide relevant evidence in this respect

3.10. Aid for the relocation of undertakings

3.10.1. General conditions

(A) Confirm that:

the change of location must be dictated by environmental protection or prevention grounds and must have been ordered by the administrative or judicial decision issued by a competent public authority or agreed between the undertaking and the competent public authority;

the undertaking must comply with the strictest environmental standards applicable in the new region where it is located.

Provide details and evidence demonstrating the fulfilment of the above mentioned conditions:

(B) Confirm that the beneficiary is:

An undertaking located in a centralized area or in a special area of conservation of natural habitats, as well of wild fauna and flora, carrying on a legal basis producing a significant pollution, and due to localization must be transferred to a more adequate area;

OR

A unit or a plant falling under the major accident hazards involving dangerous substances.

Provide details and evidence:

3.10.2. Aid intensities and eligible costs

(A) Which is the maximum intensity of the aid applicable to the notified measure?.

(B) Shall a bonus for SMEs be applied within the notified measure?

Yes No

If yes, specify the level of the applicable bonus:

Yes No

(C) Provide relevant details and evidence (if appropriate) on the following elements related to aid for relocation:

(a) Benefits:

- the yield from the sale or renting of the plant or land abandoned;
- the compensation paid in the event of expropriation;
- any other gains connected with the transfer of the plant,
- gains resulting from an improvement in the technology used and gains associated with better use of the plant;
- investments relating to any capacity increase
- other potential benefits:

(b) Costs:

- costs associated with the purchase of land or building or purchase of new plants with the same capacity as the plant abandoned:
- other potential costs:

(D) For aid schemes, provide a detailed calculation methodology (based on a theoretic example for instance) for the amount of eligible/aid costs, including elements benefits/costs mentioned in p.C, which shall apply to all individual aids based on the notified scheme:

For individual aid measures, provide a detailed calculation of eligible costs/amount of aid related to the notified investment project, including elements benefits/costs mentioned in p.C and provide relevant evidence in this respect

4. Incentive effect and aid necessity

4.1. Fundamental conditions

(A) The initiation of project (s) benefiting from support occurred prior to submission of aid application by the beneficiary (beneficiaries) to state aid provider?

Yes No

If yes, the Competition Council will consider that the aid does not represent an incentive for the beneficiary.

(B) If not, specify relevant dates:

- The projects started on:

- The beneficiary submitted the aid application to the state aid provider on:

Provide relevant supporting documents.

4.2. Assessment of incentive effect

For aid granted to:

- other undertakings than SMEs

- SMEs subject to detailed assessment.

The Competition Council shall request that the incentive effect to be demonstrated through an assessment. Answer the questions below. Otherwise, the Competition Council shall deem the incentive effect is achieved automatically for the measure in question.

4.2.1. Fundamental conditions

If necessary to demonstrate the incentive effect for more beneficiaries participating in the notified project, provide information below for each of them.

In order to demonstrate the incentive effect, the Competition Council shall request an assessment from the provider proving that, in the absence of aid, that is in the counterfactual situation, no alternative which is more ecological had occurred. Please, complete the information below.

4.2.2. Criteria

(A) Demonstrate the way in which the counterfactual situation is credible:

(B) Eligible costs were calculated in compliance with the methodology provided for in the Regulation on state aid for environment protection?

Yes No

Provide details and evidence to prove the methodology used:

(C) The investment would have been sufficiently profitable in the absence of aid?

Yes No

Provide details and evidence regarding relevant profitability:

5. Cumulative fundamental conditions

(A) Provide details and evidence regarding enforcement of the notified project, including participants, objectives and effects, as well as means of achieving objectives:

(B) Confirm that:

The project serves the common public interest: bringing concrete, exemplary and identifiable public interest in environmental protection;

AND

The advantage of the project objective shall not be limited to regions implementing it, but extends throughout the country;

AND

The project represents a substantial contribution to national objectives.

Provide details and evidence:

(C) Provide details and evidence to show that the aid is necessary and represents an incentive for project enforcement:

(D) Provide details and evidence to demonstrate that the project implies a high risk degree:

(E) Provide details and evidence to show the importance of the project as to its volume:

(F) Specify the own contribution of the beneficiary to the project:

(G) Enumerate the regions of the undertakings participating to the notified project.

5.1. Project description

Provide a detailed project description, including, *inter alia*, the structure/organization, beneficiaries, budget, aid amount, aid intensity, investments and eligible costs. For guidance, see the Section 3 of this Special notification form.

6. Aid in the form of reductions of or exemptions from environmental taxes

6.1. Fundamental conditions

(A) Explain the way the reductions or exemption from taxes contributes indirectly to improving the environment protection level and motivate why the reductions or exemptions from taxes do not bring prejudice to the general objective pursued:

(B) For reductions or exemptions, confirm that:

- The aid shall be granted for a maximum period of 6 years;

AND

- the beneficiaries pay at least the minimum level of the tax provided for by the relevant legislation.

For each of the beneficiary categories, provide evidence on the minimum level of tax to be paid:

- are compatible with the legislation and observe the limits and conditions provided for by it:

Refer to relevant provision(s) and provide relevant evidence:

Additionally, provide the following:

- detailed description of the exempted sector (s):

- information for each sector as to best techniques resulted at the moment in reducing the damage for environment targeted by the tax:

- a list of largest 20 beneficiaries of exemptions/reductions, as well a detailed description of the situation thereof, in particular, turnover, market share and the size of the tax base.

6.2. Necessity of aid

Confirm that:

- Beneficiaries choice shall be grounded on objective and transparent criteria and the aid shall be granted in the same way to all competitors from the same sector/relevant market, where these are in a same factual situation;

AND

- Environment tax without reduction could lead to a substantial increase of production costs for each sector or category of individual beneficiaries;

AND

- in the absence of aid, the substantial increase of production costs could generate substantial reductions of sales if transferred to customers.

Provide evidence regarding the above mentioned conditions:

6.3. Proportionality of aid

Confirm the compliance with the following conditions:

(A) The system provided for criteria to ensure that each beneficiary pays a share from national tax level which is generally equivalent with environment performances of each beneficiary, compared to the performance of the best technique at the moment?

Yes No

Provide evidence regarding the compliance with the above mentioned condition:

(B) Beneficiaries of aid pay at least 20% of national tax?

Yes No

If not, prove the way in which a smaller percentage may be justified, ensuring at the same time a reduced degree of competition distortion:

(C) Reductions or exemptions are subject to conclusion of agreements between providers and beneficiary undertakings or beneficiary associations of undertakings?

Yes No

Confirm the following:

- The content of agreements was negotiated by the provider, sets the objectives, and a calendar for achieving objectives;
- The provider shall ensure independent and timely monitoring of commitments made within the agreements;
- These agreements shall be revised based on technological evolution and other type and provide for a efficient system of sanctions applicable where there is no observance of the commitments in question.

For each sector specify the objectives and calendar and describe the monitoring and revision mechanisms (for example by whom and how often) and the mechanism of sanctions:

7. Criteria for a detailed assessment

Specify if the notified measure shall fall within one of the following aid categories:

- For measures regulated by a block exemption regulation, the case was notified to the Competition Council as a result of an obligation to notify individually an aid, insofar the regulation in question provides for;
- Investment aid, where the aid amount exceeds MDL 7,5 mln* per undertaking (even if it is part of approved aid scheme);
- Operating aid for energy saving, where the aid amount exceeds MDL 5 mln per undertaking during a 5 years period.
- Operating aid for renewable energy sources production and/or for combined production of renewable heat, where the aid is granted to renewable electricity plants in sites and the resulting renewable electricity generation capacity exceeds 125 MW.
- Operating aid for the production of biofuel, where the aid is granted to biofuel plants in site, and the resulting production exceeds 150000 t per year;
- Operating aid for cogeneration, where the aid is granted to cogenerating plants in site and the resulting cogeneration electricity capacity exceeding 200 MW.
- Operating aid for renewable energy plants calculated on the ground of negative externalities costs.

In this case, provide a reasoned and quantified comparative analysis of the costs, along with an assessment of negative externalities carried on by competitor energy producers, insofar to demonstrate that the aid indeed compensates the avoided external costs.

If the notified measure falls under at least one of these aid categories, it shall be subject to a detailed assessment and additional information shall be provided set in Section 8 of this Form.

8. Additional information for detailed assessment

Where within the notified project subject to a detailed assessment participate more beneficiaries, provide information below for each of them.

This is without prejudice to the integral description of the notified project, including participants from the previous sections of this Form.

8.1. Fundamental observations

This assessment is aimed at ensuring that granting an aid for environment protection could not lead to competition distortion to an extent contrary to public interest, but in fact contributes to public interest. This situation intervenes where the extra benefits of the state aid as to environment protection have a greater weight than negative effects on competition.

The detailed assessment shall be carried out based on positive and negative elements specified in Section 11 of the Regulation on notification form, procedure of examination and decision making regarding the state aid.

The provisions below shall constitute recommendations on information which could be requested by the Competition Council in order to carry out a detailed assessment. These recommendations are intended to convey a transparent and foreseeable character to the decisions of the Competition Council and the reasoning leading to these decisions, insofar to create predictability and legal certainty.

Specify if these supporting documents are attached to the notification.

- assessments of past systems or state aid measures;
- assessments of impact, carried out by the authority granting the aid;
- other studies related to environment protection.

8.2. Existence of a market failure

(A) Define the expected contribution of the measure to environment protection (in quantifiable terms) and provide supporting documents:

(B) Identify the environment protection level pursued, compared to current national standards and provide supporting documents:

(C) For aid for adaption to standards exceeding national standards, provide the following information and (if relevant) supporting documents:

- nature, type and location of main competitors of the aid beneficiary:

- the cost of implementing the standard exceeding the standard for aid beneficiaries not involving an aid;
- comparative costs related to implementing these standards for main competitors of the aid beneficiary;

8.3. *Appropriate instrument*

Specify the ground on which the provider decided to use a selective instrument such as state aid in order to increase environment protection and provide supporting documents:

- assessment of the impact of the proposed measure;
- comparative analysis of other strategic option considered by the provider;
- the evidence for observing “polluter pays” principle;
- other:

8.4. *Incentive effect and necessity of aid*

Additionally to calculation of extra costs mentioned in the Regulation on state aid for environment protection, specify the elements enumerated below.

(A) Provide evidence on specific measures which would not have been undertaken by the undertaking in the absence of aid (counterfactual situation) and attach supporting documents.

(B) At least one of the following documents must exist to demonstrate the expected environmental effect related to change in behavior. Specify the relevant ones for the notified measure and provide supporting documents:

- increase in the level of environmental protection;
- increase in speed of the implementation of future standards.

(C) The following elements could be considered to demonstrate an incentive effect. Specify the relevant ones for the notified measure and provide supporting documents:

- production advantages;
- market conditions;
- possible future mandatory standards (if there are negotiations to introduce new or higher mandatory standards which the measure would seek to target);
- level of risk;
- level of profitability.

(C) For aid granted to undertakings in process of adaption to a standard exceeding national standards or which is adopted in the absence of national standards, provide information and supporting documents to show that the aid beneficiary would have been substantially affected as to the increased costs and would have not been capable to bear the costs associated with the immediate enforcement of the standards in question:

8.5. Proportionality of aid

(A) Provide a precise calculation of eligible costs to prove these indeed limit to extra costs necessary for achieving the environment protection level:

(B) Beneficiaries were selected in an open selection process?

Yes No

Provide details and supporting documents:

(C) Explain the way to ensure the limitation of aid to necessary minimum and provide supporting documents e:

8.6. Analysis of competition distortion

8.6.1. Relevant markets and effect on competition

(A) Specify whether the aid shall be able to have impact on the competition between undertakings on any market.

Yes No

Specify the markets likely to be affected by the aid:

(B) For each of these markets provide an estimated market share of the beneficiary:

For each of these markets, provide estimative market share of other undertakings operating on the market: If appropriate, specify the associated Herfindahl-Hirschman index (IHH):

(C) Describe the structure and dynamics of relevant markets and provide supporting documents:

(D) If relevant, provide information on the effects on trade (shift of trade flows and location of economic activity):

(E) The Competition Council shall consider the following elements in the analysis of the likelihood that the beneficiary may increase or maintain sales as a result of aid. Specify those for which details and supporting documents shall be provided:

- reduction or compensation of costs of production units;
- more environmentally friendly production process;
- new product.

8.6.2. Dynamic incentives/crowding out

The Competition Council shall consider the following elements in the analysis regarding the aid effect on dynamic incentives of investment for competitors. Specify those for which details and supporting documents shall be provided:

- amount of aid;
- frequency of aid;

- duration of aid;
- gradual decrease of aid;
- readiness to meet future standards;
- regulatory standards in relation to environmental objectives;
- cross-subsidization risk;
- technological neutrality;
- competing innovation.

8.6.3.*Maintaining inefficient undertakings on track*

The Competition Council shall consider the following elements in the analysis regarding the aid effect in order to avoid granting unnecessary support to undertakings which are not able to adapt to standards and technologies which better observe the environment because of low efficiency levels thereof.

Specify those for which details and justifying documents shall be provided:

- types of beneficiaries;
- overcapacity in the sector targeted by the aid;
- normal behavior in the sector targeted by the aid;
- aid relative importance;
- selection process;
- selectivity.

8.6.4.*Market power/ exclusionary conduct*

The Competition Council shall consider the following elements in the analysis regarding the aid effect on beneficiary's market power. Specify those for which details and justifying documents shall be provided:

- market power of aid beneficiary and market structure;
- new registration;
- product differentiation and price variation;
- buyer power.

8.6.5.*Effects on competitive changes and location*

Provide evidence on the fact that the aid was not decisive for choosing the investigation location:

9. Cumulation

(A) Shall the aid granted within the notified measure be combined with another aid?

Yes No

(B) If yes, describe the cumulation norms applicable to the notified measure:

(C) Specify how the way to observe the norms regarding the cumulation shall be verified within the notified measure:

10. Reporting and monitoring

10.1 Annual reports

This reporting obligation shall not cancel the reporting obligation under the Regulation on state aid Register.

For large undertakings, provide the Competition Council with annual reports regarding the enforcement of the aid measure, containing all the elements enumerated in the list below, for each of the approved scheme:

Name of the beneficiary;

- amount of aid per beneficiary;
- aid intensity;
- Description of the measure objective and type of environment protection intended for promotion;
- industries to perform project benefiting from aid;
- explanation of how the incentive effect has been observed.

For reduction or tax exemption, provide annual reports containing the elements enumerated in the list below:

- legislative and/or regulation text (s) substantiating the aid;
- specification of categories of undertakings benefiting from reduction or tax exemption;
- specification of economic sectors mostly affected by reduction or tax exemption.

10.2. Monitoring and evaluation

Do you commit to keep a detailed record of the aid, with all necessary information, in order to set up the observance of eligible costs and maximum intensity admitted for aid, for a period of 6 years from the date of granting the aid and provide the Competition Council with the evidence in question upon request?

Yes No

11. Other information

Provide any other information which is deemed necessary for measure(s) assessment, in compliance with the Regulation on state aid for environment protection.