Response to the ETS State Aid Guidelines Consultation

Brussels, 10 March 2020

WindEurope, representing more than 400 companies across the European wind energy supply chain, welcomes the public consultation on the *Guidelines on certain State aid measures in the context of the greenhouse gas emission allowance trading scheme post-2021* (ETS State Aid Guidelines) launched by the European Commission as part of the thorough fitness check and revision process of the Guidelines related to energy and environment.

Regulating indirect cost compensation for Energy Intensive Users (EIUs), the ETS State Aid Guidelines have an impact on EIUs choices regarding the sourcing of electricity - including bilateral contracts such as corporate renewable Power Purchase Agreements (PPAs). The new proposed Guidelines are bringing important and positive changes in this domain, introducing conditionality requirements for companies to retrieve the indirect costs deriving from the ETS and listing these contracts as part of these requirements (reference to Par. 54 (b) of the draft text).

WindEurope strongly supports these developments. **Corporate renewable PPAs significantly contribute to driving down industrial emissions and should therefore be considered a useful instrument companies may choose to reduce their carbon footprint**. In this sense, we believe Par. 54 should explicitly refer to *renewable energy* PPAs instead of *carbon-free* PPAs, thereby encouraging investments in renewable capacities. And since the most cost-efficient way to reduce the carbon footprint of electricity consumption is to promote renewables in the electricity sector, we would suggest that Par. 54 (b) reads as follows (amendments in italics):

> "[…] reduce the carbon footprint of their electricity consumption *through sourcing renewable electricity and increasing the share of electricity in their processes*, for example, through installing an on-site renewable energy generation facility (covering at least 50% of their electricity needs), through a *renewable* power purchase agreement; […]"

Corporate renewable PPAs are increasingly becoming a key driver for investments in new renewable installations in Europe. They enable large energy consumers in the IT, chemicals, heavy industries and other sectors to secure a supply of clean electricity at a competitive price. Corporate renewable PPAs can limit market risk exposure over the contract period and are therefore essential when state revenue stabilization mechanisms such as CfDs are not available. These two benefits combined make these PPAs an essential tool to drive a cost-effective energy transition, supporting the competitiveness of European industries.

As opposed to the Guidelines currently in place, the new draft Guidelines are also clearing important ambiguities deriving from Par. 11 of the former. This Paragraph, preventing indirect cost compensation for those ‘electricity supply contracts that do not include any CO2 costs’, has been interpreted by a few Member States in a way that it creates significant barriers to the deployment of renewable PPAs in those countries.

In Germany, the interpretation of the ETS State Aid Guidelines[1] allows those energy intensives sourcing electricity from conventional power generation to get compensation for the indirect EU ETS costs. On the contrary, those companies sourcing renewable electricity are not entitled to any compensation[2]. This problem is reported also by the study on the “Competitiveness of corporate sourcing of renewable energy in Europe” released by the Directorate-General for Energy on 28 June 2019. The same interpretation limiting corporate renewable PPAs is applied in Poland[3].

These interpretations might derive from the incorrect assumption that the price of corporate renewable PPAs is independent from the CO2 price levels, whereas in reality the price level of such a PPA is based on expectations of future wholesale electricity prices – which are profoundly influenced by the evolution of the costs of CO2 emissions and the impact on marginal costs of power plants[4].

As a consequence, **companies in Germany and Poland are currently discouraged from sourcing renewable electricity as this electricity would cost “substantially more” than the conventional one** and are effectively deprived from a cost-effective solution to decarbonize their electricity supply.

This is distorting competition by restricting market options for sellers and buyers. It is problematic from an internal market perspective as the rules are not implemented in a consistent way across the EU whereas consistency would enhance the integrity of the Internal Market. Perhaps even more worrying is the discrepancy when looking at the energy and climate goals of the EU.

To further clear any ambiguities, we would suggest amending Par. 11 of the draft new Guidelines as follows (amendments in italics):

> “Under Article 10a(6) of Directive 2003/87/EC, Member States should adopt financial measures in favour of sectors or subsectors which are exposed to a genuine risk of carbon leakage due to significant indirect costs that are actually incurred from greenhouse gas emission costs passed on

[1] *Guidelines on certain State aid measures in the context of the greenhouse gas emission allowance trading scheme post-2012* (SWD (2012) 130 final) (SWD (2012) 131 final), OJ C 158, 5.6.2012, p. 4–22.

[2] See page 21 of the above-mentioned study.

[3] *Act of 19 July 2019 on the compensation system for energy-intensive sectors and sub-sectors*, available at http://prawo.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20190001532 [accessed in February 2020].

4 See page 32 of the above-mentioned study.

in electricity prices, provided that such financial measures are in accordance with State aid rules, and in particular do not cause undue distortions of competition in the internal market. *Undue distortions of competition in this context include direct or indirect incentives to procure power from conventional sources over power sourced under supply contracts for electricity from renewable sources*."

Corporate renewable PPAs should be seen as an important instrument for the energy transition whose uptake should be facilitated by Member States, following the direction of the 2018 Renewable Energy Directive and Governance Regulation. Adding renewable PPAs to the conditionality to receive state aid, the new Guidelines are setting steps in the right direction clarifying that indirect cost compensation is compatible with signing these contracts.

The European Green Deal will be an important driver in pushing the EU decarbonisation objectives towards 2050. State Aid rules will play an important role there, ensuring that the energy transition is performed while preserving the competitiveness of the European industry – including the wind energy sector that employs today more than 300,000 people across the EU, contributing €36bn to the EU GDP with €8bn exports and saving €10bn/year in fossil fuel imports[5]. Supporting the uptake of wind and other renewable energy, the ETS Guidelines would play a big role in helping Europe reaching its targets.

[5] *Local Impact, Global Leadership, WindEurope and Deloitte (2017).* Estimates on jobs creation are the latest WindEurope figures.