Public consultation of the European Commission
Clean Industrial Deal State Aid Framework (CISAF)

In the context of the Draghi report requiring +€800 billion per year for the transformation of the EU until 2030 and the priority of the new Commission to tackle the need for a more competitive EU economy, **AFEP member companies welcome** the work conducted by the European Commission on **this draft Clean Industrial Deal State aid framework** (CISAF).

The main positive aspects of this draft are the following:

- The presumption of conformity principle of the aid,
- The continuum with the TCTF framework for the aid dedicated to the manufacturing capacity of clean technologies,
- The possibility to refer to the level of state aids allocated in countries outside the EU, to lead to a decision at EU level, although it could be further simplified,
- The possibility to allow automatic decarbonisation aid for project budgets inferior to €200 million while respecting the aid intensity level,
- The faculty to set up simplified tenders for industrial decarbonisation based on the criteria of avoided emissions,
- The integration of aid dedicated to derisking private investments in favour of the energy and climate transition, which will play a crucial role in the coming years.

However, AFEP considers that this draft also raises **some reservations and points for improvement**.

First, it **does not bring enough simplicity** to trigger investments in the EU at the fast pace and at the level required: the draft maintains too many administrative prescriptions and criteria, which will lead to a diversion of investments outside the EU. For instance:

- AFEP member companies are surprised by the incentive made to member states to include additional conditions when designing state aid measures (§15). This point seems to contradict the objectives of the state aid Regulation, which should be applied in a uniform and harmonised way throughout the EU.
- Similarly, the preference expressed by the Commission for a selection process based on a call for tenders (see namely §21) has certain limits, and in particular, will not make it possible to support all the projects that deserve to be supported in order to underpin the ecological transition.
- The time limit of 36 months for projects poses a serious additional constraint, which is not justified (see namely §37 and §79).
- The introduction of the definition of “claw back mechanism” (§9c) and the detailed conditions of its application (§121) appear dissuasive for companies, notably the 70% rate.
- The restriction to provide aid only for CAPEX and not OPEX would be dissuasive for operational cost-intensive projects; the scope should be enlarged to OPEX.
- The constraint added for industrial decarbonisation projects (§86b) within the EU ETS (reference to the first decile of the benchmark and need to reduce greenhouse gases emissions – GHG- by 10 % or 40% accordingly) or outside the EU ETS (need to reduce GHG emissions by 40%) is overly prescriptive and would very likely

hamper investments leading to significant needed GHG reductions.

- The conditionality added in §102 and §115 to restrict without justification the use of CCUS equipment to cater for residual GHG emissions is unacceptable as this would delay investments to the 2050 horizon while this technology needs aid as of now.

Second, **the need underscored by the Clean Industrial Deal to apply the principle of technological neutrality is not fully respected**:

- Nuclear energy is unfortunately **not included** in the scope; the Commission only recalls the fact that it *"will assess the State aid for nuclear supply chains and technologies in line with the Treaty and with respect to technological neutrality"*, as mentioned in the CID. This limited statement without any timeframe is detrimental to investment planning. Nuclear energy should be part of CISAF,
- Low-carbon hydrogen production and usage is heavily penalised by high constraints inserted in §82 and 107,
- PPAs and CfDs should apply not only to renewable sources but also to nuclear energy, as mentioned in the EU Electricity Market Design,
- The definition of Clean Technologies is not consistent with the already-agreed definition of net-zero technologies in Article 3 of NZIA,
- The level of aid intensity (§90) differs strongly between the different types of energies and equipment/technologies; a level playing field should be adopted except where the need for a difference is duly substantiated by the Commission.

Third, the **positioning of the draft CISAF within all other still applicable State Aid Frameworks and the NZIA should be more consistent**:

- The scope of the draft CISAF based on the TCTF should include in its scope technologies covered by the NZIA, such as the production of nuclear energy, biogas, among which biomethane, batteries and of electricity grid technologies,
- Its coexistence with the Climate, Energy and Environmental State Aid Guidelines (CEEAG) should be clarified as it may lead to a lack of readability for investors considering the various criteria referred to by the Commission; a simplified framework could be set up,
- To foster investment in the climate transition, CISAF could include the revision of the State Aid Guidelines on the compensation of indirect CO2 emissions. It would bring consistency while the Commission plans another specific revised framework.

French Association of Large Companies

ABOUT AFEP

Founded in 1982, AFEP brings together 117 of the largest French companies, which represent 15% of France's commercial GDP, employ 13% of the private sector workforce, and account for 20% of the mandatory corporate contributions in France. AFEP member companies employ 8.5 million people and are key players in the French, European, and global economies across all sectors of activity. Among the 60 largest European companies, a third is a member of AFEP.

Its mission is to contribute to the creation of an environment conducive to the development of economic activity and to make the voice of large French companies heard by policymakers in Paris and Brussels. They are fully committed to the green and digital transition, innovation, and the pursuit of better governance.

AFEP is involved in drafting cross-sectoral legislation, at French and European level, in the following areas: economy, taxation, company law and corporate governance, corporate finance and financial markets, competition, intellectual property, digital and consumer affairs, labour law and social protection, environment and energy, corporate social responsibility and trade.

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