

Case No: 93403
Document No: 1587821
Decision No: 052/26/COL

EFTA SURVEILLANCE AUTHORITY DECISION

of 4 March 2026

amending the substantive rules in the field of State aid by amending the Guidelines on certain State aid measures in the context of the system for greenhouse gas emissions allowance trading post-2021

The EFTA Surveillance Authority ('ESA'),

HAVING regard to:

the Agreement on the European Economic Area ('the EEA Agreement'), in particular to Articles 61 to 63 and Protocol 26,

the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice ('the Surveillance and Court Agreement'), in particular to Article 24 and Article 5(2)(b),

WHEREAS:

Under Article 24 of the Surveillance and Court Agreement, ESA shall give effect to the provisions of the EEA Agreement concerning State aid.

Under Article 5(2)(b) of the Surveillance and Court Agreement, ESA shall issue notices or guidelines on matters dealt with in the EEA Agreement, if that Agreement or the Surveillance and Court Agreement expressly so provides or if ESA considers it necessary.

On 16 December 2020, ESA adopted Decision No 156/20/COL, introducing Guidelines on certain State aid measures in the context of the system for greenhouse gas emission allowance trading post-2021 ('ESA's ETS Guidelines') ⁽¹⁾. On 26 January 2022, ESA adopted Decision No 010/22/COL supplementing the Guidelines on certain State aid measures in the context of the system for greenhouse gas emission allowance trading post-2021 ⁽²⁾.

These Guidelines correspond to the European Commission's ('the Commission') Guidelines on certain State aid measures in the context of the system for greenhouse gas emission allowance trading post-2021, adopted on 21 September 2020 ('the Commission's ETS Guidelines') ⁽³⁾ and supplemented by the Commission's Communication of 24 November 2021 supplementing the Guidelines on certain State aid measures in the context of the system for greenhouse gas emission allowance trading post-2021 ⁽⁴⁾.

⁽¹⁾ OJ L 130, 15.4.2021, p. 3, and EEA Supplement No 27, 15.4.2021, p. 3.

⁽²⁾ OJ L 204, 4.8.2022, p. 3, and EEA Supplement No 51, 4.8.2022, p. 1.

⁽³⁾ OJ C 317, 25.9.2020, p. 5.

⁽⁴⁾ OJ C 528, 30.12.2021, p. 1.

On 23 December 2025, the Commission adopted a Communication amending the Guidelines on certain State aid measures in the context of the system for greenhouse gas emission allowance trading post-2021 ('the Amendments to the Commission's ETS Guidelines')⁽⁵⁾.

The Amendments to the Commission's ETS Guidelines are also of relevance for the European Economic Area ('the EEA').

Uniform application of the EEA State aid rules is to be ensured throughout the EEA in line with the objective of homogeneity established in Article 1 of the EEA Agreement.

It is appropriate to amend ESA's ETS Guidelines in line with the Amendments to the Commission's ETS Guidelines⁽⁶⁾.

The present amendments to ESA's ETS Guidelines provide an updated factor for the calculation of the compensation amounts for indirect emission costs incurred by the beneficiaries as from 2026, increase the list of eligible sectors, set out the possibility for EFTA States to notify under certain conditions sectors or subsectors not included in Annex I to ESA's ETS Guidelines and increase the maximum aid intensity for sectors already deemed to be exposed to a genuine risk of carbon leakage. This is done in order to mitigate risks of carbon leakage in the EEA. Such changes constitute important elements to both ensure the proportionality of aid measures granted under ESA's ETS Guidelines and to decrease the risks of carbon leakage, and are therefore, in line with paragraphs 67 and 68 of ESA's ETS Guidelines, applicable from 1 January 2026. However, the amendments to Annex I in the form of Table 2 of ESA's ETS Guidelines will apply for costs incurred as of 1 January 2025, meaning that where EFTA States choose to compensate the newly eligible sectors for indirect emission costs, they may already do so for indirect emission costs incurred as from 2025.

Furthermore, Commission Delegated Regulation (EU) 2024/873^(7,8) adjusted the approach as regards the free allocation of allowances for products' benchmarks with exchangeability of fuel and electricity, in line with Article 10a(6) of Directive 2003/87/EC^(9,10). Therefore, as from 1 January 2026, ESA's ETS Guidelines should be adjusted with regard to such products to ensure that producers do not receive double compensation for the same emissions with both free allocation and indirect emission costs compensation. In principle, this should be ensured by deducting the value of freely received allowances that can be allocated to indirect emissions from the amount of indirect emission cost compensation under the Guidelines. ESA plans to introduce such amendments in 2026, in line with expected corresponding amendments to the Commission's ETS Guidelines.

⁽⁵⁾ OJ C/2026/196, 5.1.2026.

⁽⁶⁾ Document No 1583890.

⁽⁷⁾ Commission Delegated Regulation (EU) 2024/873 of 30 January 2024 amending Delegated Regulation (EU) 2019/331 as regards transitional Union-wide rules for harmonised free allocation of emission allowances (OJ L, 2024/873, 4.4.2024).

⁽⁸⁾ As incorporated into the EEA Agreement by Decision of the EEA Joint Committee No 108/2025 of 8 May 2025 amending Annex XX (Environment) to the EEA Agreement (OJ L, 2025/1368, 24.7.2025 and EEA Supplement No 46, 24.7.2025, p. 28).

⁽⁹⁾ Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (OJ L 275, 25.10.2003, p. 32).

⁽¹⁰⁾ As incorporated into the EEA Agreement by Decision of the EEA Joint Committee No 146/2007 of 26 October 2007 amending Annex XX (Environment) to the EEA Agreement (OJ L 100, 10.4.2008, p. 92 and EEA Supplement No 19, 10.4.2008, p. 90).

According to paragraph II under the heading “GENERAL” of Annex XV to the EEA Agreement, ESA, after consultation with the Commission, is to adopt acts corresponding to those adopted by the Commission,

HAVING consulted the Commission,

HAVING consulted the EFTA States,¹¹

HAS ADOPTED THIS DECISION:

Article 1

ESA introduces amendments to its ETS Guidelines. The amendments are annexed to this Decision and form an integral part of it.

Article 2

ESA will apply the principles as set out in the amendments to its ETS Guidelines with effect from 1 January 2026. EFTA States may refer to Annex I and points (27) and (31) of ESA’s ETS Guidelines as amended for costs incurred as of 1 January 2025.

Only the English language version of this decision is authentic.

Decision made in Brussels.

For the EFTA Surveillance Authority

Arne Røksund
President
Responsible College Member

Árni Páll Arnason
College Member

Nuscha Wieczorek
College Member

Melpo-Menie Joséphidès
Countersigning as Director,
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This document has been electronically authenticated by Arne Roeksund, Melpo-Menie Josephides.

ANNEX: Amendments to the Guidelines on certain State aid measures in the context of the system for greenhouse gas emission allowance trading post-2021 (Document No 1587829).

⁽¹¹⁾ Article 1(b) of the Surveillance and Court Agreement states that ‘the term “EFTA States” means the Republic of Iceland and the Kingdom of Norway and, under the conditions laid down by Article 1(2) of the Protocol Adjusting the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice, the Principality of Liechtenstein’.