ZEP's response to the public consultation on the revision of the General Block Exemption Regulation (GBER)

The Zero Emission Platform (ZEP) welcomes the opportunity to provide feedback on the Commission's draft to revise the General Block Exemption Regulation (GBER).

ZEP recognises the important role of the GBER within the EU State aid framework, alongside the Climate, Environmental Protection and Energy Aid Guidelines (CEEAG), the Clean Industrial State Aid Framework (CISAF), and the Important Projects of Common European Interest (IPCEIs).

The GBER plays a key role in enabling faster and more predictable access to State aid for clean technologies and decarbonisation projects. This is reflected in its widespread use at Member State level, where it facilitates the timely allocation of public support while reducing administrative burden.

From the perspective of industrial carbon management, the most relevant provisions of the GBER relate to support for research, development and innovation, as well as for environmental protection and energy infrastructure. ZEP's feedback therefore focuses on these areas, in particular:

- **Chapter I – Common Provisions**
  - Article 2 – Definitions of terms that first appear in Chapter I and Section 6 of Chapter III
  - Article 3 – Conditions for exemption
  - Article 8 – Incentive effect
  - Article 9 – Cumulation
- **Chapter III – Section 4: Aid for research and development and innovation**
  - Article 32 – Aid for research and development projects
  - Article 33 – Aid for projects awarded a Seal of Excellence quality label
  - Article 35 – Aid for co-funded research and development projects, feasibility studies or research infrastructure or testing and experimentation infrastructure
  - Article 38 – Investment aid for research infrastructure and testing and experimentation infrastructure
- **Chapter III – Section 6: Aid for environmental protection**
  - Article 51 – Investment aid for climate protection
  - Article 66 – Aid for energy infrastructure
- **Chapter III - Section 10: Aid involved in financial instruments and budgetary guarantees supported by the InvestEU Fund and the InvestEU Instrument of the ECF**
  - Article 81 – Scope and common provisions
  - Article 82 – Conditions for aid involved in financial instruments and budgetary guarantees supported by the InvestEU Fund and the ECF InvestEU

Chapter I – Common Provisions

Article 2 – Definitions of terms that first appear in Chapter I
(32) 'undertaking in difficulty' means an undertaking in respect of which at least one of the following circumstances occurs: […]

ZEP notes that undertakings classified as "undertakings in difficulty" are generally excluded from the scope of the GBER. While this reflects the need to avoid supporting structurally non-viable firms, its application may raise questions in the context of industrial decarbonisation.

In particular, certain capital-intensive and first-of-a-kind carbon capture and storage (CCS), carbon capture and use (CCU), and carbon dioxide removal (CDR) projects may be developed by entities with temporarily weak financial profiles, especially in hard-to-abate sectors undergoing transition. In such cases, there is a risk that the definition could inadvertently limit access to support for projects that are essential to achieving climate objectives.

ZEP therefore encourages ensuring that the application of this concept remains appropriately calibrated, in particular in light of ongoing work at EU level to better reflect the characteristics of innovative and scaling technologies.

Article 2 – Definitions of terms that first appear in Section 6 of Chapter III
(141) 'energy infrastructure' means any physical equipment or facility which is located within the Union or linking the Union to one or more third countries and falling under the following categories: […] *(d) carbon dioxide:* *(i) pipelines, other than upstream pipeline network, used to transport carbon dioxide from more than one source, namely industrial installations (including power plants) that produce carbon dioxide gas from combustion or other chemical reactions involving fossil or non-fossil carbon-containing compounds, for the purpose of permanent geological storage of carbon dioxide pursuant to Article 3 of Directive 2009/31/EC of the European Parliament and of the Council or for the purpose of use of carbon dioxide as feedstock or to enhance the yields of biological processes;* *(ii) facilities for liquefaction and buffer storage of carbon dioxide in view of its transport or storage. This does not include infrastructure within a geological formation used for the permanent geological storage of carbon dioxide pursuant to Article 3 of Directive 2009/31/EC and associated surface and injection facilities;* *(iii) any equipment or installation essential for the system in question to operate properly, securely and efficiently, including protection, monitoring and control systems. This may include dedicated mobile assets for the transport and storage of carbon dioxide, if such mobile assets fulfil the definition of a clean vehicle;* *[…]* *(f) Projects of Common Interest […] and projects of mutual interest […]*

[…] *Assets listed under points (a) to (g) which constitute dedicated infrastructure shall not qualify as energy infrastructure.*
(35) 'dedicated infrastructure' means infrastructure built for one or a small group of ex ante identifiable users and tailored to their needs.

1) The proposed text adopts the same definition of "energy infrastructure" as the current GBER, which continues to raise a number of uncertainties.

- The current definition of "energy infrastructure" for CO_2 appears to exclude pathways involving the capture and storage of atmospheric CO_2: it refers explicitly to CO_2 originating from either (i) combustion or (ii) chemical reactions that involve fossil or "non-fossil carbon-containing compounds". This formulation seems to omit processes that capture CO_2 directly from ambient air, as well as all infrastructure linked to direct air carbon capture and storage (DACCS), despite the importance of such solutions in helping achieve the EU's climate objectives.
- This exclusion is also problematic from a system perspective, since CO_2 captured from ambient air can be transported and stored using the same infrastructure as CO_2 from fossil and biogenic sources. Differentiating between carbon sources at the level of transport infrastructure does not reflect operational realities and risks creating unnecessary regulatory fragmentation. ZEP therefore recommends broadening the definition to include transport infrastructure connected to direct air capture, thereby ensuring a technology-neutral framework and providing greater legal certainty for CDR projects as well as CO_2 infrastructure investments.
- In addition, the point (i) on pipelines should also include "associated booster stations" – which encompasses both conditioning and compression facilities, and pressure control systems. More generally speaking, Article 2(141) could also refer to CO_2 vessels as well as road and rail CO_2 transport modes. These additions would better align with the definition of CO_2 transport included under Article 3(29) of the Net-Zero Industry Act.[1]
- Finally, ZEP also notes that the current definition explicitly excludes CO_2 storage infrastructure. While this may reflect the specific regulatory framework governing CO_2 storage, it may create inconsistencies in the treatment of the CO_2 value chain across the Regulation. In particular, this has implications for the application of provisions such as Article 51(4), where CO_2 transport infrastructure is presumed to deliver climate benefits but CO_2 storage is not. ZEP therefore recommends clarifying the treatment of CO_2 storage infrastructure within the definition of energy infrastructure to ensure a consistent and coherent approach across the CO_2 value chain.

2) ZEP notes that, pursuant to Article 2(35) and the final paragraph of point (141), infrastructure qualifying as "dedicated infrastructure" is excluded from the definition of energy infrastructure. While this distinction may be intended to avoid supporting purely captive or single-user assets, it may have unintended consequences for the development of CO_2 transport networks.

[1] Art. 3(29) NZIA: *"'CO_2 transport infrastructure' means the network of pipelines, including associated booster stations, for the transport of CO_2 to the storage site, as well as any ships, road or rail transport modes, including liquefaction devices and temporary storage facilities if needed, for the transport of CO2 to the harbour facilities and storage site;"*

- In practice, CO_2 infrastructure may be developed in a phased manner, starting with a limited number of initial users before expanding into multi-user networks over time. As a result, early-stage projects – particularly those involving one or a small number of industrial emitters – could fall within the definition of "dedicated infrastructure" and therefore be excluded from the scope of energy infrastructure.
- This may create a disincentive for the initial development of CO_2 networks, which are essential to enable the scale-up of CCS, CCU, and CDR technologies. ZEP therefore recommends clarifying that CO_2 infrastructure developed as part of a planned or scalable network should not be considered "dedicated infrastructure" for the purposes of this Regulation, even where it initially serves a limited number of users. This would better reflect the phased development of CO_2 value chains and support a consistent and enabling framework for investment.

3) Finally, ZEP notes that the definitions of "carbon capture and storage" (CCS) and "carbon capture and use" (CCU) previously included under Article 2 (points 131a and 131b) have been omitted from the proposed text:

(131a)	*'carbon capture and storage' or 'CCS' means a set of technologies that make it possible to capture the CO_2 emitted from industrial plants, including process-inherent emissions, or to capture it directly from ambient air, to transport it to a storage site and inject it in suitable underground geological formations for the purpose of permanent storage;*
(131b)	*'carbon capture and use' or 'CCU' means a set of technologies that make it possible to capture the CO_2 emitted from industrial plants, including process-inherent emissions, or to capture it directly from ambient air, and to transport it to a CO_2-consumption or utilisation site for full usage of that CO_2;*

- This omission may create legal uncertainty as regards the scope of eligible activities, in particular for projects involving carbon capture, transport and storage or utilisation. The previous definitions provided important clarity by explicitly covering CO_2 captured both from industrial processes and directly from ambient air, thereby ensuring that a wide range of decarbonisation and carbon dioxide removal pathways were clearly included.
- In the absence of such definitions, it is less clear how CCS and CCU activities – particularly those involving direct air capture or biogenic CO_2 – are to be interpreted under the revised framework. This may lead to divergent interpretations across Member States and reduce legal certainty for project developers and investors. ZEP therefore recommends reintroducing definitions of CCS and CCU in Article 2, or otherwise clarifying their scope within the Regulation. This would ensure continuity with the previous framework, enhance legal certainty, and support a consistent and technology-neutral approach to carbon management across the EU.

Article 3(2) – Conditions for exemption
2. Unless otherwise provided for in this Regulation: *(a) the relevant time for assessing whether the block exemption conditions laid downset out in this Regulation are met is the date of granting of the aid. As regards aid to infrastructure, the conditions that shall be met after the date of granting, such as conditions related to the use of the infrastructure, shall be met for a time period of 10 years as from the date of the last payment of aid;* *(b) the relevant entity for assessing whether the block exemption conditions set out in this Regulation are met is the undertaking;*

(c) any concession or other entrustment to a third party to construct, upgrade, operate or rent aided infrastructure shall be assigned on a competitive, transparent, non-discriminatory and unconditional basis.

ZEP notes that Article 3 has been expanded compared to the current GBER to include more detailed provisions on the conditions for exemption, in particular regarding the timing of compliance assessment and the treatment of infrastructure. ZEP welcomes this clarification, in particular the recognition that compliance conditions for infrastructure projects may need to be assessed over time. This approach is appropriate in the context of CO_2 transport infrastructure, which is expected to develop and to be utilised progressively over time. However, given the evolving and network-based nature of industrial carbon management systems, it will also be important to ensure that the application of these conditions remains sufficiently flexible to accommodate phased development, the addition of new users, and changes in utilisation over time.

Article 8 – Incentive effect

1. This Regulation shall apply only to aid which has an incentive effect.

2. Aid shall be considered to have an incentive effect if the beneficiary has submitted a written application for State aid or EU funding before work on the project starts or before the activity starts. […]

3. Ad hoc aid granted to large enterprises shall be considered to have an incentive effect if […]

4. […] measures in the form of tax advantages shall be deemed to have an incentive effect if […]

5. By way of derogation from paragraphs 2, 3 and 4, the following categories of aid shall be deemed to have an incentive effect: […]

The proposed text under Article 8 sets out an incentive effect as a precondition for the application of the GBER to State aid. This requires beneficiaries to submit a written application prior to the start of the project. Paragraph 5 of the provision lists categories of State aid that are presumed to have an incentive effect and that are not covered by paragraphs 2, 3 and 4. However, it appears that neither industrial decarbonisation projects nor transport infrastructure relevant to industrial carbon management are included – at least not explicitly. ZEP recommends adding such a provision given the key role of these projects for achieving the EU's climate objectives, and thus the importance of ensuring timely access to financial support.

Article 9 – Cumulation

1. In determining whether the notification thresholds in Article 4 and the maximum aid intensities in Chapter III are met, the total amount of State aid for the aided activity or project or undertaking shall be taken into account.

2. Where Union funding […] is combined with State aid, only the State aid shall be considered for determining whether notification thresholds and maximum aid intensities or maximum aid amounts are met […]

3. Aid with identifiable eligible costs exempted by this Regulation may be cumulated with:

(a) any other State aid, as long as that State aid concerns different identifiable eligible costs, or any other State aid without identifiable eligible costs,

> *(b) any other State aid, in relation to the same eligible costs, partly or fully overlapping, only if such cumulation does not result in exceeding the highest aid intensity or aid amount applicable to this aid under this Regulation or under a Commission decision, whichever is the highest. […]*
>
> *Financing provided to the final beneficiaries with support from the InvestEU Fund covered by Section 10 of Chapter III and the cost covered by this financing shall not be considered for determining compliance with the cumulation provisions set out in the first sentence of this point. Instead, the amount relevant for determining compliance with those provisions shall be calculated as follows. First, the nominal amount of the financing supported by the InvestEU Fund shall be deducted from the total eligible project costs, obtaining the total remaining eligible costs; second, the maximum aid shall be calculated by applying the relevant highest aid intensity or aid amount only to the total remaining eligible costs. […]*

The cumulation provisions set out in Article 9 are key for the financing of capital-intensive decarbonisation projects, including CCS and CDR. These projects typically rely on a combination of funding sources, including Union programmes (such as the Innovation Fund), national State aid, and financial instruments.

ZEP welcomes the clarification that Union funding not directly controlled by Member States is not considered as State aid for the purpose of assessing compliance with notification thresholds and aid intensities. This facilitates the combination of EU-level and national support, which is essential for enabling industrial carbon management projects.

Given the scale and cost structure of CCS and CDR projects, it is important that the application of cumulation rules does not unduly constrain the effective blending of different funding sources. The rule under Article 9(3)(b), which limits the cumulation of aid for the same eligible costs to the maximum applicable aid intensity, may constitute a constraint in this context. Given that multiple support measures often target the same capital-intensive components (e.g. capture installations or shared infrastructure), there is a risk that aid ceilings are reached rapidly and that the combination of funding sources may be limited in practice.

However, ZEP welcomes the clarification and expanded provisions regarding InvestEU-supported financing, which allow for a more flexible treatment of such instruments in the cumulation framework. In particular, the approach of deducting InvestEU-supported financing from eligible costs before applying aid intensity limits facilitates the blending of financial instruments with State aid.

Chapter III – Section 4: Aid for research and development and innovation

Article 32 – Aid for research and development projects
1. Aid for research and development projects shall be compatible […] *2. This Article shall not apply to aid which exceeds the following thresholds:* *(a) if the project is predominantly fundamental research: EUR 55 million per undertaking, per project; […]* *(b) if the project is predominantly industrial research: EUR 35 million per undertaking, per project; […]* *(c) if the project is predominantly experimental development: EUR 25 million per undertaking, per project; […]* *(d) alternatively, to points (b) and (c), if the project is any combination of industrial research and experimental development activities (referred to as 'applied research'): EUR 25 million per undertaking, per project; […]*

ZEP welcomes the inclusion of aid for research and development (R&D) projects, which recognises the importance of supporting innovation across the full value chain of key sectors, including industrial carbon management. Europe has long been competitive in the R&D of carbon capture technologies,[2] and more generally speaking in the fields of CCS, CCU and CDR. Continued support for these activities and at all R&D stages remains essential. ZEP also welcomes the inclusion of "applied research" as a new category for research, combining industrial research and experimental development.

Article 33 – Aid for projects awarded a Seal of Excellence quality label
1. Aid for SMEs for research and development projects as well as feasibility studies awarded a Seal of Excellence quality label under the Horizon Europe programme, shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and exempted from the notification requirement in Article 108(3) of the Treaty, if the conditions set out in this Article and Chapter I are met. *2. This Article shall not apply to aid which exceeds EUR 2.5 million per SME per research and development project or feasibility study […]*

ZEP welcomes the express recognition of projects that have been positively assessed under the Horizon Europe programme and awarded the "Seal of Excellence" quality label (i.e. that met the evaluation criteria under Horizon Europe but did not receive funding due to budget constraints) as a means to ensure that State aid is directed towards highly innovative research projects.

In this context, ZEP suggests exploring the possibility of extending a similar approach to other EU-level instruments that identify high-quality and strategically important projects. In particular, projects awarded a "STEP Seal" under the Innovation Fund, as well as projects recognised as "Net-Zero Strategic Projects" under the Net-Zero Industry Act, could be considered as meeting certain criteria for compatibility under the GBER.

[2] See for instance annual reports from the Joint Research Centre (JRC) on CCS/U technology development trends, value chains, and markets (2025, 2024, 2023, 2022).

This approach would build on existing EU-level technical assessments, reduce administrative burden, and facilitate the deployment of strategically important decarbonisation projects. It would also contribute to greater consistency across EU policy instruments and improve the effectiveness of public support.

Article 35 – Aid for co-funded research and development projects, feasibility studies or research infrastructure or testing and experimentation infrastructure
1. Aid provided to a co-funded research and development project, a feasibility study or a research infrastructure or a testing and experimentation infrastructure which is implemented by at least three Member States, or alternatively two Member States and at least one associated country, and selected on the basis of the evaluation and ranking made by independent experts following trans-national calls in line with Horizon Europe Programme rules, shall be compatible [...] *2. This Article shall not apply to aid which exceeds the maximum amounts defined as eligible under the Horizon Europe programme rules. [...]*

Article 38 – Investment aid for research infrastructure and testing and experimentation infrastructure
1. Aid for the construction or upgrade of research infrastructure that performs economic activities and for testing and experimentation infrastructure shall be compatible [...] *2. This Article shall not apply to aid which exceeds EUR 25 million per research infrastructure or per testing and experimentation infrastructure. [...]*

ZEP welcomes the provisions under Articles 35 and 38, which strengthen the framework for supporting co-funded research and development projects, feasibility studies, as well as research infrastructure, and testing and experimentation infrastructure. The expanded scope of Article 35 (compared to the previous Article 25c), in particular, reflects a more integrated approach by covering not only research and development activities but also associated infrastructure.

These instruments are essential to support the full innovation chain for industrial carbon management technologies. In particular, feasibility studies, pilot installations, and testing and experimentation infrastructure play a critical role in bridging the gap between early-stage research and commercial deployment. For capital-intensive technologies such as CCS and CDR, these stages are key to reducing technical and financial risks and enabling investment decisions.

In addition, alignment with Horizon Europe rules and other Union funding instruments is welcome, as it facilitates the combination of funding sources and supports the effective scaling of innovative decarbonisation technologies.

Chapter III – Section 6: Aid for environmental protection

Article 51 – Investment aid for climate protection
1. Investment aid for the reduction, and removal of greenhouse gas emissions, shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and exempted from the notification requirement in Article 108(3) of the Treaty, if the conditions set out in this Article and Chapter I are met. *2. This Article shall not apply to aid which exceeds EUR 30 million per undertaking per project.*

ZEP welcomes the inclusion of a simplified provision for aid supporting the reduction and removal of greenhouse gas emissions, as provided under Article 51. Exempting eligible projects from the notification requirement in Article 108(3) TFEU has the potential to significantly facilitate access to State aid and reduce administrative burden for CCS, CCU, and CDR projects.

However, several elements of the Article risk limiting its practical applicability with regards to industrial carbon management projects:

Article 51(4) – Demonstration of climate benefits
4. An increase in the level of climate protection must be demonstrated in the form of the reduction or removal of greenhouse gas emissions as set out in the following points: *(a) investments concerning the decarbonisation of an existing installation of the beneficiary without increase of the production capacity must reduce or capture the direct greenhouse gas emissions from that installation, compared to the situation prior to the investment;* *(b) investments in new installations or investments increasing production capacity must reduce or capture the direct greenhouse gas emissions from the beneficiary, compared to the counterfactual investment that can be expected to have occurred in the absence of the aid;* *(c) by exception to points (a) and (b), the following investments are assumed to deliver a reduction or removal of greenhouse gases emissions: investments in dedicated infrastructure for the transport; distribution or storage of low-carbon hydrogen and hydrogen-derived fuels; investments in dedicated infrastructure for transport and storage of waste heat; investments in dedicated infrastructure for transport of CO_2; and, investment in a connection to an energy infrastructure for hydrogen, waste heat or CO_2.*

The proposed text introduces a new provision in the GBER requiring that State aid support for environmental protection leads to a demonstrable increase in climate protection.

ZEP welcomes the inclusion of CO_2 transport infrastructure – both dedicated infrastructure and connections between multiple sources – among the investments presumed to deliver a reduction or removal of greenhouse gas emissions. This appropriately recognises the critical role of CO_2 networks and addresses a key bottleneck hindering the deployment of CCS, CCU and CDR projects.

However, the presumption of climate benefit does not extend to CO_2 storage infrastructure. While this distinction may reflect the specific regulatory treatment of CO_2 storage as a site-specific activity, its exclusion

creates an inconsistency with the treatment of hydrogen infrastructure – where transport, distribution, and storage are all covered. ZEP therefore recommends clarifying the rationale for this distinction or, alternatively, extending the presumption to include CO_2 storage infrastructure, given its essential role in delivering emissions reductions and removals – which may require amending the scope of the definition of "energy infrastructure" for CO_2 under Article 2(141).

Furthermore, although Article 51 aims to support both emission reduction and removals, it may not fully accommodate all types of CDR projects in practice due to potential ambiguity in its formulation.

- Biogenic carbon capture and storage (BioCCS) projects would likely fall under point (a), as they typically involve the decarbonisation of existing installations without increasing production capacity. They may also fall under point (b) where they form part of new installations or investments that increase production capacity.
- However, for direct air carbon capture and storage (DACCS), the application of point (b) is less clear. While DACCS installations can be understood as "new installations", they do not increase production capacity in the conventional sense. Although point (b) can be interpreted as covering both (i) investments in new installations and (ii) investments increasing production capacity as two distinct categories, the current wording may give rise to uncertainty in its application to such projects.

ZEP therefore recommends clarifying that, in the case of BioCCS and DACCS, investments in new installations are eligible irrespective of any increase in production capacity. This would enhance legal certainty and ensure that all relevant carbon dioxide removal technologies, including DACCS, are clearly covered, in line with the objective of supporting both emissions reductions and removals under Article 51.

Article 51(6) – Conditions for investments in CCS and CCU
6. Investments to capture CO_2 and either transport it to a storage site for injection and permanent storage in an underground geological formation ("CCS"), or transport it to a CO_2-consumption or utilisation site for usage of that CO_2 ("CCU") shall meet the following cumulative conditions: *(a) the investment must be integrated into a complete CCS and/or CCU chain;* *(b) taking into account the avoided costs of CO_2 emissions as a revenue, the NPV of the investment project over its lifetime shall be negative.*

Article 51(6)(a) requires that investments be integrated into a "complete CCS and/or CCU chain". While ZEP supports the objective of ensuring system integrity, the use of the term "complete" introduces legal and practical uncertainty. If interpreted as requiring secured access to fully operational transport and storage infrastructure at the time of the aid application, this condition could significantly hinder project development and exacerbate the so-called "chicken-and-egg" problem in the deployment of CCS and CCU value chains. In practice, capture, transport and storage components are developed in parallel, often by different actors and at different speeds. Requiring full chain completion at the time of application would therefore not reflect market realities and could delay or prevent otherwise viable projects.

ZEP therefore recommends clarifying that eligibility should extend to projects that are part of a planned, coordinated or developing CCS and/or CCU value chain, including where the different elements of the chain are being developed in parallel, rather than requiring that a fully operational chain is already in place at the time of the aid application.

Furthermore, while the current version of the GBER includes explicit definitions of CCS and CCU (cf. Article 2, paragraphs 131a and 131b), these definitions appear to have been removed from the new draft. This omission may create ambiguity, particularly in relation to the scope of eligible technologies. In the absence of such definitions, it is no longer clear whether all CDR pathways remain fully covered, particularly given the specific characteristics of technologies such as DACCS and BioCCS. The previous definitions did, in this case, explicitly cover CO_2 captured directly from ambient air. ZEP therefore recommends reintroducing definitions of CCS and CCU in Article 51(6) and/or Article 2 to ensure legal clarity.

At the same time, ZEP considers it important to maintain a clear distinction between emission reduction activities and CDR activities, in line with the structure of Article 51(4), which differentiates between the "reduction" and "removal" of greenhouse gas emissions. Where appropriate, this could be complemented by explicitly clarifying the eligibility of key CDR pathways, such as BioCCS and DACCS, within the scope of Article 51. This would preserve conceptual clarity while ensuring that all relevant technologies remain clearly covered under the provision.

Article 51(7) – Eligible costs
7. The eligible costs are: *(a) for investments referred to in paragraph 4, points (a) and (c), the total investment costs except investment costs related to permanent storage costs for CCS and investment costs related to use of CO_2 for CCU;* *(b) For investments referred to in paragraph 4, point (b), the difference between the investment costs of the project and those of a counterfactual investment that can be expected to have occurred in the absence of the aid;*

ZEP welcomes the introduction of total investment costs as the basis for calculating eligible costs for certain categories of environmental protection aid. This represents a simplification compared to the previous GBER approach, which relied more systematically on the "counterfactual" method, whereby only the additional investment costs compared to a conventional alternative were eligible for aid.[3] By allowing a broader cost base in specific cases, the new draft GBER is better suited to support capital-intensive decarbonisation projects, including CO_2 capture and CO_2 transport infrastructure.

However, the continued reliance on the counterfactual approach for investments falling under Article 51(4), point (b), may raise challenges for certain project types. In the case of BioCCS or DACCS, identifying a credible counterfactual investment is not straightforward. Unlike conventional emission reduction projects, which can be compared to a baseline technology with higher emissions, CDR projects often do not have a direct fossil-based or higher-emission alternative. As a result, the calculation of eligible costs based on the difference between the project and a hypothetical counterfactual investment may introduce legal uncertainty and lead to divergent interpretations across Member States.

ZEP therefore recommends clarifying how the counterfactual methodology should be applied to CDR projects, or alternatively allowing the use of total investment costs as the basis for eligible costs in such cases. This would improve legal certainty and ensure that the framework adequately reflects the specific characteristics of carbon removal technologies.

[3] See Article 36(4) in the current version of the GBER.

Article 51(8) – Aid intensity (part I)
8. The aid intensity shall not exceed: *(a) 5 % of the total investment costs for investments referred to in paragraph 4, points (a) and (c), or the following higher aid intensities for investments referred to in paragraph 4, points (a) and (c) that:* *(i) reduce the existing installation's greenhouse gas emissions by at least 40 % and, for installations referred to in chapter III of the ETS Directive, bring them in addition below the average emissions of the 10 % most efficient installations, as determined by the implementing regulation for establishment of benchmarks pursuant to Article 10a of Directive 2003/87/EC, in force at the time of the aid application, or* *(ii) reduce greenhouse gas emissions of a technical unit within the existing installation by at least 90 %:* - *60 % of the total investment costs for investments enabling the use of hydrogen or hydrogen-derived fuels, where the share of RFNBOs referred to in paragraph 5 is at least 40 %;* - *45 % of the total investment costs for investments in electrification combined with energy storage or with demand response, as defined in Article 2, point (20), of Directive (EU) 2019/944;* - *45 % of the total investment costs for investments in carbon capture equipment that comply with paragraph 6;* - *35 % of the total investment costs for investments enabling the use of low-carbon fuels referred to in paragraph 5;* - *30 % of the total investment costs for other investments reducing greenhouse gas emissions;* - *20 % of the total investment costs for investments in the production of low-carbon fuels referred to in paragraph 5.* *(b) 40 % of the eligible costs for investments referred to in paragraph 4, point (b). […]*

ZEP welcomes the simplification introduced by allowing aid intensities to be applied to total investment costs, as well as the possibility for CCS-related investments to benefit from higher aid intensities under certain conditions. However, several elements of Article 51(8) would benefit from further clarification.

First, while the higher aid intensities under point (a) are subject to stringent performance criteria, including significant emissions reductions, it remains unclear whether these thresholds should be assessed at the level of the installation, sub-installation, or another operational boundary. In addition, the concept of "technical unit" is not defined, which may lead to divergent interpretations across Member States. ZEP therefore recommends clarifying these concepts to ensure consistent application.

Second, the reference to "carbon capture equipment" raises questions as to the scope of eligible investments. It is unclear whether this term is intended to cover only capture components, or whether it could also extend to associated infrastructure. In practice, CCS projects rely on an integrated value chain, where capture, transport and storage are interdependent elements required to achieve emissions reductions. Limiting higher aid intensities to capture equipment alone may therefore not fully reflect the system nature of CCS and could risk creating distortions in investment incentives. ZEP therefore recommends clarifying the scope of "carbon capture equipment" and, where appropriate, ensuring that the broader CCS value chain is adequately reflected in the aid intensity framework, in particular for transport infrastructure, which is already recognised elsewhere in the Regulation.

Article 51(9) – Aid intensity (part II)
9. Alternatively to the method set out in paragraph 8, the maximum aid amount can be determined as follows: *(a) if the discounted revenues exceed the discounted operating costs over the economic lifetime of the investment, the aid may reach up to 100 % of the funding gap but may not exceed 100 % of the investment costs;* *(b) the aid amount may be determined through a competitive bidding process where at least 70 % of the total selection criteria used for ranking bids and allocating aid are defined in terms of aid in relation to the reduction of CO_2 emissions. In that case, the aid intensity may not exceed 100 % of the total investment costs.*

Article 66 – Aid for energy infrastructure
1. Aid for the construction or upgrade of energy infrastructure shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and exempted from the notification requirement in Article 108(3) of the Treaty, if the conditions set out in this Article and Chapter I are met. *2. This Article shall not apply to aid which exceeds EUR 70 million per undertaking per project.* *[…]* *4. The eligible costs shall be the total investment costs. The maximum aid amount shall be determined according to one of the following options:* *(a) An aid intensity of 40 % of eligible costs;* *(b) The aid may reach up to 100 % of the simplified funding gap;* *(c) The aid amount may be determined through a competitive bidding process.*

ZEP welcomes the possibility to determine aid amounts based on the funding gap or through competitive bidding processes, as provided under Article 51(9) and Article 66(4). These approaches are well suited to capital-intensive decarbonisation projects, including CCS, as they allow for higher aid intensities where justified by the economics of the project.

It is important to note, however, that even when aid may cover up to 100% of the funding gap or total investment costs, its application under the simplified GBER framework remains subject to the relatively low thresholds – namely EUR 30 million per project enabling the reduction or removal of greenhouse gas emissions (Art. 51(2)), and EUR 70 million for the construction or upgrade of energy infrastructure (Art. 66(2)).

This reflects the intended role of the GBER as a simplified framework for smaller and less distortion-prone aid measures, while larger and more complex projects are assessed under the Climate, Energy and Environmental Aid Guidelines (CEEAG). In practice, this means that the flexibility introduced in Article 51(9) will primarily benefit small- and medium-scale projects, while large-scale industrial carbon management projects will continue to require individual notification. Ensuring consistency and complementarity between the GBER and the CEEAG framework will therefore be essential to support the scale-up of CCS and carbon dioxide removal technologies.

Article 66(3) – Repurposed gas infrastructure
1. Aid for the construction or upgrade of energy infrastructure shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and exempted from the notification requirement in Article 108(3) of the Treaty, if the conditions set out in this Article and Chapter I are met. *[…]* *3. This Article shall not apply to:* *(a) energy infrastructure partly or fully exempted from third party access or tariff regulation in accordance with Regulation (EC) No 715/2009, Regulation (EU) 2019/943, Directive (EU) 2019/944 or Directive (EU) 2024/1788;* *(b) electricity and natural gas storage;* *(c) gas infrastructure, unless the infrastructure in question is dedicated to the use for hydrogen and/or for renewable gases, or for the transport of more than 50 % hydrogen and/or renewable gases. […]*

ZEP notes that Article 66 applies to the construction or "upgrade" of energy infrastructure. In the context of CO_2 transport networks, infrastructure development can involve the repurposing or retrofitting of existing assets – such as the conversation of natural gas pipelines, the reuse of industrial corridors, and the adaptation of ports and terminals (which are covered under Art. 80, although not for CO_2 explicitly). While such activities could be understood as falling under the notion of "upgrade", this is not explicitly stated in the provision. By contrast, Art. 66(3) explicitly addresses the treatment of gas infrastructure, including conditions under which such infrastructure remains eligible where it is repurposed towards hydrogen or renewable gases.

ZEP therefore recommends clarifying that the repurposing and retrofitting of existing infrastructure for CO_2 transport and related uses are covered under this Article. This would reflect current industry practice, support cost-efficient deployment, and ensure consistent interpretation across Member States.

Chapter III - Section 10: Aid involved in financial instruments and budgetary guarantees supported by the InvestEU Fund and the InvestEU Instrument of the ECF

Article 81 – Scope and common provisions

1. This Section shall apply to aid involved in financial products supported by the InvestEU Fund that provide aid to implementing partners, financial intermediaries or final beneficiaries.

[…]

3. The aid shall comply with all applicable conditions set out in Regulation (EU) 2021/523 and the InvestEU Investment Guidelines set out in the Annex to Commission Delegated Regulation (EU) 2021/107862) and in the relevant rules for the European Competitiveness Fund.

4. The maximum thresholds set out in Article 82 and Article 83 shall apply to the total outstanding financing, in so far as that financing provided under any financial product supported by the InvestEU Fund or the European Competitiveness Fund contains aid. […]

5. Aid shall not be granted in the form of refinancing of or guarantees on existing portfolios of financial intermediaries.

Article 82 – Conditions for aid involved in financial instruments and budgetary guarantees supported by the InvestEU Fund and the ECF InvestEU

1. Aid to the final beneficiary under a financial instrument or budgetary guarantee supported by the InvestEU Fund and the European Competitiveness Fund shall:

(a) comply with the conditions set out in one of paragraphs 2 to 10; and

(b) where the financing is provided in the form of loans to the final beneficiary, have an interest rate that corresponds at least to the base rate of the reference rate applicable at the time of the granting of the loan.

[…]

4. Aid for energy generation and energy infrastructure shall comply with the following conditions:

(a) Aid shall be granted only for investments in energy infrastructure which are not exempted from third party access, tariff regulation and unbundling, based on Regulation (EC) No 715/2009, Regulation (EU) 2019/943, Directive (EU) 2019/944 or Directive (EU) 2024/1788, for the following categories of projects:

(i) as regards gas infrastructure, projects included in the prevailing Union list of Projects of Common Interest in Annex VII to Regulation (EU) No 347/2013; and

(ii) all projects with regards to electricity infrastructure, hydrogen infrastructure and carbon dioxide infrastructure.

[…]

(c) The nominal amount of total financing provided to any final beneficiary per project referred to in point (a) under the support of the InvestEU Fund shall not exceed EUR 150 million. The nominal amount of total financing provided to any final beneficiary per project referred to in point (b) under the support of the InvestEU Fund shall not exceed EUR 75 million.

[…]

9. Aid for research, development, innovation and digitalisation shall comply with the following conditions:

(a) aid may be granted for:

(i) fundamental research;

(ii) industrial research;

(iii) experimental development;

(iv) process innovation or organisational innovation for SMEs;

(v) innovation advisory services and innovation support services for SMEs;

(vi) digitalisation for SMEs;

(b) for projects falling under points (a) (i), (ii) and (iii), the nominal amount of total financing provided to any final beneficiary per project under the support of the InvestEU Fund shall not exceed EUR 75 million. For projects falling under point (a) (iv), (v) and (vi), the nominal amount of total financing provided to any final beneficiary per project under the support of the InvestEU Fund shall not exceed EUR 30 million.

10. SMEs or, where applicable, small mid-caps may, in addition to the categories of aid provided for in paragraphs 2 to 9, also receive aid in the form of financing supported by the InvestEU Fund if the respective conditions are met:

[…]

ZEP welcomes the evolution of the GBER provisions on State aid involving InvestEU-supported financial products, which better aligns the framework with EU priorities in research, innovation and decarbonisation. In particular, linking eligible activities and funding thresholds to categories such as experimental development and energy infrastructure provides a clearer and more targeted basis for supporting clean transition investments.

ZEP also supports the alignment of the GBER with the proposed European Competitiveness Fund (ECF) Regulation, reflecting the anticipated restructuring of the Multiannual Financial Framework for the 2028–2034 programming period. In this context, decarbonisation projects are expected to be supported both under the ECF's Clean Transition and Decarbonisation window and through the ECF InvestEU instrument. Including aid linked to ECF InvestEU financial products within the scope of the GBER can contribute to de-risking such projects and ensuring their bankability where State aid support is required.

Finally, ZEP welcomes the safeguard provided in Article 81(5), which excludes the use of aid for refinancing or guarantees on existing portfolios. This ensures that public support is directed towards new investments and additional activities, in line with the objective of maximising the effectiveness of State aid.