

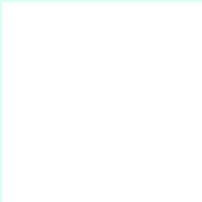


[Art 38\(2\)b - energy equipment](#)



HII ESTATE-AID-WIKI edited this page

Here's what changed:


Expand

MS instructions
for sending a NEW
title QUESTION to the
European
Commission:

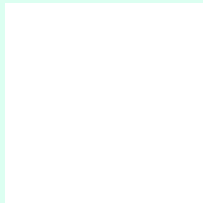
- Page title:** Please insert the full Article reference (e.g. "**Art. 1(4) a**") and a short title (e.g. "**Possible for**

Page properties	
Article	Article 38 - Investment aid for energy efficiency measures other than in buildings
Key words	energy equipment
Member State	LT

thermal energy using geothermal resources? ")

2. **Table:** Fill in **only the green** fields. Please respect the instructions (they are essential to optimise search) -and replace them with your own text.
3. **Questions:** Please create 1 question page per question.
4. **Creation date:** fill in following the pattern **yyyy.mm.dd** (e.g. 2024.01.07)
5. When ready, click on **Publish** at the bottom of the page:

6. Please be aware that you will not more be able to edit the page after the DG COMP has provided the answer.

Question	 Expand			
	<table border="1"><thead><tr><th>title</th><th>Question</th></tr></thead><tbody><tr><td></td><td><p>Point 2b of Article 38 states that „Aid for the installation of energy equipment fired by fossil fuels, including natural gas, shall not be exempted under this Article from the notification requirement of Article 108(3) of the Treaty“.</p><p>Could you please clarify what equipment is considered "energy equipment".</p><p>Under Article 38, can state aid be provided only for “energy equipment” or also for other equipment/machinery as part of the investment resulting in increased energy efficiency (e.g. technical/technological equipment (rollers, presses), vehicles etc.). If so, does the provision of point 2b that the equipment cannot be fired by fossil fuels, including natural gas, also apply to such other equipment/machinery?</p></td></tr></tbody></table>	title	Question	
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Creation Date	2025.08.14			

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administrators

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COMP
title instructions for
replying to MS
questions

1. In order to avoid further
modifications of the question
during the internal consultation
process, please **restrict the**

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title Reply

Dear Mr *****,

Thank you for your questions. Please find below the replies:

1. *What types of installations fall under this category? For example, does it include stationary boilers, cogeneration systems, industrial furnaces, etc., or does it also include mobile technology equipment, such as diesel wood chippers, etc., which are defined as "non-road mobile machinery" in Regulation 2016/1628?*

In the context of energy efficiency investments supported under GBER Article 38, the term 'energy equipment' is interpreted as referring to broad type of energy equipment, i.e. not only to equipment generating energy (such as boilers for the production of process heat) but also energy using appliances and industrial equipment (e.g. furnaces). Aid for equipment consuming fossil fuels such as natural gas or gasoline is not covered by the block exemption under GBER Article 38. It must be noted in addition, that hybrid equipment, machinery and industrial production facilities using fossil fuels, cannot be supported under Article 38 GBER either. In light of the above, with regard to the examples referred in your question, 'energy equipment' can cover

COMP
Reply

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stationary boilers, industrial furnaces and diesel wood chippers; Article 38 does not apply to aid for cogeneration.

1. *Are there any criteria or thresholds (e.g., capacity, mobility, fuel type) that determine whether a particular piece of equipment qualifies as "energy equipment fired by fossil fuels"?*

Any kind of energy equipment using fossil fuels is not eligible under Article 38 GBER i.e. there are no specific thresholds to further qualify this exclusion. Article 38 does not include an indicative or exhaustive list of equipment qualifying as 'energy equipment' and the responsibility for the correct implementation of GBER lays with the Member States.

1. *How should national authorities assess whether aid measures for such equipment are subject to the notification requirement under Article 108(3) of the Treaty?*

Member States authorities should first assess whether for the planned investment, the existence of State aid can be excluded. If the existence of State aid cannot be excluded, Member State should assess whether State aid can be granted without notification to the Commission. This could be the case e.g. if the aid could be block exempted based on GBER. If the measure constitutes State aid and does not meet the conditions allowing an exemption from notification, a notification of the measure by Member State to the Commission and an approval by that latter is required before its implementation.

Disclaimer: This reply does not represent a formal and definite position of the European Commission but is only an informal guidance provided by the services of DG Competition to

[...]

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services of DG Competition to facilitate the application of the GBER. It is therefore not binding and cannot create legal certainty or legitimate expectations.

**COMP
Reply date**

yyyy2025.mm10.dd13

**COMP
Responsible**



@[HII ESTATE-AID-WIKI](#)

¹ Article numbers & names:

- Article 36 - Investment aid for environmental protection, including decarbonisation
- Article 36a - Investment aid for recharging or refuelling infrastructure
- Article 36b - Investment aid for the acquisition of clean vehicles or zero-emission vehicles and for the retrofitting of vehicles
- Article 38 - Investment aid for energy efficiency measures other than in buildings
- Article 38a - Investment aid for energy efficiency measures in buildings
- Article 38b - Aid for the facilitation of energy performance contracting
- Article 39 - Investment aid for energy efficiency projects in buildings in the form of financial instruments
- Article 44a - Aid in the form of reductions in environmental taxes or parafiscal levies

- Article 45 - Investment aid for the remediation of environmental damage, the rehabilitation of natural habitats and ecosystems, the protection or restoration of biodiversity and the implementation of nature-based solutions for climate change adaptation and mitigation
- Article 47 - Investment aid for resource efficiency and for supporting the transition towards a circular economy
- Article 49 - Aid for studies and consultancy services on environmental protection and energy matters

² AT, BE, BG, HR, CY, CZ, DE, DK, EE, EFTA, EL, ES, FI, FR, HU, IE, IT, LT, LU, LV, MT, NL, PL, PT, RO, SK, SE, SI, UK.

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