

Green energy and State aid

The perspective of the Member States

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The last 10 years...

- Since 2015, energy and climate policy has remained high on the EU's political agenda, frequently discussed at European Council meetings.
- Complex issue
 - Safety
 - Dependency
 - Relation with third countries, between member states
 - Climate change policy - renewables
 - Competitiveness
 - Art. 194 of the TFEU leaves for the member states to decide about the energy mix
- International developments (COP21, OECD): EU's leading role in climate issues

State aid policy in relation to other EU policies

- Key objective of State aid policy is to **maintain the undistorted market** – State aid is prohibited under Art. 107 (1) TFEU
- However 107 (3) c) gives a very wide power for the Commission to scrutinize and decide upon the **compatibility of the aid** with the internal market

„3. The following may be considered to be compatible with the internal market: [...]

(c) aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest;”

The development of State aid rules related to energy aid

- State aid modernization 2012-2014
- Energy and Environmental aid guidelines (EEAG) 2014
- New Block Exemption Regulation (GBER)
- Modifications of the GBER: 2017, 2020, 2021, 2023
 - 2021/2023 had energy focus

2019: The Green Deal

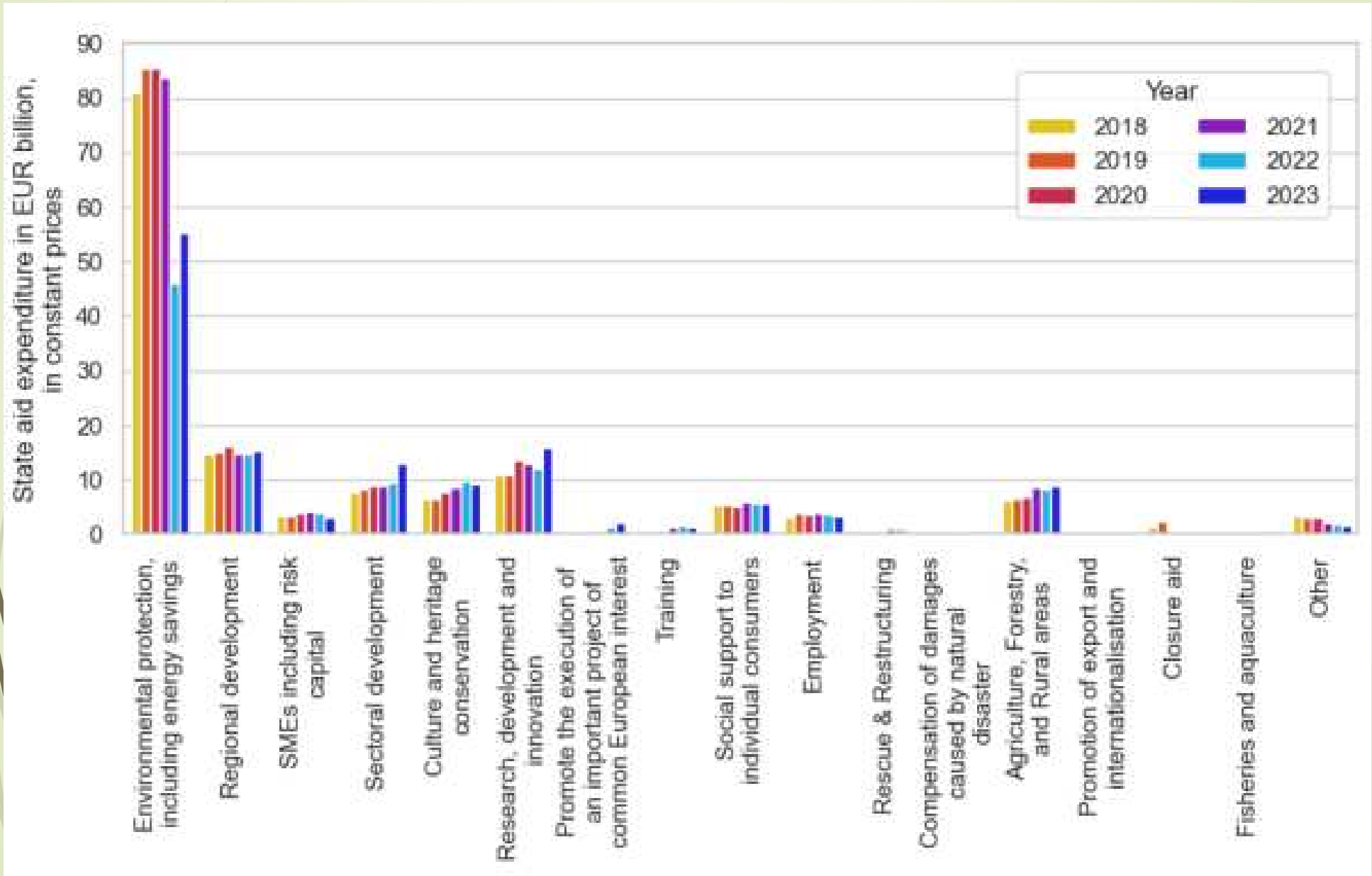
- Flagship project of the first Commission led by UVDL – impact on EU law – high number of legislative changes
 - Greening in all areas
 - Emission targets
 - Sectoral requirements
 - New rules
 - Admin. burdens



State aid rules adapted

- ▶ COVID – 2020-2022 Temporary Framework (TF)
- ▶ C-594/18 P, Austria v Commission – impact on the steps of the compatibility assessment under Art. 107 (3) c)
- ▶ 2022 Adoption of the Climate Energy and Environmental Aid Guidelines (CEEAG) – long term policy choices
- ▶ War 2022 - TCF, TCTF temporary rules with energy and green transition focus, but allowing short term interventions
- ▶ **Member States had to adapt – Commission had to hear the specific problems** experienced on the energy markets – high prices, competitiveness issues
 - ▶ Very high number of notifications, 4-5 times of an average year
 - ▶ Revision of the energy market rules (impact on State aid policy)
- ▶ Amendments to the GBER
- ▶ 2024: Letta and Draghi Reports defined solutions to the problems experienced

In terms of spending – greening is TOP 1 objective - 2024 Scoreboard (excl. crisis aid)



What is new? State aid rules adapted again

- 2nd Commission led by UVDL
- Competitiveness – simplification – reducing dependencies (strategic autonomy) and the innovation gap
- Omnibus proposals to simplify
- Competitiveness Compass (who remembers the Green Deal Industrial Plan from 2024?)
- Clean Industrial Deal going from green to clean
- CISAF – Clean Industrial Deal State Aid Framework

From TCTF to CISAF, current policies

- Similar aid categories + additional ones
- Adoption by end-June 2025
- Aid to accelerate the rollout of renewable energy + low carbon fuel (clean)
 - Aid schemes
 - Direct price support
- Aid for non-fossil flexibility support
- Aid for capacity mechanisms
- Aid for ELUs as relief for high energy prices

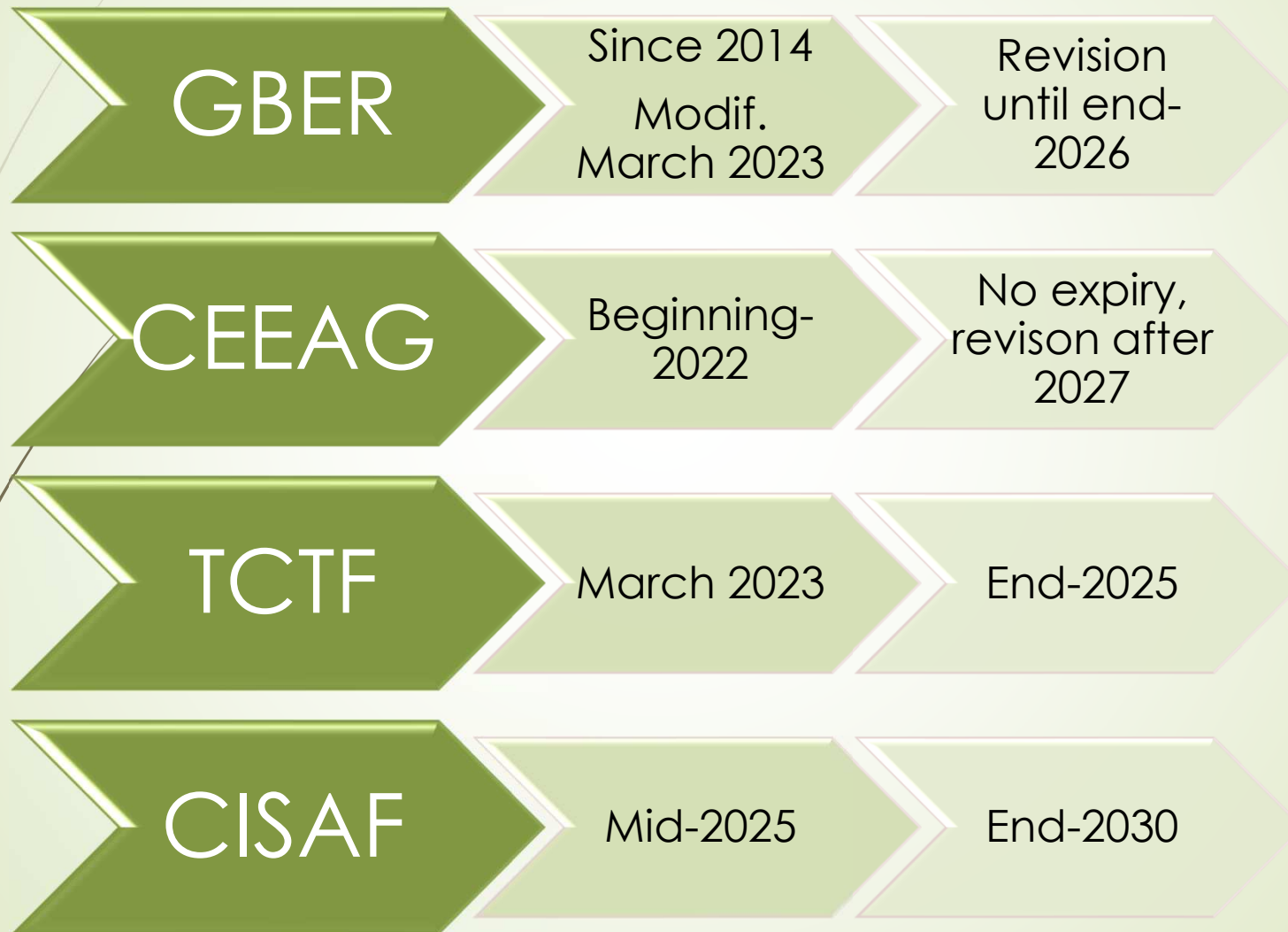
From TCTF to CISAF, current policies

- Aid to deploy industrial decarbonisation
- Aid to ensure sufficient production capacity in clean technologies, broadened to all NZIA technologies
 - Schemes
 - Ad hoc aid (Matching aid)
 - Aid to support demand for clean technology equipment in form of accelerated depreciation
- Aid to support Innovation Fund projects
- Aid to reduce risks of private investment in renewable energy, industrial decarbonisation, clean technology manufacturing and energy infrastructure (involve private funding – SIU)

CISAF – Simplification and major changes

- Possibility to apply aid intensities instead or beside funding gap or competitive selection (proportionality)
- Safe harbour rules – for easy & quick adoption
- No public consultation (CEEAG)
- Low carbon hydrogen is eligible as clean fuel (nuclear)
- The transition role of natural gas still accepted
- Aid for creating clean manufacturing capacities is much broader (NZIA, nuclear)
- Applicable for 5 years – more stable environment, longer aid schemes, more predictability

Paralell rules



Clean energy includes nuclear

- Changing policy approach (Taxonomy)
- Wider acceptance
- Positive State aid Decisions: UK, HU, CZ
- However: C-59/23 P COJ annulled COM decision and GC judgment (T-101/18) in the Paks II case
- IPCEI on nuclear energy? – SMRs, fuels cells, storage of waste, medical use, etc.
 - Clean and affordable energy – complementing renewables, balancing, reducing dependency

Challenges

- Changing geopolitical environment → impact on policy objectives → changing State aid rules
- Unprecedented speed and frequency, 'new normal' is different as the 'old normal'
- Unprecedented amount
- Still lot to do for the clean transition (incl. infrastructure development), public funding is necessary, wiser spending is needed, the CISAF provides more flexibility
- Parallel rules can create confusion, the role of planning is even more important

Thank you!