



**MINISTER FOR INDUSTRY,  
BUSINESS AND FINANCIAL  
AFFAIRS**

## **Danish comments to the Commission's draft Clean Industrial State Aid Framework (CISAF)**

The Danish Government thanks the Commission for its efforts to draft a new State aid regulation that builds on the experiences gained from the Temporary Crisis and Transition Framework (TCTF), ensuring predictability for both Member States and possible beneficiaries with temporary rules with a longer duration than the TCTF. However, the Commission should continuously and over the entire period monitor whether there is a need for these temporary rules.

EU State aid rules are an important part of the regulation of the internal market and help to ensure free and fair competition. The Danish Government supports effective and transparent control of State aid to ensure a level playing field and an efficient use of taxpayers' money.

In the geopolitical reality we are facing currently, a more robust European competitiveness and economic security approach is crucial to maintain prosperity and strategic autonomy in the EU. This is highlighted in the reports by Enrico Letta and Mario Draghi, which put forward a number of recommendations for improving European competitiveness with a focus on improving innovation capacity, mobilising private investment, a strengthened internal market, lower energy prices, strengthened resilience and technological leadership in key strategic sectors.

To achieve this, the EU must look at all available means. Mobilising private investments is crucial. Using State aid to promote European competitiveness is also part of the toolbox, although it can never stand alone and must be accompanied by national reforms to strengthen productivity and growth.

Generally, Denmark supports the possibility of State aid measures when targeted critical sectors or technology with a clear strategic purpose and where there is a documented need. Denmark supports that State aid in the current geopolitical situation can be used to ensure that investments in critical or strategic sectors for the green transition are not systematically directed outside the European Union.

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If State aid is to be used effectively, State aid rules and procedures must not become too complex. Therefore, Denmark welcomes the Commission's current initiative to simplify State aid rules. Introducing temporary rules and creating more flexibility does, however, not replace the need for existing rules to be simplified more horizontally, for example the General Block Exemption Regulation.

Subsidy races between Member States should be avoided. State aid can lead to potential distortions of competition and hamper the level playing field in the internal market. Therefore, they must only be applied where a market failure exists, where there is a documented need and where existing regulation and support options are inadequate. State aid measures should be designed so that they align incentives and reduce negative effects. Clear safeguards to ensure proportionality and to avoid overcompensation should be in place. This could for example be by using "claw back" mechanisms to address windfall profits.

Denmark also welcomes that the proposal encourages Member States to include additional conditions when designing State aid measures to serve e.g. environmental or resilience policy objectives as long as such conditions do not breach Union law, including Union international obligations.

Moreover, Denmark suggests, that – in line with the provisions in the TCTF – aid under CISAF cannot be granted to undertakings under sanctions adopted by the EU or undertakings active in industries targeted by sanctions adopted by the EU, insofar as the aid would undermine the objectives of the relevant sanctions.

Denmark supports that CISAF has a more extensive duration than the TCTF. While state aid must be temporary in nature a longer duration of CISAF can be necessary to support the efficiency and deployment of private capital. It will increase predictability for Member States and undertakings in respect to investments related to the green transition. During the period of its application, the Commission must monitor whether there is a need for these temporary rules to continue to exist. Beyond December 2030, when the proposal is set to expire, we encourage the Commission to complete an assessment on whether the experience gained from CISAF should be used to further improve the general State aid regime. Moreover, we find it important that schemes already approved under TCTF will not be required to be amended, but will expire as foreseen in the State aid approvals, despite the CISAF replacing the TCTF when adopted.

We appreciate the Commission's efforts to collect evidence on the use of State aid for the green transition and encourage this practice to continue. Furthermore, we find the requirements for transparency as regards individual aid amounts above 100.000 EUR to be appropriate.

Please find below Danish comments for the specific sections of the CISAF. Furthermore, please also find, complementing the comments below, the Danish answers to the Commission's targeted survey regarding the proposal.

In general, Denmark encourages the Commission to streamline definitions to ensure a clear and user-friendly framework. I.e. auctions and competitive bidding processes which are mentioned several times in the draft CISAF. However, only "competitive bidding process" is defined in section 2 of the draft.

#### **Section 4: Aid to accelerate the roll out of renewable energy**

We appreciate the possibility to have more flexibility to choose how the implementation of the scheme should be carried out, while at the same time building on the experiences from use of the TCTF. It is in the interest of the EU to speed up approval of such State aid measures, while maintaining safeguards to ensure that the aid incentivising green transition is proportionate and not overcompensating the beneficiary.

We welcome that the provisions on State aid to accelerate the roll out of renewable energy is more technology neutral and now includes aid possibilities for *Renewable Fuels of Non Biological Origin* (RFNBO).

In general, we support the points as described in section 4.1. The Danish authorities, thus, would like to emphasise the need to clarify that the main framework for the compatibility assessment on state aid for green fuels will be CISAF, in order to avoid overlapping rules in e.g. the coming Aviation Guidelines or RefuelAviation -directive on the promotion of the use of energy from renewable sources (III). From a Danish point of view, overlapping State aid frameworks should be avoided to make the rules simpler. Also, we find a there is a need to address cumulation issues.

Denmark finds that a clarification on the terms "renewable energy" and "energy" is needed. In conjunction with this point, we would like the framework to state explicitly whether state aid for e-SAF is applicable under section 4 and that the section applies to different technologies without excluding schemes containing more than one technology.

As for the acceleration deadline described in point 37, the EU has a common interest in implementing the projects as fast as possible, while also having a realistic timeframe. However, we find that in some cases 36 months can be too short a timeframe for completing a supported project and having it in operation. Especially if the market is new or emerging. Denmark suggests supplementing the deadline so that Member States in specific cases can be granted an extended deadline upon a justified need.

### **Non-Fossil flexibility**

In general, Denmark supports the points as described under subsection 4.2. on non-fossil flexibility support schemes.

In our view, the condition that non-fossil flexibility technologies must be able to provide services for handling capacity constraints seems difficult to comply with by Member States, as it is not a requirement for system operators under EU-law to establish local flexibility markets. The same applies to market-based redispatching, where there may be exemptions under the Electricity Market Regulation. Denmark suggests that in case market-dispatching applies and/or markets for the provision of congestion, management services are in place.

In Denmark's view, it could be more attractive to participate in a capacity market rather than in an NFFSS. Since only non-fossil flexibility may participate in the NFFSS, demand flexibility and storage could experience a disadvantage compared to fossil controllable capacity, which has access to longer contracts in a capacity market. The NFFSS can help promote non-fossil flexibility, however, they could create an unfavorable competitive situation compared to incumbent fossil flexibility, which potentially has access to a capacity market for twice as long time. Therefore, we suggest the Commission to consider an alignment of the approval periods.

### **Capacity mechanisms**

Denmark welcomes the proposal for standardized capacity mechanisms, which can promote uniform development across the EU.

In Denmark, we have experienced a movement in the market from traditional bank-financed investments to financing larger investments through leasing. In order to ensure a proper interplay with the Regulation on the Internal Market for Electricity we find that guidance in the CISAF on how to handle leasing in regard to state aid projects is needed.

Denmark acknowledge and appreciate the overall framework of Annex 1. However, we doubt whether ERAA de-ration is the appropriate system for capacity-market design.

### **Section 5: Industrial decarbonisation**

Denmark believes that the decarbonisation of the European industries is an important step to decrease European dependency of fossil fuels from third countries. Therefore, we support the possibility to grant State aid to support industrial decarbonisation. Moreover, we support the Commission's efforts to give Member States "off the shelf" possibilities to design measures that can be approved by the Commission as compatible State aid.

We appreciate the possibility to have more flexibility as regards decarbonisation. However, we would appreciate more guidance on the difference between the subsections on funding gap and individual notification and competitive bidding under section 5 and the same issues noted in different points and subsections under section 4.

Denmark would also welcome clarification and guidance on how to calculate fund gap and counterfactual scenarios in order to streamline these concepts as much as possible.

We support the simplified rules for approval of State aid for projects that support specific Innovation Fund projects and has been awarded a sovereignty seal.

### **Section 6: Aid to ensure sufficient manufacturing capacity in clean technologies**

In the current geopolitical situation, Denmark supports the continuation of the possibility to grant State aid to clean manufacturing in strategic sectors, also outside assisted areas with an aim to strengthen European resilience, while subject to strict safeguards to ensure proportionality and that the aid does not distort competition on the internal market.

As the Commission has also set out in its *Clean Industrial Deal Communication*, CISAF is building on TCTF. Denmark supports the continuation of these aid possibilities in the same sectors as included in the TCTF. We do not have evidence of a need to extend the aid possibility to all sectors mentioned in the annex of NZIA and would only support this if such an extension is backed by evidence for a specific need.

We support the Commission's intention to shift to a principle of assessing aid per project and not per undertaking. This will further simplify the rules and support the realisation of relevant projects. We agree with the Commission's assessment that the aid limit should be reduced correspondingly and support this proposal.

Furthermore, Denmark supports the safe harbour aid amount for aid instruments as loans and guarantees. We find that it is a step in the right direction that the framework further incentivizes this type of aid by removing references to nominal loan amounts, since it is less distortive than direct grants.

As for the ad hoc aid for manufacturing, we do not oppose the extension of the provision. We support, that the provision, in line with TCTF, requires the beneficiary to demonstrate that in absence of the aid the project would have to be carried out in a third country jurisdiction with aid. Denmark does not oppose the proposal to introduce further flexibility to grant this type of aid outside assisted areas as long as this is subject to strict safeguards and lower aid intensities in order for the beneficiary to take the main risk for the project.

For Denmark, it is very important that the rules in general ensure that State aid is not used to facilitate relocation of jobs or production activities within the EEA. We therefore support clear provisions on this aspect.

#### **Section 7: Aid to reduce risks of private investments**

Generally, finding ways to encourage, mobilise and attract more private-sector investment in strategic European priorities is essential for promoting growth and job creation across the EU.

Denmark welcomes the Commission's new provision, which can contribute to crowding in private investments.