25/04/2025

Submission for Consultation

CAN Europe's response to the Clean Industrial Deal State Aid Framework

1. General comments on the EU state aid framework

CAN Europe welcomes the consultation on the Clean Industrial Deal State Aid Framework (CISAF). We acknowledge the important role of targeted state aid provisions to accelerate the industrial transformation for our economy to fit within planetary boundaries and deliver for European people, whenever a genuine additionality of public finance is ensured.

In general terms, we have the following four concerns when it comes to the further development of the EU's policy framework for state aid.

So far, the increasing flexibility of state aid provisions in the EU has not been matched with EU fiscal and political capacity to coordinate public spending in a way that ensures internal cohesion. There is a risk that the CISAF will further widen the gap between member states with deep fiscal pockets and those without the possibility of benefiting from increasing flexibility. Therefore, we:

1.1. Internal Cohesion

So far, the increasing flexibility of state aid provisions in the EU has not been matched with EU fiscal and political capacity to coordinate public spending in a way that ensures internal cohesion. There is a risk that the CISAF will further widen the gap between member states with deep fiscal pockets and those without the possibility of benefiting from increasing flexibility. Therefore, we:

- Reiterate our call for a Social and Green Investment Plan based on joint EU borrowing, which could notably co-finance industrial transformation projects with national governments;
- Support a state aid contribution mechanism as proposed in the Letta-report, requiring member states to allocate a portion of national state aid to financing a place-based EU industrial strategy that stimulates the development of industrial value chains across the continent, with a focus on left-behind regions or regions at risk of desindustrialisation.

While the partial, geographical conditionalities set out in the CISAF (see detailed analysis in section 2 below) are useful to address inequalities within member states and should be reinforced, they do not substantially address cohesion between member states.

1.2. Governance

In terms of governance, the state aid rules are scattered across different instruments and guidelines, all with different (but often overlapping) goals, eligibility, criteria and thresholds (see this paper for an overview of different instruments). This complexity 1) favours large industrial players to get easier access to public finance through framework shopping, and 2) impedes a coherent EU industrial policy, including **applying social and environmental conditionalities in a consistent manner**. We therefore call for:

- mainstreaming a minimal set of social & environmental conditions across different state aid provisions, without prejudice for member states to include additional conditions as they see fit.
- ensuring transparency of state aid decisions by publishing the aid within six months of approval and by updating on project status. Improving data and transparency on state aid decisions is a precondition for a more effective and EU-coordinated use of state aid, as recently confirmed by a report of the European Court of Auditors.

In the CISAF, there is only a partial mainstreaming of the DNSH principle (only for renewable energy roll-out) without proper guidance on how to implement it. We therefore call for:

- Applying the DNSH principle for all sectors covered by the CISAF and giving guidance based on the technical criteria of the Taxonomy Regulation (in line with our similar call for DNSH mainstreaming in the MFF);
- Considering circularity and resource and energy efficiency, objectives should be mandatory for MS, not solely encouraged, and be made more concrete.

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1.3. Public support and accountability

In order to ensure public **support and accountability** for the industrial transformation ahead, we call for:

- Encouraging the development of profit-sharing mechanisms (e.g. through royalties or equity participation) & claw-back schemes so not only the risks, but also potential profits of state aid are socialised;
- Companies receiving public funds should temporarily ban or limit dividend payments and ban share buy-backs;
- A public consultation obligation for member states when granting state aid above certain thresholds, which is already required under the CEAAG.

1.4. Sectoral targeting and eligibility

Concerning state aid sectoral targeting and eligibility, we point out that currently, fossil fuel subsidies still outweigh support for renewable energy sources and redirecting those could contribute significantly to industrial transformation. We call for:

- prioritising investment in grids, storage, renewable-based electrification, energy efficiency and renewable energy sources for affordable energy
- lowering expectations of CCS and hydrogen, given the risks and costs associated with these technologies

Unfortunately, the CISAF threatens to further lock in fossil fuels by giving the possibility of using fossil gas for industrial decarbonisation, until the end of the project's lifetime, which is unacceptable. Similarly, we deplore the flexibilities offered for deploying CCS and hydrogen in the realm of industrial decarbonisation, which should come with stricter limits and conditions.

2. Specific comments on the CISAF proposal

2.1. Geographical conditionalities

Geographical location criteria are present in section 6 (manufacturing and clean tech), under two different recitals: for investment aid schemes (6.1), there are differential aid intensities depending on whether the investment is location in “assisted” and “non-assisted” areas (art 126-128); for ad hoc support (6.2) there is an additional provision according to which the beneficiary must demonstrate that an investment in an non-assisted area cannot be carried in an assisted area (art 135). Therefore, we:

- Support using differential aid intensities to address regional inequalities within member states;
- At the same time, believe differentiating aid intensity may not be sufficient to orient investment towards assisted regions.

2.2. Social and environmental conditionalities

Do No Significant Harm provisions are only applicable aid RES investments (art 39).

- We call for applying the **DNSH principle** for all sectors covered by the CISAF and giving guidance based on the technical criteria of the Taxonomy Regulation (in line with our similar call for DNSH mainstreaming in the MFF)

Articles 15 and 16 provide some general (non-binding) guidance on (a) additional social, environmental and tax conditionalities that member states can introduce and (b) on circular economy considerations. We call for:

- The application of DNSH as a baseline, as discussed above;
- All companies receiving state aid should have a climate transition plan compatible with the Paris Agreement;
- An obligation to take tax solidarity considerations into account, rather than an encouragement;
- An obligation to take circular economy considerations into account, based on the screening criteria for circular economy of the Taxonomy regulation, rather than an encouragement

Under section 5 eligible investments, there is an exclusion list (art 71): “This section does not apply to […] State aid that incentivises new investments in industrial production, including investments referred to in point (75), based on the most polluting fossil fuels, such as coal, diesel, lignite, oil, peat and oil shale”.

- We call for the inclusion of fossil gas on this list.

2.3. Large companies and SMEs

Under section 4 investments, the aid intensity can be increased by 20 percentage points for aid granted to small undertakings and by 10 percentage points for aid granted to medium-sized undertakings.

- We welcome this possibility for differentiating aid intensities.

Under section 5 investments (Art 91), aid intensity for investments made by small enterprises can be increased by 10 percentage points, and by medium-sized enterprises by 5 percentage points. Therefore:

- We ask for a higher differentiation, as smaller and medium-sized companies have less favourable conditions for accessing private finance.

2.4. Relocation conditionalities

Under article 26 (horizontal), aid granted under this Communication cannot be conditioned on the relocation of a production activity or of another activity of the beneficiary from another country within the EEA to the territory of the Member State granting the aid.

- We welcome this provision but call for additional guidance to include provisions for relocations outside the EEA.

2.5. Eligible investments/sectoral targeting

Under section 5 eligible investments, although electrification is said to be prioritised "the use of other technologies can also be accepted but natural gas must deliver energy savings of at least [30]% or greenhouse gas emission savings of at least [60]%" (article 73) as long as "that such aid (i) does not create lock-in effects for fossil fuels; and (ii) does not displace cleaner alternatives that are available" (article 100), based on the following cumulative conditions: "The natural gas-consuming equipment must be capable of being operated using exclusively hydrogen or other renewable or low-carbon gases, without substantial additional investments or the need to replace the equipment; beneficiaries must commit to phase out natural gas, and substitute it with hydrogen complying with the conditions in point or other renewable or low-carbon gases by the end of the project's lifetime; the scheme provides for an effective system of penalties in case of non-compliance with this commitment, which the Member State commits to monitor." (Article 101)

- We deplore this blatant case of additional production-based fossil fuel subsidies and strongly urge against this;
- We highlight that under these conditions, gas can be used for 15-20 years until the end of a project's lifetime, which locks in fossil fuel use.

Under section 5, eligible investments, Article 83 allows the financing of CCS and CCU under certain conditions laid out in Article 84.

- We call for stricter conditions for CCS, which should be only applied for sectors where there is no available and foreseeable alternative that would be as efficient in lowering CO2 emissions, including alternative demand-side measures such as ecodesign of products and more circularity.

Under section 5, although it is stipulated that electrification is a priority, the maximum aid intensities are, in fact, skewed in favour of hydrogen. Indeed, under article 90, aid intensities are of: [50]% for investments enabling the use of hydrogen; [30]% for investments in carbon capture equipment; [35]% for investments in the production of renewable energy, energy storage, or investments in electrification that use only fully renewable electricity; [20]% for all other technologies.

- We question this hierarchy of the proposed aid intensities and urge the Commission to prioritise climate additionality and cost-effectiveness instead. Aid for CCS should be reduced to a minimum, while investments in renewable energy, storage and renewables-based electrification should be prioritised;
- It is particularly questionable why 30% for CCU/S technology is preferred over "all other technologies" with only 20%;
- We demand that any aid that goes to hydrogen should be for green hydrogen projects.

Under section 6, art 122 eligible investments concern the production "(a) of relevant equipment for the transition towards a net-zero economy, namely [batteries, solar panels, wind turbines, heat-pumps, electrolysers, and equipment for carbon capture usage and storage (CCUS)]; and/or (b) the production of key components designed and primarily used as direct input for the production of the equipment defined under point (a); and/or (c) the production of new or recovered related critical raw materials necessary for the production of the equipment or key components defined under points (a) and (b).

- Although the production of secondary raw materials is eligible for investments, there is no specific incentive to favour this above using virgin materials. We propose increasing the aid intensity for production based on secondary raw material, to foster circularity
- in order to further foster circularity within the EUs state aid framework, we also believe Article 47 of the GBER (Regulation (EU) 2014/651) 2a) would need to be amended to allow the production of more durable, repairable, recyclable products to be eligible for funding. In this case, the resource savings would not yet be generated by the producer itself, but only later during use.

2.6. Capacity Mechanisms

According to Art 57' If a capacity mechanism is implemented, the design of this capacity mechanism should be open to promote the participation of non-fossil flexibility such as demand response and storage to this capacity mechanism". This is a promising approach, however, in a footnote, it states that the Commission may allow for a limited transition period up to 2 years, during which market-wide capacity mechanisms and non-fossil flexibility measure co-exist. This should be clarified; does it mean that for two years, a capacity mechanism targeting gas-fired power plants would be eligible?

The de-rating factor needs to ensure that non-fossil flexibility is on a level playing field with fossil plants. The 1 MW minimum capacity requirement needs to be re-evaluated to show that it is sufficiently low to allow for DSR and non-fossil flexibility.

Overall, the design needs to ensure that battery storage solutions and demand side responses are fairly treated compared to fossil power plants and that the calculations based on the ERAA scenarios avoid fossil overcapacities and lock-ins.

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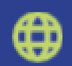 www.caneurope.org