

Briefing for Executive Vice-President Vestager
Meeting with CEFIC
13 January 2021

SUMMARY

- The meeting is with a **CEFIC (European Chemical Industry Council) CEO delegation**, at their request, **led by the new President, [...]**, CEO of BASF.
- **CEFIC** represents medium and small sized chemical companies across Europe, which provide 1.2 million jobs and account for about 17% of world chemicals production. Virtually all large global and local chemical companies with production facilities in Europe are CEFIC members (including companies headquartered abroad – United States companies).
- Date: 13/01/2021 at 17:30-18:30, virtual
- **Purpose of the meeting: Information exchange on topics of relevance for the industry** which is under pressure to undergo profound transformation needed to meet **Green Deal** objectives on the one hand, and comply with the ambitious objectives set out in the new **Chemical Strategy**. Such fundamental change will take time and require cooperation between market players (e.g. standard setting, innovation, etc.). Cefic wants to hear your views on how this can be achieved and what kind of assistance we can offer (e.g. guidance on antitrust cooperation, state aid etc.).
- Cefic has already had a similar meeting with EVP Timmermans, and Commissioners Breton, Kyriakides and Sinkevicius. They will also meet EVP Dombrovskis earlier on the same day to discuss elements falling within his portfolio (carbon border adjustment, trade measures, WTO aspects of the chemicals strategy for sustainability, relationship with China, sustainable finance).
- **Format** : BASF's CEO will open with some remarks. **The rest of the meeting is a Q&A format around the below topics**:
 - Green deal and competition policy
 - Chemical sustainability strategy and industry roundtable
 - Cooperation on Innovation
 - Race Towards renewables
 - EEAG
 - Digital

QUESTIONS FROM CEFIC

Question 1 – Greening Competition Policy

Cefic argues for the need for a “rebooted” competition framework within which the industry can work on the **massive investments needed for the implementation of and innovation for the Chemical Strategy and Green Deal**, including the climate neutrality target, innovation and circular economy.

They would like to ask to what extent the Green Deal will impact competition policy and, conversely, **how competition policy can help drive innovation as industry will need to cooperate** in many new ways to meet these goals in this timeframe. This includes State aid, antitrust rules and to a lesser extend merger rules.

They will ask in practice to shape a safe competition framework within which the industry can work on the implementation of and innovation for the Chemical Strategy and climate-neutrality target. EVP Timmermans was open to this idea; They hope MV can support it as well.

They will ask MV to name a key person in her team who could advise further on such a sectoral approach, competition law constraints in cooperation and alliances.

KEY MESSAGES

- **Thank them for their contribution to our call on how competition policy can better support the Green Deal.**
- For the Green Deal to become a reality, everyone, private and public, has to play their part. On our side, we are gathering all the good ideas and proposals for what we might be able to do better. We are currently analysing your and the more than 150 other contributions we have received and **would like to invite you to our conference on 4 February**, where we will discuss the various ideas in more detail.
- **On the need for a reboot. Competition policy has a significant role to play to support an efficient green transition.** The enforcement of competition policy has traditionally played an important **complementary role** in the implementation of effective environmental policies.
- But competition policy primary goal is to promote and protect competitive markets, and hence deliver efficient outcomes for the benefit of citizens. **Competition policy is not in the lead** when it comes to fighting climate change and protecting the environment. There are better, much more effective ways, such as regulation and taxation.
- We are bound by the Treaties and the case law of the EU Courts, therefore this will be an evolution rather than a revolution from our perspective – a **refinement rather than a reboot**.
- **On the need to cooperate. We understand that traditional industries will need to make considerable progress if the target of zero carbon is to be met within a useful timeframe.** Sometimes, individual firms will not have what it takes to make that progress on their own, and **may need to co-operate with others. Such co-operation is less likely to raise competition issues if it takes place between firms at different levels of the value chain rather than between competitors.** Co-operation between competitors can be more problematic, because it may reduce the choice of solutions that are developed and lead firms to limit their development ambitions in the knowledge that others will be applying the common solution. **Safeguards can be built into such co-operation in order to mitigate such risks;** however, self-assessment of co-operation under Article 101 TFEU, including the safeguard measures, must by nature be done on a case-to-case basis.
- Cefic **should not hesitate to get in touch with COMP** to discuss concrete ideas.

NECESSARY FACTS AND FIGURES

On 22 September, you launched the debate on competition policy and the European Green Deal with a speech in the European Parliament.

The public consultation ran from 13 October to 20 November. DG COMP has received more than 150 contributions that are currently being analysed.

The Greek and Dutch national competition authorities have initiated their own discussions on sustainability considerations in competition policy.

The green transition is relevant for many State aid rules to be reviewed by the end of 2021, such as the Guidelines on State aid for Environmental protection and Energy and the Regional Aid Guidelines.

Contacts: [...], COMP.01 ☎ [...]

[...], COMP.01 ☎ [...]

Updated on: 8 January 2021

1.1 Question 2: Chemical Strategy

Chemical Strategy. The new Chemical strategy *de facto* establishes a completely new chemical industry in Europe, in which the use of hazardous chemicals is minimized. While this is a good development, **the challenge is that Europe is far ahead of the rest of the world in such legislation which creates issues of level playing field and competitiveness of the European Industry.** How can we together ensure that with the CSS, the European industry will lead the chemical industry worldwide and be competitive on the global market? We believe setting global standards, even together with China could be a pathway, do you see that as well? Challenge is that the Green deal momentum may require companies / sectors to obtain a collective understanding on strategic directions and gather relevant data which is not possible or very difficult under current competition rules. How this could be facilitated? Will there be an overall impact assessment on the sector? Can you advise?

KEY MESSAGES

- The **chemicals strategy published on 14 October 2020 sets out an ambitious regulatory agenda.** The Commission wants to reinforce the regulatory framework on chemicals but also to support the EU chemicals industry and its value chain in this important transition.
- With 96% of manufactured goods relying on chemicals, the chemical industry is at the core of almost all value chains and Green Deal solutions, such as solar panels, batteries and hydrogen.
- **On the level playing field for European chemical industry.** The Commission strives to ensure level playing field by **applying the same high environmental and health standards for all articles, whether they are imported, exported or produced for domestic use.** To achieve this, the Commission intends to, among other things, **reform the REACH** (Regulation on Registration, Evaluation, Authorisation and Restriction of Chemicals) authorisation system for chemicals. It has proven effective in achieving progressive substitution of substances of very high concern but at a high cost to EU businesses as it only applies to uses in the EU.
- To this end **the Commission will ensure better enforcement**
 - at our borders to make sure that EU businesses compliant with EU rules do not suffer disadvantages compared to imports.

**Briefing for Executive Vice-President Vestager
Meeting with CEFIC
13 January 2021**

- Through powers granted in the **new market surveillance regulation 2019/1020** (on compliance of products) **which is expected to be a game-changer**. National authorities will have stronger powers to ensure effective market surveillance of products subject to EU harmonisation legislation sold offline and online, within their territory. It will **enter into force on 16 July 2021**.
- The chemicals strategy proposes a number of **measures to ensure better controls by authorities, including by using digital tools**. The Commission will, among other things, propose a new system to audit the enforcement systems of the Member States, target known areas where non-compliance causes high-risk, and make proposals to further strengthen the principle of 'no data, no market'.
- **On the need to cooperate**. We fully understand that companies can sometimes obtain more by joining efforts. And there are ways in which companies can cooperate without infringing the competition rules. In particular, **the guidelines on Horizontal cooperation agreements, provide detail guidance on what safeguards can be put in place to ensure that, for example, standard setting agreements or exchange of information do not infringe article 101 TFEU**.
- As you know, the rules on horizontal and vertical agreements are currently under review. We have been consulting public stakeholders and will do our best to increase the clarity of these rules and the predictability of their application. Likewise, **the call for public contribution on relation to the Green Deal seeks to obtain information from the industries in what concrete situations** they have found that the competition rules stand on the way of sustainable initiatives.
- **On the Impact Assessment**. The Commission has concluded that there was **no need for an impact assessment on the overall strategy**, as the measures established in the Strategy were based on extensive evaluations of our legal framework on chemicals. **However, we will have impact assessments for the most significant legal proposals** that will come as a result of the implementation of the strategy. These will follow the Commission's Better Regulation guidelines, including an impact assessment and a consultation process with stakeholders, obviously in the most coherent and coordinated possible way.

Question 3: Round Table

The Chemicals Sustainability Strategy presents opportunities but also far-reaching challenges. This is recognised in the Strategy arguing for a High-Level Round Table to advise the Commission. Cefic warmly welcomes the idea and plans to be an active participant at CEO level. Will MV take a role as well as we very much depend on a safe competition environment?

KEY MESSAGES

- Thank them for their involvement, the industry plays an important role.
- The Commission is currently defining the mission and criteria for participation to the Roundtable and will publish a call for participation in the coming weeks (there is no specific target date).
- **There is no target date set for its start**. We are doing the utmost to set it up in a timely fashion and hope to have a first meeting in spring with a wide range of stakeholders including industry, scientists, civil society and public authorities.
- Industry exchanges, such as roundtables, may prove useful in coming up with the right strategy to face challenges such as twin transitions. **Safeguards can be built into such co-operation in order to mitigate any competition law enforcement risks**; however, self-assessment of co-operation under Article 101 TFEU, including the safeguard measures, must by nature be done on a case-to-case basis.

NECESSARY FACTS AND FIGURES

The **Chemical Strategy** sets out non-regulatory measures for sustainability, which include:

- developing safe and sustainable-by-design criteria for chemicals at EU level;
- a ban of most harmful chemicals for non-essential use and a phase out of certain substances of concern;
- initiatives and funding to promote the development of green and smart technologies, advanced materials, and innovative business models for low-carbon and low environmental impact industrial production and use of chemicals;
- establishing an EU-wide safe and sustainable-by-design support network, to promote cooperation and information sharing across sectors and the value chain;
- strengthening implementation and enforcement of European chemicals legislation to ensure compliance for the whole life cycle of chemicals.

Contact:	[...], COMP E2 ☎ [...] [...], COMP E2 ☎ [...]
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Question 4: Cooperation on innovation

The Commission is encouraging the creation of **Alliances** prompting new ways to collectively develop and innovate. The Chemical Strategy applies to many sectors and value chains. **How best can we safely work together?** Cefic is interested in MV's expectations on their lead in Hydrogen, Batteries and Low Carbon Industry alliances. Could MV share some views on how we can cooperate within the framework of competition policy?

KEY MESSAGES

- **On the need to cooperate.** It is important to cooperate on research, development and innovation at EU level – as opposed to fragmented research, development and innovation at national level – especially when competing globally.
- **Cooperation between manufacturers to improve product quality and innovation is not a problem under EU antitrust rules as long as it is necessary; does not eliminate competition; and the benefits are passed on to consumers.**
- For example, **cooperation on the development of common standards and shared infrastructure would usually not be a problem**, while collusion on price, output and innovation would usually infringe the competition rules.
- **The guidelines on Horizontal cooperation agreements, provide detailed guidance on what safeguards can be put in place** to ensure that, for example, standard setting agreements or exchange of information do not infringe article 101 TFEU.
- **On industrial alliances.** Industrial alliances are an important tool. They help look at all value chain steps to identify technology needs, investment opportunities, or regulatory barriers. Such value chain cooperation is especially important for the green transition and the circular economy.
- We are aware that the constituency of CEFIC has and is been very involved in different initiatives (hydrogen, plastics, batteries). This is very important and we look forward to continue this cooperation.
- Important progress is already being achieved in the scope of the circular plastics alliance.

NECESSARY FACTS AND FIGURES

The approved IPCEI on batteries includes seven Member States (Belgium, Germany, France, Italy, Poland, Finland and Sweden) and 17 undertakings. It was pre-notified in June 2019 (and therefore informally called the “Summer IPCEI”) and formally notified in October 2019. Total State aid approved is nearly €3.2 billion (with approx. €5 billion additional private investments).

Different CEFIC members participate in the approved battery IPCEI, including large groups such as BASF, Solvay and Umicore as well as the Belgian SME Nanocyl.

The second ongoing IPCEI on batteries includes 12 Member States (Austria, Belgium, Croatia, Finland, France, Germany, Greece, Italy, Poland, Slovakia, Spain and Sweden) and nearly 50 undertakings covering the entire value chain. Notification took place at the end of 2020 and a decision approving the IPCEI is scheduled in the next few weeks.

Also in the second battery IPCEI, there are participants from the chemical industry that will develop innovative battery active materials such as Borealis in Austria, Prayon in Belgium, Arkema in France, or Fluorsid, Italmatch Chemicals and Solvay in Italy .

Contact: [...], COMP H2 📧 [...] Updated on: 04/01/2021

Question 5: Race towards renewables

We believe there will be a race towards renewables. How can we secure industry that is hard to decarbonize gets to the renewable electricity and hydrogen it needs? Are you developing ideas on this? There are regulatory hurdles where EC can help to kickstart industrial electrification and greening chemistry (EEAG – see below, and ETS Indirect Compensation code for Hydrogen vs non compensation Basic Organic). If we don't use Hydrogen or electrify, we can't decarbonise – and when we use hydrogen or electrify, we need massive amounts of renewable electricity. We will ask MV to advise us how we can start a structured dialogue with the services.

Question 6: EEAG

We will ask MV's views on the review of the Energy and Environmental State Aid Guidelines (EEAG), as today regulatory and RES surcharge systems or limited exemption schemes in Europe remain a direct impediment to industrial electrification. We will raise the need to support electrification of and the use of hydrogen in the industry in line with Green Deal objectives and ask her views how to modernise the Energy and Environment State Aid Guidelines and their implementation (how to address reduction/removal renewable surcharges in EU Member States (DE and BE situation)).

Questions 5 and 6 are linked. Below are key messages on the review of the ETS and of the EEAG. Background material on each is at the bottom of this brief.

KEY MESSAGES ON EEAG...

- We are planning to complete the review of our State aid Guidelines for environmental protection and energy by end of 2021.
- We have all Europe's industries in mind – including those that are difficult to decarbonise. That is why the review also concerns the rules to compensate energy-intensive users for energy costs linked to decarbonisation policies.

Briefing for Executive Vice-President Vestager
Meeting with CEFIC
13 January 2021

- As to the chemical industries, we will duly take into account your contributions to the public consultation. Another round of public consultation is planned for spring 2021; we invite CEFIC and members to contribute.

Aid for industrial decarbonisation

- The EEAG already allow support for transformative investments that the industry has identified as ways to continue reducing its CO₂ emissions. In particular, the EEAG allow support for carbon capture and storage, energy efficiency, self-generation of renewable energy and other decarbonisation investments. They also allow support for the recycling of waste.
- As laid out in the Green Deal Communication, the Commission will evaluate and revise the relevant State aid rules and support a cost-effective and socially-inclusive transition to climate neutrality by 2050. The revision of the EEAG will aim to provide a clear, fully updated and fit-for-purpose enabling framework for public authorities to support the effective decarbonisation of industry in the context of the Green Deal and the New Industrial Strategy.
- Changes in the rules will respect the important principles of State aid, such as proportionality of the aid, ensuring necessity of aid and avoiding greenwashing, minimising undue distortions of competition, and ensuring a level playing field in the single market.

Broader goals

- Beyond these specific industry needs, the EEAG aims to lay the ground for public measures to contribute to objectives of common European interest – such as decarbonisation – while avoiding undue competition distortions.
- Having said this, State aid rules can complement regulation but cannot replace it. Recall that the Commission's other legislative initiatives for the green transition and to improve the regulatory framework for public and private investments already include a Hydrogen Strategy and will also see a revised Renewables Directive.
- Finally, commend the growing private-sector interest in renewables. Remind this was promoted by State aid that has incentivised wide-spread deployment and brought down costs.
- Private Power Purchase Agreements between renewable producers and large energy/electricity consumers are becoming more and more frequent in many EU countries, and any company can freely engage in them. This is also becoming easier, as these agreements/products become more standardised and a market for intermediaries for such agreements emerges.

... AND ETS

- Recall that the addressing the risk of carbon leakage – the ETS goal – is an essential component to complement the Green Deal policies and the European Industrial Strategy.
- The ETS State aid Guidelines adopted on 21 September 2020 will allow Member States to compensate some energy-intensive users for part of the higher electricity costs resulting from the EU Emissions Trading System on the period 2021-2030 ("indirect emission costs").

Question 7: Digital

Cefic would like to think how the industry can be a starting point for digital solutions. As chemical industry we for sure have a significant purchasing power to help steer developments. We think there is a big potential here to explore for the new Industrial Policy next year. We have a number of digital projects running – self driving trucks, logistic pilots, predictive maintenance, use of big data for chemical trials/ testing. Two of the largest supercomputers in private hands are in our sector. We are likely one of the largest industrial purchasers of digital technologies in Europe. Can we help policy by using this purchasing power? How will you involve industry in your digital strategy?

KEY MESSAGES

- In the short term, the biggest contribution that **CEFIC members can provide is supporting the digitalisation of their value chains**. While chemical industries are typically large and advanced in terms of digital maturity, their vendors and customers may be in very different situations – think e.g. about food or construction sectors. **CEFIC members could consider the possibility of engaging with the network of European Digital Innovation Hubs, to support the take-up of digital technologies like HPC or Artificial Intelligence across all relevant sectors.**
- **CEFIC members (and other industrial associations) should be highly involved in the future industrial policy.** We believe it is important to open a dialogue with the chemical industry to agree on the best ways to leverage the power of industrial data in the context of the twin green and digital transition. Today, 80% of industrial data is collected but never used. This is pure waste.
- For this reason, **the Commission will be investing in industrial data spaces in the Digital Europe programme, which will enable industries to better share and reuse data.** Such data spaces for example in manufacturing will offer a secure and trusted means to make data available and easily accessible. We hope for involvement of CEFIC members.

NECESSARY FACTS AND FIGURES

On 25 November, the Commission proposed a Regulation on European Data Governance ([Data Governance Act](#)). On 15 December, the [Digital Services Act \(DSA\)](#) and the [Digital Markets Act \(DMA\)](#) were adopted. On 16 December, as part of its [Cybersecurity Package](#), the Commission adopted a Directive on measures for high common level of cybersecurity across the Union (revised NIS Directive or 'NIS 2') and a new Directive on the resilience of critical entities (CER Directive).

The New Industrial Strategy for Europe, published in March 2020 recognised the **importance of working together with representatives from industry, including SMEs**, and other relevant stakeholders with a view to enabling Europe's transition towards a greener and more digital industry.

The implementation of the Strategy is well on track. For example, the following initiatives, announced in the Strategy, aim at involving industrial partners to strengthen the Digital Single Market:

- An inclusive and open **Industrial Forum** will i.a. contribute to assessing the risks and needs of industry aiming at the digital transformation of industrial ecosystems.
- **Industrial alliances** (e.g. on **Industrial Clouds and Platforms**), where identified as necessary, can help industry develop the technologies to meet their goals, e.g. by pooling together the knowledge of SMEs, big companies, researchers and governmental and institutional partners to help remove barriers to innovation and improve policy coherence.

The European industry's focus in particular on research and innovation will result in digital solutions that are innovative in their product concepts, production techniques, etc., and that can be offered at a better price and with a greater choice.

Preserving and promoting competition will encourage businesses to produce, will boost the economy and will increase Europe's competitiveness on global markets, whereas

Briefing for Executive Vice-President Vestager
Meeting with CEFIC
13 January 2021

lack of competition may lead to lower output, higher prices and reduced purchasing power.

2 BACKGROUND INFORMATION

2.1 EEAG Revision

EEAG revision process - The current Energy and Environmental Aid Guidelines (EEAG) were adopted in 2014. Their validity was prolonged until 31/12/2021 to allow for a comprehensive revision. A public consultation was launched in November 2020 until 07/01/2021 to gather input from stakeholders, including businesses and industry associations. The Commission is assessing the stakeholders' contributions and feedback and will on that basis draft revised EEAG, which will themselves be subject to 8 week public consultation in Q2 of 2021.

2.1.1 State of play

Under the current EEAG, Member States can compensate companies in several chemical subsectors for energy costs resulting from charges that finance decarbonisation policies. The validity of the current EEAG was extended until the end of 2021 and their review is ongoing, focusing on two main areas:

- (i) Review of the compatibility criteria for environmental protection
- (ii) Review State aid to energy intensive users to compensate for energy costs linked to decarbonisation policies

Empirical work and a first round of public consultation are currently under finalisation and will inform the drafting of the impact assessment and of the first draft of the revised guidelines. These draft guidelines will be the object of a second round of public consultations in Spring 2021. The internal approval of the Impact assessment is expected in autumn 2021 and the adoption of the revised Guidelines is expected by end 2021.

Both CEFIC and the company BASF, which holds the Presidency of CEFIC, have submitted a contribution to the consultation on the EEAG Inception Impact Assessment.

2.1.2 CEFIC position

With regard to rules on energy intensive users, CEFIC notes that chemicals are highly energy intensive and at the base of critical value chains for the transformation of the EU economy. As market prices are often set at global level, the updated EEAG should take into account EU's global competitiveness. The EEAG should put conditions in place that encourage electrification initiatives, safeguard EU electricity costs and create a level playing field within Europe so to lower the need for state aid. The EEAG should not only allow but even oblige member states to exempt industrial installations from EU and national policy costs (e.g. feed-in tariffs and grid surcharges), in order to safeguard a level playing field. A review of the criteria for the eligibility of energy intensive users should go beyond a simple update of the current list, mirroring the list of the ETS guidelines, or a mere referencing to the Taxonomy criteria: this risks undermining transformation and efficiency efforts of numerous companies that would be left out.

With regard to the broader review of the EEAG, CEFIC states that they should be clear and predictable in order to avoid investment uncertainties, and the aid should be technology-neutral, cost-efficient, temporary and sufficiently flexible. The EEAG should stimulate early adoption of innovative solutions in industry. The EEAG should also enable financial instruments (e.g. carbon contracts-for-difference), to de-risk these investments while maintaining an EU level playing field.

2.1.3 BASF position

The transformation of the chemical industry requires large quantities of renewable electricity at competitive prices. Existing exemptions to energy and electricity taxation must be preserved and improved. Exemptions based solely on electro-intensity of a legal entity provide a significant disadvantage for integrated companies with some energy intensive processes. In the short term, there should be reductions for green Hydrogen projects based on a value added below legal entity level, i.e. at process level. In the mid-term, energy intensive users either buying or self-consuming power must receive exemptions from renewable energy source charges. The eligibility for such reductions should be based on: (i) sectoral electro-intensity and exposure to international trade; (ii) the intrinsic energy intensity of a given sector or process, rather than whether a legal entity reaches a specific threshold and (iii) accepting different ways of renewable energy source integration (grid-procurement, on-site generation or hybrid set-ups). BASF also calls for an explicit inclusion of policy measures such as carbon contracts for difference.

As the review of the EEAG is ongoing and at a rather early stage, we advise not to enter into the discussion on the content of the possible new rules. CEFIC and BASF should be encouraged to further express their views in the public consultations forthcoming, and we will take them into account in the review process.

Contact: On ETS, [...], COMP B3 📧 [...] On EEAG, [...] COMP B3 📧 [...] Updated on: 22/12/2020

2.1.4 EEAG review challenges for decarbonisation support

The revision should result in a future-proof enabling framework for public authorities to help reaching the EU environmental and energy objectives in a cost effective manner with minimum distortions of competition and trade within the Union.

As far as the review of compatibility criteria for environmental protection to promote the green transition is concerned, the scope of the EEAG should be widened, by organising the rules around broader policy objectives, such as climate neutrality, circularity, pollution reduction, etc. instead of focussing on specific technologies, making scope for further technological innovations. Also, possibly the revised EEAG should allow for additional forms of aid, including operating aid like carbon contract for difference.

To maintain a level playing field, the extended scope of the EEAG needs to be accompanied by a certain number of safeguards to ensure that the aid: (i) is effectively directed where it is needed (no crowding out of private investment, no greenwashing), and (ii) is limited to what is needed to achieve the environmental goals in order to be cost-effective, minimise the cost to the taxpayer, and improve acceptability.

Possible safeguards on which feedback has been requested are: the requirement to quantify environmental benefits obtained thanks to aid; the requirement to grant aid through competitive bidding processes; maximum aid intensities; the broadening of support to competitors, etc.

2.1.5 Decarbonisation aid in current EEAG

The EEAG allow aid for:

Carbon capture and storage projects (CCS), aid can be granted aid under the EEAG also for a CCS project linked to an industrial plant. Eligible costs are defined as the funding gap and all cost savings from the reduced need for ETS allowances have to be deducted from the aid.

Aid for investment improving *energy-efficiency, for increased circularity and for decarbonisation* (including through electrification): The EEAG allows in general for aid for investments improving environmental protection beyond applicable standards. Eligible costs correspond to the difference between investment costs for conventional production (i.e. carbon intensive production, more energy intensive or consuming more primary raw materials) and investment costs for the more environmental friendly production. Aid intensities range between 30% or 40% (for large undertakings in non-assisted areas) and 100% (if aid granted on the basis of a competitive bidding process). Bonuses are possible for SMEs and eco-innovations. The Commission indicated in the SEIP Communication that it would also examine the possibility of calculating the aid based on a funding gap approach.

The Commission has also recently approved a Dutch support scheme (SA.53525) for decarbonisation, including low carbon hydrogen production, in which beneficiaries obtained support per ton of CO₂ emission avoided. The scheme provided for specific safeguards ensuring that the electricity used to produce the hydrogen was itself low carbon only. Beneficiaries were selected in a competitive bidding process ensuring the proportionality of the aid.

Aid for hydrogen production: The EEAG allow for both investment and operating aid for renewable hydrogen production. Specific guidance on this support has been provided in the recently published RRF guidance templates on renewable energy.

Contacts: [...], DG COMP H2 ☎ [...] Updated on: 08/01/2021

3 REVIEWING THE ETS GUIDELINES

3.1 Eligibility of sectors

CEFIC represents, among others, the following two non-eligible sectors: 20.14 Manufacture of other organic basic chemicals and 20.11 Manufacture of industrial gases. CEFIC argues that:

- The analysis of eligibility was carried at NACE-4 level, which represents a very wide group – analysis at prodcom level would be more suitable;
- Interchangeability of fuel: crackers integrated on refining sites would be eligible for compensation, because sector 19.20, i.e. refined petroleum products, is eligible, while other crackers are not;
- The Manufacture of other organic basic chemicals needs investment in electrification in order to meet the Green Deal objectives. Crackers are at the start

Briefing for Executive Vice-President Vestager
Meeting with CEFIC
13 January 2021

of the value chain for many products in Europe, therefore compensation for indirect costs is necessary.

Approach

- The Commission based its assessment on certified data, which only exist at Nace-4 level (and not at prodcom level);
- Regarding interchangeability of fuel, the Guidelines foresee compensation only for the eligible products. When an installation produces several products, the Member States can only compensate for indirect costs related to the production of eligible products;
- Regarding eligibility: ETS Guidelines aim at reducing the risk of “carbon leakage”. The revised ETS Guidelines target aid only for sectors the most at risk of carbon leakage due to high indirect emission costs and strong exposure to international trade.

The sector eligibility was established both based on quantitative and qualitative criteria. In particular, the selection was based on the following objective quantitative parameters:

- Indirect Carbon Leakage Indicator (“ICLI”) of at least 0.2. The ICLI is the product resulting from multiplying a sector’s trade intensity with third countries by their indirect emission intensity. It is the strongest indicator of carbon leakage, as recognised by the ETS Directive;
- Indirect emission intensity of at least 1kgCO₂/EUR, calculated as the ratio of indirect emissions over the Gross Value Added;
- Trade intensity above 20%.

	Trade intensity	Indirect emission intensity (>1?)	Indirect carbon leakage indicator (> 0.20?)	Overall assessment by the consultant
Manufacture of other organic basic chemicals	49%	0.390 kgCO ₂ /€	0.191	Low risk
Manufacture of industrial gases	6%	15.091 kgCO ₂ /€	0.917	Low-medium risk

The **Manufacture of other organic basic chemicals** was eligible for compensation under the previous ETS Guidelines, but is excluded from the list of the revised Guidelines. According to the consultant’s analysis, despite a competitive worldwide market, the sector presents a low-medium risk on the market characteristics criterion based on the recovery of exports in recent years. The sector also presents a low-medium risk on the profits margins criterion, based on a reduction in profitability and investment due to the apparent loss of competitiveness, potentially as a result of high energy costs in Europe compared to regions which benefit from cheaper energy and carbon prices. However, the impact of indirect carbon costs on the sector’s profit margins will be limited compared to other energy prices, so the consultant assessed it as low risk.

The **Manufacture of industrial gases** was not eligible for compensation and is also excluded from the eligibility list of the revised Guidelines due to the very low trade

Briefing for Executive Vice-President Vestager
Meeting with CEFIC
13 January 2021

intensity and long-term indexed contracts, guaranteeing a substantial amount of cost pass through. According to the consultant's analysis, the sector presents a low-medium risk, based on the ability of the sector to pass on higher electricity costs to its downstream customers. This pass through will be constrained by the ability of the downstream sectors to absorb additional costs without relocating, but the sector still benefits from a low international competition and good bargaining position over its customers.

3.2 CO₂ factors

Some CEFIC members believe that a national CO₂ factor in France disadvantages French industries compared to their German competitors.

The CO₂ factor is calculated to reflect indirect CO₂ costs passed through in electricity prices. Under the previous Guidelines, a common CO₂ factor was used for the Central-Western Europe region (France, Germany, Belgium, Netherlands, Luxembourg, and Austria). When revising the Guidelines, the Commission followed the same methodology to define the geographic regions for CO₂ factors. Recent increases in renewables and some recent nuclear unavailability led to a general decrease of price convergence between France and other countries (such as Germany). Therefore, French power prices do not meet the price convergence criteria anymore and the CO₂ factor for France is calculated at national level.

The Guidelines foresee a Midterm review in 2025 of three elements: CO₂ factors, geographic zones and efficiency benchmarks. This introduces the possibility to take into account any significant change in power price convergence between France and Germany.

4 CEFIC'S POSITION ON "COMPETITION POLICY SUPPORTING THE GREEN DEAL"

CEFIC appreciates the review of EU competition policy, which should be aligned with the Green Deal objectives and support the required industrial transformation. Without an adaptation of the competition policy framework, EU industrial competitiveness would be at risk. Competition policy would need to support innovation, which is key for the success of the industrial transformation, via both **competition** and **cooperation**.

The required industrial transformation will imply massive investment (according to a *DECHEMA* analysis, EUR 27 billion per year until 2050). This will only be possible if **private investment** is enabled and **public sector support** is sufficiently available.

State aid: CEFIC calls for a firm and stable State aid framework to enable companies in the chemical sector to transform in line with the Green Deal objectives. Companies would need access to abundant clean and affordable energy, allowing them to compete in Europe and globally. State aid would need to be further mobilised to facilitate this transformation. The State aid framework should enable **compensation mechanisms** for greenhouse gas reduction measures, as the latter would otherwise put EU industries at a competitive disadvantage in the global and EU market.

Mergers: The Green Deal, together with the economic recovery from COVID-19, may result in an increase in mergers. EU rules do already provide for taking the global market as reference market into account. The reform of competition policy should give this **global context** a greater weight than today.

Antitrust: There is a need to review antitrust rules to **facilitate cooperation** as required by the Green Deal objectives. Actual and perceived competition law barriers to

Briefing for Executive Vice-President Vestager
Meeting with CEFIC
13 January 2021

legitimate industry collaboration need to be lifted. To move the chemical industry towards a circular economy will require cooperation across sectors and different value chains. An appropriate competition law framework should be available to enable companies to engage in such effort. In particular, CEFIC calls for:

- clear and detailed **sustainability-specific guidelines**, including examples, to assist business to self-assess legitimate industry cooperation;
- **specific stand-alone competition law guidance** for climate change and other sustainability initiatives. At a minimum, a sustainability-specific section in the revised 2010 Horizontal Guidelines;
- a clarification on which types of **cooperation** the Commission would consider necessary and proportionate to pursue public interest objectives related to climate and environmental goals, and therefore fall outside the scope of application of Article 101 TFEU (*Wouters* ruling) and/or which types of cooperation should be assessed under the exemption criteria in Article 101(3) TFEU.

Contact:	[...], COMP E2 ☎ [...]
	[...], COMP E2 ☎ [...]
Updated on: 21/12/2020	

5 THE CHEMICAL INDUSTRY IN THE EU

Main source: [2020 Facts & Figures of the European chemical industry](#) (Cefic)

EU in a global perspective

- The EU chemical industry accounted for EUR 565 billion of turnover in chemical sales in 2018, representing 16.9% of global chemicals turnover, second only to China (35.8%) and ahead of the USA (14%) in third place.
- The market share of the EU in global chemical sales dropped by half in 1998-2018. Global sales tripled, but the EU benefited less than other regions. Growth in the EU remains low, mainly due to mature markets and an ageing population. Additional factors: high energy prices, lagging innovation, currency appreciation, high labour costs, regulatory and tax burdens.

EU chemical sales

- EUR 565 billion in 2018 (source: CEFIC).
- Of this, 60% is “base chemicals”: chemical elements, inorganic acids, bases, alkalis and other inorganic compounds; petrochemicals; polymers, plastics.
- “Specialty chemicals” represent 27%: paints and inks, plant protection products, dyes and pigments, auxiliaries for industry (glues, oils, gelatine).
- Finally, “consumer chemicals” represent 12%: soaps and detergents, perfumes and cosmetics.

Breakdown by EU country

- More than 60% of sales generated in four EU MS: Germany, France, Italy, and the Netherlands (in descending order).

Imports/exports

- Domestic sales, within the EU country of production, dropped by 60% in 2008-2018 and now represent 13% of chemical sales.

Briefing for Executive Vice-President Vestager
Meeting with CEFIC
13 January 2021

- Intra-EU sales grew by 36% in the same period and now account for 58% of total EU chemical sales.
- Extra-EU sales grew by almost 50% in that period and now represent 29% of sales in 2018.

Contribution to EU industry

- The EU manufacturing industry consists of 2.1 million enterprises. Of these, 28 000 operate in the EU chemical sector, representing 1.4% of the total.
- With EUR 553 billion, the chemical industry is the fourth leading sector in manufacturing (behind automotive, food production, and machinery & equipment), accounting for 7.6% of EU manufacturing turnover (source: Eurostat SBS Data 2015 and Cefic analysis 2019).
- The chemical industry generates 1.1% per cent of EU GDP (source: CEFIC, <https://www.chemlandscape.cefic.org/country/eu/>).
- Chemicals, including pharmaceuticals and rubber and plastics, is the third largest employment sector in the EU, employing 3.3 million people (source: Eurostat SBS Data 2015 and CEFIC analysis 2019).

Contact: [...] , COMP E2 ☎ [...] Updated on: 18/12/2020
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**Briefing for Executive Vice-President Vestager
Meeting with CEFIC
13 January 2021**

CEFIC PARTICIPANT LIST

[CVS provided CEFIC]

- [...], BASF (Cefic President)
- [...], Dow
- [...], ExxonMobil
- [...], DuPont
- [...], Shell
- [...], LyondellBasell
- [...], Covestro
- [...], Celanese
- [...], essencia
- [...], Cefic Director General
- [...], BASF Sherpa to Cefic President Bruder Müller

**Briefing for Executive Vice-President Vestager
Meeting with CEFIC
13 January 2021**

CV – [...]

[...]

[...]

Age [...]

Current position

Chairman of the Board of Executive Directors and Chief Technology Officer (CTO), BASF SE, President of CEFIC

Former positions

[...]

Education

[...]

CV [...]

[...]

**President of Dow Europe,
Chair of the CEFIC Industrial Policy Programme Council**

[...]

[...].

Education:

[...]

Briefing for Executive Vice-President Vestager
Meeting with CEFIC
13 January 2021

CV – [...]

[...]

Director of INEOS Group
Board member of CEFIC Excom, Chlorine & Halogens

[...]

CV – [...]

[...]

Vice President at Shell International E&P
Chair of the CEFIC Product Stewardship Programme Council

[...]

CV – [...]

[...]

Senior Vice President of Lyondellbasell

[...]

Education:

[...]

Professional career:

[...]

CV – [...]

CEO of Covestro
President of PlasticsEurope

[...]

Education:

[...]

Professional career:

[...].

CV – [...]

[...]

Briefing for Executive Vice-President Vestager
Meeting with CEFIC
13 January 2021

**Vice President, Cellulose Derivatives Business at Celanese,
Specialty Chemicals representative (CEFIC)**

[...]

Education:

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Professional career:

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CV [...]

[...]

Vice President of SABIC Europe

[...]

Education:

[...]

Professional career:

[...]

CV – [...]

[...]

**Managing Director of Belgian Federation for Chemistry and Life Sciences
Industries (essenscia)**

Education:

[...]

Career:

[...]

CV – [...]

Director General of CEFIC

[...]

Education:

[...]

Professional career:

[...]

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Meeting with CEFIC
13 January 2021**

CV – [...]

[...]

**Director Communications & Government Relations BASF Group,
Head of Brussels Office, Belgium**

[...]

Professional Career

[...]