



Specifications for a Legally Binding Instrument and Award Conditions

**Second NER 300 information event
Brussels, 20 October 2014**

**Unit C.1, Low Carbon Technologies
DG Climate Action**

*Climate
Action*



Award decision – contents

2 Articles + 3 Annexes (equally binding on Member States)

3 Annexes:

1. List of awarded projects

2. Conditions of the award

3. Specifications for Legally Binding Instrument (SLBI).

This is the tool through which the Member State ensures that the Project Sponsor knows and respects the Award conditions set out in Annex 2. It has three annexes:

- Annex I: Financial Information*
- Annex II: Knowledge-Sharing Requirements*
- Annex III: Monitoring, Verification and Reporting*

Specifications for the Legally Binding Instrument – content (1/3)

- *Project (as determined in Annex 1 to the Award Decision)*
- *Maximum Funding Amount (as specified in Annex 1 to the Award Decision)*
- *Date of entry into operation (as specified in Annex 1 to the Award Decision)*



Specifications for the Legally Binding Instrument – content (2/3)

NER 300 disbursements (see Annex I of the SLBI - Financial Information)

- **For the first year:** for the period between the date of entry into operation and the end of the year of the entry into operation
- **For the last year:** for the period between the beginning of the year of the long stop date and the long stop date
- **Annual disbursement:** for the full year for all the remaining years

Specifications for the Legally Binding Instrument – content (3/3)

- *Recovery of Excess funding* (see Annex I of the SLBI - Financial Information)
- *Knowledge sharing* (see Annex II of the SLBI - Knowledge-Sharing Requirements)
- *Monitoring, verification and reporting* (see Annex III of the SLBI - Monitoring, Verification and Reporting)
- *End of the effect of the award decision, project failure and adjustment of the award decision*



Conditions of the award and SLBI - Project failure (I)

The project could fail because:

- *The final investment decision has not been reached within 2 years from the Award Decision*
- *All relevant permits have not been issued within 2 years from the Award Decision*
- *Any state aid in respect of the Project has not been approved by the Commission within 2 years from the Award Decision*
- *The project has not entered into operation within 4 years from the Award Decision*
- *The project ceases operation*



Conditions of the award and SLBI - Project failure (II)

- *Member State must establish if the conditions are met and inform both Project Sponsor and Commission (within one month from occurrence)*
- *The project sponsor must return any up-front funding disbursed to Member State within 3 months*
- *Member State must return any up-front funding granted to EIB within 4 months*



Adjustment of the Award Decision (I)

- *The relevant costs based on the estimates on which the final investment decision is taken are lower than the estimated relevant costs on the basis of which the Award Decision was determined*
- *An intangible asset is sold before it has remained five years in the establishment of the recipient*
- *Any duly justified proposed changes to the projects listed in Annex 1*

Adjustments of the Award Decision (II)

- *Project Sponsor must inform Member State within one week*
- *Member State informs the Commission within one month of the occurrence of the event*
- *The Commission assesses the request and if necessary adjust the Award Decision (the NER 300 funding can only be reduced, not increased)*
- *If necessary, the Member State adjusts the SLBI accordingly and calculates the funding exceeding the maximum amount of the adjusted funding*
- *Any funding exceeding the maximum amount of the 'adjusted funding' is returned to the Member State within 3 months and to the EIB within 4 months*

The Commission may withdraw the award (with effects for the future) if a proposed change is implemented without the agreement of the Commission



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