



Letter from the European Ombudsman to the European Commission on its procedure for revising the Emissions Trading Scheme (ETS) State aid Guidelines, which no longer include the seamless steel pipe sub-sector

Correspondence - 21/07/2021

Case 971/2021/SF - **Opened on 21/07/2021** - **Institution concerned** European Commission
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Ms Ursula von der Leyen

President

European Commission

Dear President,

I have received three complaints concerning the European Commission's revision of the Emissions Trading Scheme State aid guidelines ('ETS Guidelines').

All three complaints primarily allege lack of transparency in the Commission's revision process. As each complaint also raises issues concerning the relevant sub-sectors in the context of the revision procedure, I have decided not to join the complaints.

This request for reply concerns the complaint from European Steel Tube Association (ESTA) against the Commission.

I have decided to open an inquiry into the complainant's concerns about lack of transparency and public participation in the revision of its ETS Guidelines.

The complainant considers that there was a **lack of transparency** as the sector specific analysis was disclosed only with the adoption of the ETS Guidelines.

The complainant claims that the analysis on which the Commission based the ETS Guidelines suffers from many **errors and a misapprehension**. In this context, the complainant states



that the seamless steel pipe sub-sector was previously included in the list of eligible sectors for compensation with the sector 'manufacture of basic iron and steel and of ferro-alloy'.

The complainant further claims that the Commission **failed to consider data submitted by interested parties** during the various consultations.

The complainant argues that the Commission's methodology of setting higher thresholds for trade and emission intensity, which have to be met independently, are **not in line with the ETS Directive** [1] and lead to an **unequal treatment among the sectors** .

I have now concluded that it would be useful to receive a written reply from the Commission to this complaint.

This inquiry does not concern the Commission's policy choices but primarily the transparency of the revision process itself and the steps the Commission took to allow for meaningful participation of the public and the stakeholder concerned. The inquiry will examine, in particular, how the Commission considered the sector specific data provided by the complainant.

Please note that I am likely to send your reply and related enclosures to the complainant for comments. If you wish to submit documents or information that you consider to be confidential, and which should not be disclosed to the complainant, please mark them 'Confidential'. [2] I may also decide to publish the non-confidential parts of your reply. The responsible inquiries officer is Ms Silvia Fuller.

I would be grateful to receive the Commission's reply by 16 November 2021.

Yours sincerely,

Emily O'Reilly European Ombudsman

Strasbourg, 21/07/2021

[1] Directive 2003/87/EC establishing a system for greenhouse gas emission allowance trading within the Union, as last amended by Commission Delegated Decision (EU 2020/1071

[2] Encrypted emails can be sent to our dedicated mailbox. Information and documents of this kind will be deleted from the European Ombudsman's files shortly after the inquiry has ended.