

Revised State Aid Toolkit

Skadden

Fit to Address the Energy Dilemma?

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Giorgio Motta



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50+
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1 Setting the Scene

How did we get here?

11 December 2019
European Green Deal

July 2020
EC prolonged validity of certain State aid rules, amended GBER and State aid guidelines

14 December 2020
Next Generation EU plan (NGEU)

17 December 2020
EU Multiannual Financial Framework 2021-2027 (MFF)

26 January 2021
€2.9 bn aid by 12 Member States for R&D&I in battery value chain

12 February 2021
EU Recovery and Resilience Facility (RRF)

23 July 2021
Amended GBER

December 2021
EC Communication aid to promote IPCEIs

February 2022
State aid guidelines for climate, environmental protection and energy 2022

23 March 2022
Temporary Crisis Framework

18 May 2022
EC REPowerEU Plan

15 July 2022
€5.4 bn aid for IPCEI in hydrogen technology

20 July 2022
Amended EC Temporary Crisis Framework

4 August 2022 
France €20bn subsidy package

18 October 2022
Draft new EU emergency measures

21 October 2022
Germany proposed €200bn rescue package.



1 February 2023
Green Deal Industrial Plan

14 February 2023
11 Member States urged caution in loosening State aid rule

9 March 2023
New Temporary State Aid Crisis and Transition Framework; revised GBER

14 March 2023
EC proposal for EU electricity market design reform

12 July 2023
FSR enters into force

Green Deal

Green Deal Industrial Plan

2020

2021

2022

2023

Pandemic

Russia's invasion of Ukraine

February 2020
Outbreak of Covid-19 pandemic in Europe

November 2020
India's Production Linked Incentive Scheme (for photovoltaics and batteries)



Summer 2021
Unprecedented energy prices spikes and volatility

February 2022
Russia's invasion of Ukraine

March 2022
China green subsidies to renewables firms



March 2022
Canada Green Investment plans



July 2022
UK Energy Security Bill



16 August 2022
US Inflation Reduction Act (IRA)



February 2023
Japan Green transformation Plan



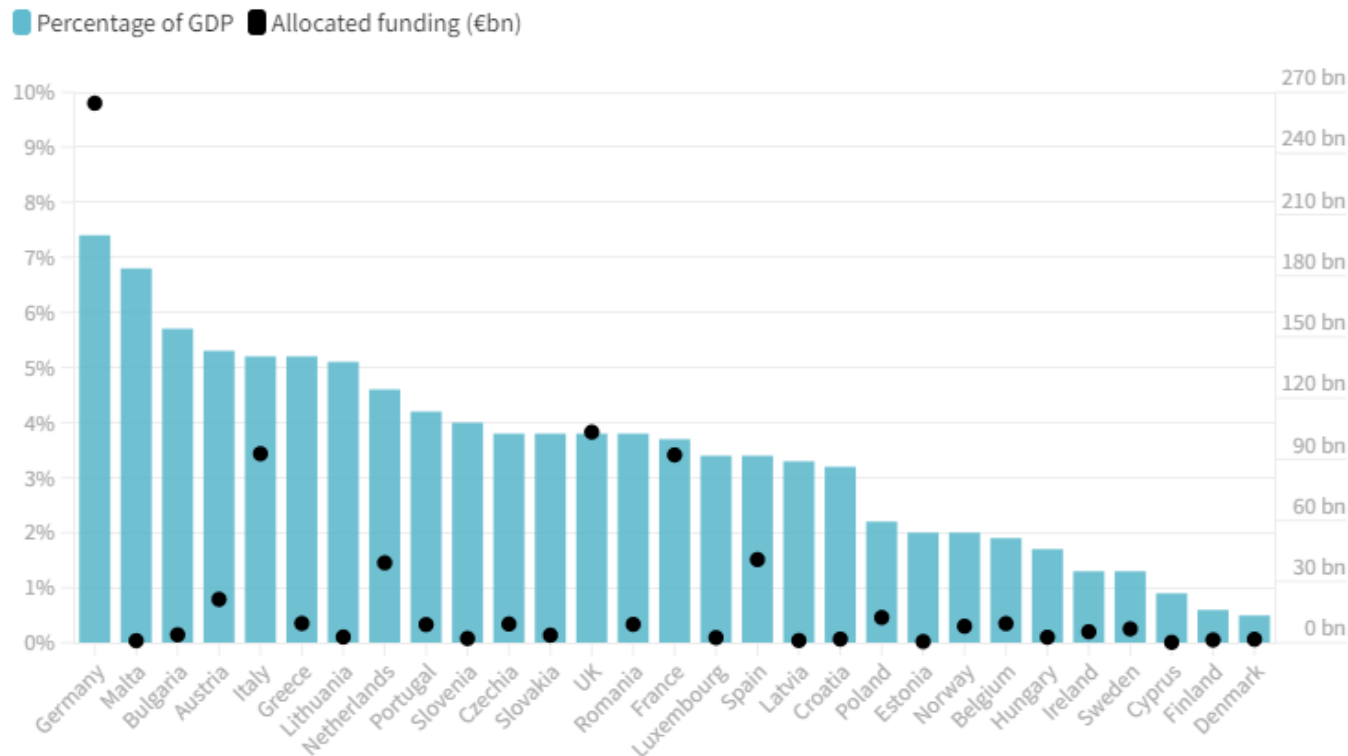
10 March 2023
EU-U.S. Clean Energy Incentives Dialogue



EU Governments' Response to Energy Crisis

Governments response to shield households and firms from direct impact of rise of energy prices (Sep 2021 - Jan 2023), % GDP.

*Source: Bruegel, "National fiscal policy response to the energy crisis", 24 March 2023



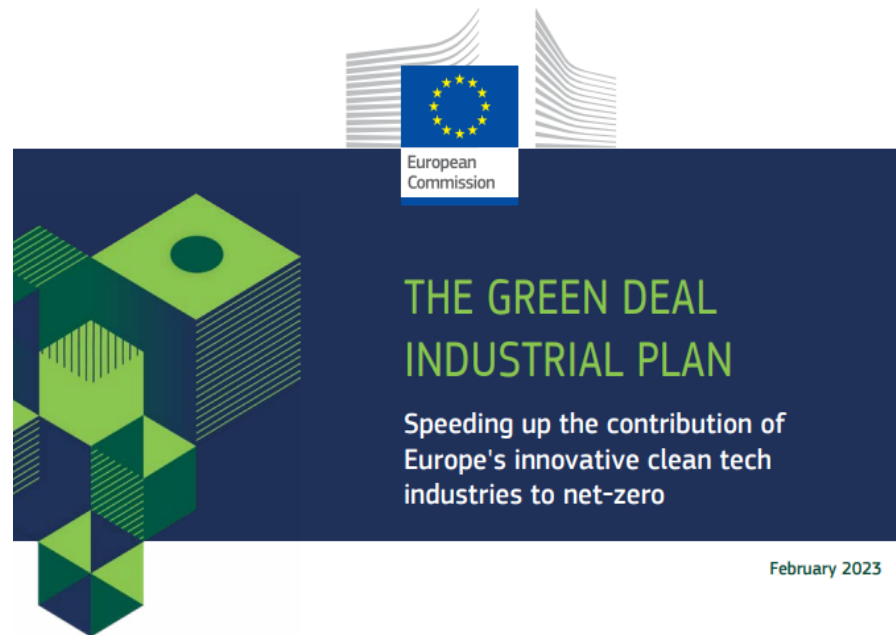


U.S. Inflation Reduction Act 2022

- Signed into law on 16 August 2022
- Sets out approx. \$370 billion green subsidy package
- Aim is to accelerate the transition to a low-carbon economy and fight climate change
- Combination of tax credits and rebates, grants, loans, and other incentives and investments to support sustainable industries in the U.S.
- Focuses on 6 clean-tech categories:
 - Clean electricity & energy transmission
 - Clean manufacturing
 - Clean building & energy efficiency
 - Environmental justice
 - Clean transportation
 - Conservation & agriculture
- Provides a simple, transparent and predictable framework
- Condition to benefit from IRA - to produce or buy products on US soil
- Extends until 2032

2 EC Green Deal Industrial Plan 2023

- Introduced on 1 February 2023
- Designed to support the transition to climate neutrality
- Four pillars:
 1. a predictable and simplified regulatory environment for net-zero industries
 2. faster access to finance
 3. ensuring skills for the green transition
 4. a global cooperation agenda
- Faster access to finance:
 - New Temporary State aid Crisis and Transition Framework
 - Amended General Block Exemption Regulation



With the **Green Deal Industrial Plan**, the Commission will promote the creation of a more supportive environment for deploying the clean tech manufacturing capacity required to meet Europe's ambitious green targets.

Temporary State aid Crisis and Transition Framework

- **Adopted 9 March 2023 (OJEU, C 101/3)**
- New provisions for green investments in strategic sectors at risk of relocation to the US, or other third countries
- Wider scope to allow Member States to support *all* possible renewable sources of energy
- Simplified conditions for smaller projects and less mature technologies
- Higher aid ceilings and simplified aid calculations
- In exceptional cases, ad hoc support to companies at risk of relocation to match foreign subsidies (i.e., “**matching aid**” or “**funding gap**”), subject to safeguards
- Faster EC assessment and approval
- **Applicable until December 2025; prolongs crisis framework adopted in context of the war in Ukraine until December 2023**

Revised GBER

- **Endorsed on 9 March 2023**
- Ensures consistency with new State aid guidelines (incl. Regional, Environmental, Risk Finance and R&D&I guidelines), the Green Deal, the EU Industrial and Digital Strategy
- Further facilitates deployment of renewable energy and the decarbonization of the industry
- Facilitates the implementation of projects involving several Member States (i.e., ICPEI, R&D&I)
- Higher notification thresholds and aid intensities for many types of aid
- Block exempt aid measures set up by Member States to regulate prices for energy
- Clarifies and streamlines possibilities for risk finance aid for SMEs and start-ups
- **Prolongs the GBER until the end of 2026**

Is the Revised Toolkit Fit 3 to Address the Energy Dilemma?

Short-term solution to address immediate needs

- **Support the road towards net-zero industry & reduce energy dependence**

BUT

- Protect **competitiveness of the EU against third-country green support?**

- Effectiveness still to be proven
- Subsidy war vs. potential benefits of negotiated and coordinated outcomes
- Potential weakening of FSR tool?

- Maintain **EU internal market integrity?**

- Not all Member States have the same financial resources and ability to match aid
- Risk of subsidy race and fragmentation within the internal market



A successful implementation of the other pillars of the GDIP will be key to ensure European competitiveness in the long term



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