



Expert Opinion

for Industrieverband Massivumformung e. V. (IMU), Goldene Pforte 1, 58093 Hagen

on the eligibility of an additional subsectors to receive compensation for indirect emission costs

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For technical reasons, rounding differences of \pm one unit (€, %, etc.) may occur in the tables.
The figures in the tables are rounded to the nearest whole number.

A. Engagement scope

I. Engagement

1. By engagement letter dated 6 March 2026, the Managing Director, Mr Tobias Hain, of the

Industrieverband Massivumformung e. V., Goldene Pforte 1, 58093 Hagen

(hereinafter referred to as the “IMU”)

engaged us to prepare an expert opinion.

2. The **subject matter** of our engagement is to analyse and assess if the subsector “Manufacture of forged, pressed, drawn and stamped parts, rolled rings and powder-metallurgical products”, NACE Code 25.50 according to NACE Revision 2 (Rev. 2)¹ or NACE Code 25.40 according to NACE Revision 2.1 (Rev. 2.1)², could be considered eligible for indirect emission cost compensation within the State aid measures in the context of the system for greenhouse gas emission allowance trading post-2021³. The questions to be assessed are listed in Section B.II, and the basis for answering them is the factual background set out in Section B.I and the legal framework in Section B.III.
3. We further note that the engagement to prepare this expert opinion does not include the assessment of any other subsector, nor the assessment of this subsector under any other relief regime.

¹ REGULATION (EC) No 1893/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains

² COMMISSION DELEGATED REGULATION (EU) 2023/137 of 10 October 2022 amending Regulation (EC) No 1893/2006 of the European Parliament and of the Council establishing the statistical classification of economic activities NACE Revision 2. The sector is now called: „Forging and shaping metal and powder metallurgy“.

³ Bundesministerium für Wirtschaft und Klimaschutz, Richtlinie für Beihilfen für Unternehmen in Sektoren beziehungsweise Teilsektoren, bei denen angenommen wird, dass angesichts der mit den EU-ETS-Zertifikaten verbundenen Kosten, die auf den Strompreis abgewälzt werden, ein erhebliches Risiko der Verlagerung von CO₂-Emissionen besteht (Beihilfen für indirekte CO₂-Kosten) für die Abrechnungsjahre 2023 bis 2030 vom 13. März 2024.

II. Execution of the Engagement

4. This expert opinion is based exclusively on the available data listed in Section C. as of 20 March 2026.
5. The information underlying this expert opinion has neither been audited nor subjected to a review.
6. Our expert opinion is based in particular on NACE Rev. 2 as set out in an EU Regulation of 20 December 2006, NACE Rev. 2.1 as set out in a Delegated Regulation of 10 October 2022, the Commission Communication on the State Aid Guidelines of 25 September 2020⁴, the Communication supplementing the Guidelines of 30 December 2021⁵, the Communication amending the Guidelines of 5 January 2026⁶ as well as the Commission Staff Working Document SWD(2020) 190 final of 21 September 2020.⁷ Future developments of these provisions or their interpretation may change the eligibility criteria in unforeseeable ways.
7. We were not engaged to update this expert opinion in the event of future changes in the underlying conditions (especially regarding data availability).
8. We note that this expert opinion does not prejudge the position of the Federal Ministry for Economic Affairs and Energy (BMWE) or the European Commission.
9. The General Engagement Terms for Wirtschaftsprüferinnen, Wirtschaftsprüfer and Wirtschaftsprüfungsgesellschaften [German Public Auditors and Public Audit Firms] as of January 1, 2024, attached to this document, apply to the performance of the assignment and our responsibility, including in relation to third parties.

III. Intended use

10. This expert opinion is intended for the information of the IMU and may only be disclosed to third parties with our prior written consent. We consent to the expert opinion being passed on to the BMWE and the European Commission in connection with the expansion of eligible sectors or sub-sectors for indirect emission cost compensation, provided that the expert opinion is passed on in full, including all annexes.

⁴ Communication from the commission, Guidelines on certain State aid measures in the context of the system for greenhouse gas emission allowance trading post-2021 (2020/C 317/04).

⁵ Communication from the Commission supplementing the Guidelines on certain State aid measures in the context of the system for greenhouse gas emission allowance trading post-2021 (2021/C 528/01).

⁶ Communication from the commission amending the Guidelines on certain State aid measures in the context of the system for greenhouse gas emission allowance trading post-2021 (C/2026/196).

⁷ Communication from the Commission on Guidelines on certain State aid measures in the context of the system for greenhouse gas emission allowance trading post 2021.

11. Furthermore, we would like to point out that, beyond the aforementioned provisions, we cannot consent to any reference to the assessments we have carried out or the publication of the written expert opinion we have prepared in a sales project, in any other document accessible to the public, on the internet or in any other media intended for the public. This applies regardless of whether the reference is made by naming our firm or merely refers to the performance of an assessment by an audit firm.

B. Factual Background and Questions Presented

I. Factual Background

12. In accordance with the terms of the engagement, it is to be investigated whether the subsector “Manufacture of forged, pressed, drawn and stamped parts, rolled rings and powder-metallurgical products”, NACE Code 25.50 according to NACE Revision 2 (Rev. 2) or NACE Code 25.40 according to NACE Revision 2.1 (Rev. 2.1), could be considered as eligible for indirect emission cost compensation within the State aid measures in the context of the system for greenhouse gas emission allowance trading post-2021. This presupposes that the eligibility criteria laid down in point 18 of the Commission Communication amending the ‘Guidelines on certain State aid measures in the context of the system for greenhouse gas emission allowance trading post-2021’ are met.

II. Questions Presented

13. Within this context, two questions arise:
- Does the subsector’s **trade intensity exceed 20 %** at Union level?
 - Does the subsector’s **indirect emission intensity exceed 0,32 kg CO₂/EUR** at Union Level?

If both criteria are met, this results in an **Indirect Carbon Leakage Indicator (ICLI)** of at least **0.064**.

C. Assessment

I. Legal framework

14. The primary legal basis in European law for the indirect emission cost compensation is Article 10a(6) of the EU Emissions Trading Directive (Directive 2003/87/EC)⁸, as last amended by Directive (EU) 2023/959⁹. It follows from this that Member States should introduce aid for indirect CO₂ costs. The financial measures should be taken in favour of sectors or subsectors that are exposed to a significant risk of carbon leakage.
15. The compatibility of the indirect emission cost compensation with State aid rules is clarified in the Guidelines on certain State aid measures in relation to the greenhouse gas emissions trading scheme after 2021 (the so-called State Aid Guidelines).¹⁰ The current amendment to the State Aid Guidelines aims to expand the list of eligible sectors in Annex I of the Guidelines to take account of the fact that the risk of carbon leakage has indeed increased in certain sectors.¹¹ The State aid guidelines also provide for the possibility that a sector or sub-sector not listed in Annex I, but which meets the conditions for inclusion in that Annex, may also be considered eligible for aid.¹² Member States must demonstrate that the conditions are met on the basis of data that is representative of the sector or sub-sector concerned at Union level, has been verified by an independent expert, and relates to a period covering at least the last three years for which data is available. If Member States intend to extend their respective schemes – in this case the indirect emission cost compensation – to new sectors or subsectors, the changes must be notified to the Commission.¹³

⁸ 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 Union and amending Council Directive 96/61/EC.

⁹ Directive (EU) 2023/959 of the European Parliament and of the Council of 10 May 2023 amending Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the Union and Decision (EU) 2015/1814 concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading system

¹⁰ Communication from the commission 2020/C 317/04, subsequently supplemented by 2021/C 528/01.

¹¹ Communication from the commission C/2026/196, 1. Introduction, point 5.

¹² Communication from the commission C/2026/196, 2. Amendments to the Guidelines, point 18.

¹³ Communication from the commission C/2026/196, 2. Amendments to the Guidelines, point 18.

16. At national level, the indirect emission cost compensation is implemented through the so-called “SPK-Förderrichtlinie”¹⁴ of the German Federal Ministry for Economic Affairs and Climate Action (BMWK)¹⁵.

II. Eligibility Criteria

17. To be considered as eligible for indirect emission cost compensation within the State aid measures in the context of the system for greenhouse gas emission allowance trading post-2021 presupposes that the eligibility criteria laid down in point 18 of the Commission Communication amending the Guidelines on certain State aid measures in the context of the system for greenhouse gas emission allowance trading post-2021 are met.
- Trade intensity must exceed 20% at Union level.
 - The intensity of indirect emissions at Union level must exceed 0.32 kg CO₂/EUR.
 - Member States must demonstrate this by using data that
 - is representative of the relevant (sub-)sector,
 - has been verified by an independent expert and
 - relates to at least the last three years for which data is available.
18. The methodology is described in more detail in the Commission Staff Working Document SWD(2020) 190 final.¹⁶
19. It should be noted that earlier calculations were based on average figures for the years 2013 to 2015, as complete data was only available for those years. With regard to the inclusion of further (sub-)sectors, this information is now out of date. Instead, evidence of the required trade intensity and the intensity of indirect emissions must be provided on the basis of data from the last three years for which data is available. Data for the years 2021 to 2023 is available for this purpose. More recent data is not yet available currently.

¹⁴ Bundesministerium für Wirtschaft und Klimaschutz, Richtlinie für Beihilfen für Unternehmen in Sektoren beziehungsweise Teilsektoren, bei denen angenommen wird, dass angesichts der mit den EU-ETS-Zertifikaten verbundenen Kosten, die auf den Strompreis abgewälzt werden, ein erhebliches Risiko der Verlagerung von CO₂-Emissionen besteht (Beihilfen für indirekte CO₂-Kosten) für die Abrechnungsjahre 2023 bis 2030 of 13 March 2024 (BA_nz AT 26.03.2024 B2).

¹⁵ Today: BMWF.

¹⁶ Communication from the commission C/2026/196, Amendment to the Guidelines, point 18.

III. Relevant (sub)sector according to the European classification

20. At Union level, NACE is the binding statistical classification of economic activities published by Eurostat. It has been in force since 1 January 2025 in the form of NACE Rev. 2.1, thereby replacing NACE Rev. 2, which was published in 2006. NACE is itself based on the United Nations' international ISIC classification (International Standard Industrial Classification).
21. The subject of this study is the sub-sector 'Manufacture of forged, pressed, drawn and stamped parts, rolled rings and powder metallurgy products' under NACE code 25.50 according to NACE Rev. 2. With the recent update of Delegated Regulation (EU) 2023/137 and the accompanying changes to the statistical classification of economic activities (NACE codes) as of 1 January 2025, NACE Code 25.50 under NACE Rev. 2 has also been transferred to NACE Code 25.40 under NACE Rev. 2.1. The class is now designated 'Forging and shaping metal and powder metallurgy'.
22. NACE Code 25.50 under NACE Rev. 2 covers general metalworking activities involving forging or pressing, which are usually carried out on a contract basis. The class includes:
- Manufacture of forged, pressed, drawn and stamped parts,
 - powder metallurgy: the manufacture of parts from metal powder under pressure and by heat treatment (sintering).

This class does not include:

- Production of metal powder.¹⁷

23. NACE Code 25.40 according to NACE Rev. 2.1 covers general metal forming activities. The class includes:
- forging, pressing, stamping and roll forming of metal,
 - The manufacture of metal articles directly from metal powders by heat treatment (sintering) or under pressure, i.e. powder metallurgy,
 - Subsequent trimming or descaling of the metal without further processing.

This class does not include:

- the production of metal powders.¹⁸

24. It can be seen from the above description of the NACE codes that, although the name of the class has changed to 'Forging and shaping metal and powder metallurgy' following the update of

¹⁷ See Eurostat, NACE Rev. 2 – Statistical Classification of Economic Activities in the European Community, p. 166 et seq.

¹⁸ NACE Rev. 2.1 – Statistical classification of economic activities in the European Union, p. 159 et seq.

Delegated Regulation (EU) 2023/137, the classes have remained identical in terms of content. Given the comparability of the activities covered between the old and new classifications, we will base our analysis below exclusively on NACE Code 25.50 according to NACE Rev. 2. This method is reinforced by the availability of data from 2021 to 2023, a period when the NACE codes were applied according to the latest revision. The same applies to the analysis of the carbon leakage list based on data from 2013 to 2015.

IV. General data basis and calculation formula

25. A prerequisite for retrospective sectoral recognition is proof of a trade intensity of more than 20% and an intensity of indirect emissions at Union level of more than 0.32 kg CO₂/EUR. Previous, publicly available studies have so far – as already mentioned – been based on data from the years 2013 to 2015. The carbon leakage list is also based on this data set. However, as regards the subject of this export opinion, the most recent available data from the last three years must be used. Consequently, the thresholds are determined based on the years 2021 to 2023. More recent data is currently not available.
26. The expert opinion is based on the following data:
- To determine electricity consumption, data collected separately from national statistics were gathered and combined.
 - The various scenarios are based on structural business statistics with different Eurostat codes.
 - The data on foreign trade statistics were taken from the Comext database.
27. All data was collected publicly and is largely publicly available, for example via Eurostat. Individual national data was provided upon request by the national statistical offices.
28. The Indirect Carbon Leakage Indicator (ICLI) is calculated as follows:

$$ICLI = Trade\ Intensity * Indirect\ emission\ intensity^{19}$$

29. Trade intensity is calculated as follows:

$$Trade\ intensity = \frac{Value\ of\ exports\ to\ third\ countries + Value\ of\ imports\ from\ third\ countries}{Annual\ turnover + Total\ imports\ from\ third\ countries}^{20}$$

¹⁹ Commission Staff Working Document SWD(2020) 190 final, p. 5.

²⁰ SWD(2020) 190 final, p. 8, “[...] the intensity of trade with third countries, defined as the ratio between the total value of exports to third countries plus the value of imports from third countries and the total market size for the European Economic Area (annual turnover plus total imports from third countries).”

30. Indirect emission intensity is calculated as follows:

$$\text{Indirect emission intensity} = \frac{\text{Indirect emissions (kgCO}_2\text{)}}{\text{Gross value added (EUR)}} \text{ }^{21}$$

V. Determination of trade intensity

31. The indicators used to calculate the trade intensity are imports from non-EU countries, exports to non-EU countries and intra-EU turnover. However, determining these indicators proves methodologically challenging for NACE Rev. 2 code 25.50. For instance, foreign trade statistics are based on CN commodity codes due to their collection via customs data. However, for classification into economic sectors, the relevant products must be presented at PRODCOM code level. An official EU table must therefore be used for the conversion²². However, there is no conversion available at all for the forged products in question. This is likely due to the wide variety of forged products, which means they may be classified under many different CN codes. It can be assumed that this methodological problem already existed during the original assessment of trade intensity for the carbon leakage list of the fourth trading period. An indicator of this may be the stated trade intensity of 37.9%²³. This value is also listed for the NACE Rev. 2 codes 25.61 “Treatment and coating of metals” and 25.62 “Machining”. These also do not require a direct translation of the CN codes²⁴. As the exact derivation of the stated trade intensity cannot be traced in public sources, the expert assumes that a proxy value based on the trade intensity of the entire sector 25 must form the basis of the figure. To verify this theory and validate the following proxy value calculation for the years 2021–2023, the stated value of 37.9% from the Carbon Leakage List is recalculated below.

32. Firstly, it should be noted that the data used for the carbon leakage list relates to the years 2013–2015. As previously described, the CN codes cannot be unambiguously mapped to the NACE codes. Therefore, for the sake of simplicity, all codes between 73 and 83 (except 77 and 81) are initially used to determine exports and imports, based on the translation of the codes provided by the Federal Statistical Office. However, as no codes from the 77 and 81 series are listed, these are excluded from the dataset. The translation lists numerous additional codes, such as those in the 84, 85, 93, 94 and 96 series, which should be considered. Furthermore, several other codes are omitted, which would presumably need to be assigned to NACE Rev. 2 codes 25.50, 25.61 and 25.62. However, the reviewer is aware that the approach of including all the CN codes mentioned would

²¹SWD(2020) 190 final, p. 8 and p. 24, footnote 23, *Indirect emissions are obtained by multiplying electricity consumption data by sector (obtained from Member States) by an EU-wide emission factor. Indirect emission intensity is then obtained by dividing indirect emissions by the sector’s GVA. These data come from the same database used to establish the Carbon Leakage List 2020–2030.*”

²² Federal Statistical Office 2025 Comparison with GP2019.

²³ European Commission, Carbon Leakage List EU ETS Phase 4.

²⁴ Federal Statistical Office 2025 Comparison with GP2019.

systematically overestimate imports and exports within NACE Rev. 2 code 25. Therefore, the series listed above are not included in the total for imports and exports, bringing the methodology closer to actual foreign trade.

Approach Version 1 (V1)

33. Another important indicator for determining the total market is, according to the State Aid Guidelines, turnover²⁵. To determine this, the Eurostat dataset `sbs_na_ind_r2` is used. This reflects the historical data from the structural business statistics. In combination with the approach to foreign trade from the Comext database, an average trade intensity of 29.6% can thus be determined for the EU for the period 2013–2015²⁶. This approach will continue to be referred to as Approach Version 1 (V1). The period 2021–2023 is not represented in the `sbs_na_ind_r2` dataset, but in the analogous Eurostat dataset `sbs_ovw_act`, which also refers to structural business statistics. From this, an average trade intensity of 28.54% can be determined for the EU for the period 2021–2023²⁷. This figure is significantly above the 20% threshold required by the European Commission and differs only slightly from the value calculated for 2013–2015.
34. However, the methodology for deriving a substitute value should, as far as possible, be able to replicate the 37.9% calculated by the EU for this period. For this reason, further versions are considered in this report.

Approach Version 2 (V2)

35. It is questionable whether combining a product-based analysis – such as the examination of extra-EU exports and imports based on Comext data – with statistics derived from company reports – such as turnover figures from the structural business statistics – constitutes a methodologically sound approach. An alternative approach to determining the total market, based on the product level, could, for example, be the value of production sold. The corresponding dataset can be retrieved from the Comext database as `k18887765`, in the same way as for foreign trade. If this is used, the EU figure of 37.9% for 2014 can be replicated exactly, and a three-year average of 38.1% for 2013–2015 can be calculated with only a slight deviation²⁸. The relevant dataset is consistent over the years, meaning it can also serve as a basis for subsequent periods. This results in an average trade intensity of 38.65% for the years 2021–2023²⁹. This figure is well above the 20% threshold required by the European Commission and deviates only slightly from the value calculated for 2013–2015.

²⁵ SWD(2020) 190 final.

²⁶ See Appendix B, ‘Trade Intensity NACE 25 vs. CN 73-83 Ex 77&81, V1’.

²⁷ See Appendix B, ‘Trade Intensity NACE 25 vs. CN 73-83 Ex 77&81, V1’.

²⁸ See Appendix B, Trade Intensity NACE 25 vs. CN 73-83 Ex 77&81, V2’.

²⁹ See Appendix B, Trade Intensity NACE 25 vs. CN 73-83 Ex 77&81, V2’.

36. Even though the approach under consideration can replicate the value calculated by the EU very well, the question arises as to what extent the CN codes 73–83 described can, taken as a whole, represent NACE Rev. 2 code 25.

Approach Version 3

37. A more detailed analysis of the CN codes shows that products are included which correspond to parts of NACE Rev. 2 code 24. By way of example, CN 7303 “Tubes, pipes and hollow profiles of cast iron” and subsequent codes can be cited here. These are more appropriately classified under NACE Rev. 2 code 24.2 “Manufacture of tubes, pipes, hollow profiles and related fittings, of steel”. The same applies to NACE Rev. 2 codes 24.4 and 24.5. For a conservative approach, these should therefore be excluded from the calculation. However, this is not possible via the CN codes and thus the foreign trade values. To resolve this conflict, the basis for assessing the European market is supplemented by the codes in the denominator of the term. This counteracts an overestimation of trade values in the numerator of the term. Furthermore, the turnover of the codes is used as the most conservative scenario. This results in an average trade intensity of 21.25% for the years 2021–2023³⁰. This value is still above the 20% threshold required by the European Commission.

Approach Version 4

38. The fourth scenario is based on the same assumptions as Version 3 but differs in terms of determining market size by using production value rather than revenue. Under these conditions, the trading intensity reaches a value of 28.15% and is thus well above the required threshold of 20%³¹.

VI. Determination of the intensity of indirect emissions

39. To calculate the intensity of indirect emissions, two main indicators must be considered: the sector’s electricity consumption within the EU and the associated emission factors³². The current State Aid Guidelines (C/2026/196) refer in point 18 to the Commission Staff Working Document SWD(2020) 190 final regarding the methodology for calculating the intensity of indirect emissions. The methodological approach set out there in forms the basis for the selection of regionally defined CO₂ emission factors.
40. The working document sets out a so-called baseline option B0, under which CO₂ emission factors are defined at regional level, in accordance with Annex IV of the 2012 ETS Guidelines. Accordingly, the following regions are relevant: the Nordics (Denmark, Sweden, Finland and Norway), Central Western Europe (Austria, Belgium, Luxembourg, France, Germany and the Netherlands),

³⁰ See Appendix B, “Trade Intensity NACE 25+24.5+24.2+24.4 vs. CN 73-83 Ex 77&81 V3”.

³¹ See Appendix B, “Trade Intensity NACE 25+24.5+24.2+24.4 vs. CN 73-83 Ex 77&81 V4”.

³² SWD(2020) 190 final, p. 24.

the Iberian Peninsula (Portugal, Spain), Central Eastern Europe (the Czech Republic and Slovakia) and all other Member States individually. The Updated Approach – identified by the Commission as the preferred option – combines updated regional CO₂ emission factors (Option B1) with actual output data (Option C1).³³ Consequently, Annex III of the State Aid Guidelines in force at that time is referred to for the calculation of the intensity of indirect emissions³⁴.

41. In the context of the working document, the European Commission has examined alternative calculation approaches in detail. However, both the approach based on nationally defined emission factors and the use of a uniform EU-wide emission factor were deemed unsuitable for adequately reflecting the actual carbon content of the electricity consumed. In the Commission's view, however, the regional level of analysis makes it possible to reflect the indirect ETS costs more realistically and to avoid both under- and over-compensation.³⁵
42. For the NACE Rev. 2 code, no Europe-wide detailed datasets on electricity consumption within the EU are available for the years 2021–2023. For this reason, a dedicated dataset was created for the assessment by combining several datasets from national statistical offices. To this end, the external service provider VIA Consult GmbH & Co. KG, on behalf of the Industrieverband Massivumformung e. V. and in collaboration with the European umbrella organisation EUROFORGE AISBL, submitted enquiries to relevant European statistical offices and, in some cases, requested special extracts. The validity of the data and any potential limitations will be discussed in more detail below.

Germany

43. The data for Germany are based on the annual survey on energy use in the manufacturing sector, mining and quarrying, and were provided directly by the Federal Statistical Office. They are available at the NACE Rev. 2 code 2550 level in MWh and are complete for each of the years 2021–2023. Self-generation is included in the calculation of total electricity consumption, and offtake is deducted.

³³ SWD(2020) 190 final, p. 26.

³⁴ European Commission 2020, C 317/04.

³⁵ SWD(2020) 190 final, p. 32 et seq.

Poland

44. The data for Poland were provided directly by the national statistical office, Statistics Poland, as an extract. They are available at the NACE Rev. 2 code 2550 level in MWh and are complete for each of the years 2021–2023. No further information on the survey methodology is available.

Slovakia

45. The data for Slovakia were provided directly by the Statistical Office of the Slovak Republic. They are available at the NACE Rev. 2 code level 2550 in MWh and are complete for each of the years 2021–2023. No further information regarding the survey methodology is available.

Austria

46. The data for Austria were provided directly as an extract by the national statistical office, Statistics Austria. They are available at the NACE Rev. 2 code 2550 level in MWh and are complete for each of the years 2021–2023. From 2022 onwards, the statistics also break down own electricity generation separately. No further information regarding the survey methodology is available.

Czech Republic

47. The data for the Czech Republic were provided directly by the Czech Statistical Office. They are available at the NACE Rev. 2 code 2550 level in GWh and are complete for each of the years 2021–2023. No further information regarding the survey methodology is available.

Portugal

48. The data for Portugal were provided directly via email by the national Ministry of the Environment, specifically the Department of Energy Planning and Statistics. They are available at the NACE Rev. 2 code 2550 level in MWh and are complete for each of the years 2021–2023. The data include only electricity purchased from the grid. However, the statistics office points out that self-generation in Portugal under NACE 25 typically accounts for 18% of external procurement volumes. To align the methodology, the figures have therefore been adjusted by 18%.

France

49. The data for France were provided via email to the French Forging and Foundry Federation (Fédération Forge Fonderie) by the French national statistics authority, specifically INSEE. INSEE passed on the data for the purposes of this report. They are available at the NACE Rev. 2 Code 2550 level in MWh and are complete for each of the years 2021–2023. No further information regarding the survey methodology is available. The French statistical authority explicitly requires that the confidentiality of the data provided be maintained.

Hungary

50. The data for Hungary were provided directly via email by the national regulatory authority, specifically the Hungarian Energy and Public Utility Regulatory Authority. They are available at the NACE Rev. 2 code 2550 level in MWh and are complete for each of the years 2021–2023. The survey is conducted annually for all companies with more than 50 employees and on a sample basis for companies with fewer employees.

Spain

51. The data for Spain were provided directly by the national statistics office, the Instituto Nacional de Estadística. They are available only as proxy data at the NACE Rev. 2 code 255 level, expressed in thousands of euros of electricity costs, and are complete for each of the years 2021–2023. The survey relates to the enterprises' main activity. To convert the electricity costs into an electricity consumption figure, reference is made to the Eurostat dataset nrg_pc_205 as of 22 October 2025. Among other things, this shows half-yearly electricity consumption in euros/kWh, including all taxes and levies. As the size and average electricity consumption of the companies are unknown, the consumption band IB (20 MWh–499 MWh) is used. This is considered appropriate, as the European Commission regularly uses this consumption band to assess electricity costs in the context of competition risks. Due to the dynamics of the energy crisis, electricity costs were calculated using the annual average prices in each case.

Other countries

52. In addition to the countries already listed, enquiries were made to the statistical offices or government agencies of Italy, the Netherlands, Romania, Sweden, Denmark, Belgium, Slovenia, Lithuania, Ireland and Greece. To date, these have either yielded no results, produced incomplete or unusable results, or been met with a refusal to provide the requested data. The respective responses are available to the expert.
53. The raw data provided, and the proxy data from which the raw data can be derived, are subject to specific confidentiality requirements. The competent French national statistical office has made

the data available only on the express condition that these data are not published or disclosed, including to national authorities. This restriction is attributable to competition considerations and the protection of economically sensitive information. For this reason, the relevant raw and proxy data cannot be presented in detail here or included in the annex. Nevertheless, this has no impact on the overall result, as the data have been fully incorporated into the calculations.

54. Taken as a whole, this results in a dataset which, in relation to the gross value added examined in more detail below, covers approximately 73.51% of the EU-27 market and can therefore be classified as representative³⁶. As already described, the indirect emissions from electricity consumption per country can be derived in combination with the regional emission factors. To calculate the emission intensity, these must be set in relation to the gross value added achieved. The Eurostat dataset sbs_oww_act as of 5 March 2026 serves as the basis. As the emission factors vary significantly between regions, the first step is to calculate the intensity of indirect emissions per country and year. From this, a weighted average of the individual years within the EU can then be derived, followed by a three-year average value of 0.226 kg CO₂/EUR.³⁷ When considered individually, this is below the value of 0.32 kg CO₂/EUR required by the EU.³⁸

VII. Calculation of the Indirect Carbon Leakage Indicator (ICLI)

55. The Indirect Carbon Leakage Indicator (ICLI) is a combined factor used to assess the risk of carbon leakage in a sector based on the costs of indirect emissions. It can be calculated by multiplying the indirect emissions intensity by the trade intensity. The indirect emissions intensity was ultimately determined to be 0.226 kg CO₂/EUR. However, the trade intensity depends on the scenarios presented in this report and is therefore shown separately.

³⁶ See Appendix B, Sheet Overview, “Market Share”.

³⁷ See Annex B, Sheet Overview, “Indirect Carbon Leakage Indicator (ICLI)”.

³⁸ Communication of the commission, C/2026/196, 2nd Amendment to the Guidelines, point 18.

Table1 : Indirect Carbon Leakage Indicator depending on the scenario

	V1	V2	V3	V4
Trade intensity	28.5%	38.7%	21.3%	28.1%
Indirect Carbon Leakage Indicator (ICLI)	0.065	0.087	0.048	0.064

Table1 shows the ICLI for four scenarios. It is clear that, except for scenario V3, all other scenarios result in an ICLI above 0.064. V2 describes the scenario that comes closest to the value reported by the European Commission. This significantly exceeds the value. V1 is based on the same assumptions but uses turnover rather than production value to represent the overall market. This scenario is more closely aligned with the legal requirements³⁹. V3 is the only scenario that does not meet the ICLI threshold. It is also the most conservative scenario, using turnover and extending the scope of accounting to NACE Rev. 2 codes 24.2, 24.4 and 24.5. With this extended accounting scope, the threshold of 0.064 can still just be reached in scenario V4 when using production value.

VIII. Error analysis and classification of data

56. Firstly, it is necessary to examine the composition of the electricity consumption data in greater detail. These were determined through the European countries' own data collections and compiled via individual enquiries to statistical offices or government agencies. As these are publicly collected data, a high quality of the data can initially be assumed. Nevertheless, it must be noted that the data collection methodology may vary slightly depending on the dataset. This problem is inherent in any combination of individually collected datasets and therefore applies to Eurostat datasets. However, as these are described by the BMW E and the European Commission as being of the highest quality, it can be assumed that such a combination also produces high-quality data. Nevertheless, to account for methodological differences, the expert has made isolated corrections.
57. In this context, the German market's share of NACE Rev. 2 code 2550, at 44.39%, is particularly striking. Errors in the German market dataset would therefore have a significant impact on the overall quality of the electricity consumption data. It should be noted, however, that the dataset originates from the annual survey on energy use in the manufacturing sector, mining and quarrying, and lists 16 different items in the electricity balance. Given the level of detail in the survey and the public availability of the data, it can be assumed that the dataset meets the highest quality standards.

³⁹ SWD(2020) 190 final, p. 8

58. This is evident from an overall view of the results. The value of 0.266 kg CO₂/EUR for indirect emissions intensity calculated here is of a similar order of magnitude to the value of 0.248 kg CO₂/EUR reported by the European Commission in the carbon leakage list⁴⁰. The difference may be explained by the time lag in the data series, as the latter value already refers to the period 2013–2015. It can be assumed that during this period, both gross value added and energy efficiency increased, whilst the emission intensity of the electricity mixes decreased. All three could be factors explaining the discrepancy.
59. Furthermore, the calculation of trade intensity must be critically assessed. Due to the misalignment between foreign trade data based on CN codes and production data based on PRODCOM codes, calculating the indicator is methodologically challenging. Even though the derivation of the figure of 37.9% stated by the European Commission in the Carbon Leakage List cannot be fully verified based on publicly available information, the use of a proxy value can be assumed given that the identical figure is given for NACE Rev. 2 codes 25.50, 25.61 and 25.62. This was replicated across various scenarios (V1–V4) for the periods 2013–2015 and 2021–2023. The minimal differences between the two periods were particularly striking. The deviation between the calculated trade intensities in all scenarios is approximately 1%. Despite the methodological weaknesses of the individual scenarios mentioned earlier, the figures remain virtually unchanged. Larger deviations in the trading intensity results are therefore not attributable to the time series, but rather to the methodological approach. Assuming that the European Commission’s initial calculation of the carbon leakage list was carried out correctly, this value can be confirmed by the expert report. Should discrepancies have arisen in the initial calculation, however, even the conservative scenarios V3 and V4 still exceed the required minimum value of 20% trade intensity.
60. The overall picture for the Indirect Carbon Leakage Indicator is similar. Due to the lower calculated indirect emission intensity, scenario V2 no longer reaches the value of 0.107 specified by the EU; however, at 0.087, it is still well above the required threshold of 0.064. Even scenarios V1 and V4, with their markedly conservative estimates, can still meet the required threshold. Only scenario V3 no longer meets the indicator. This shows that, despite the uncertainties in calculating trading intensity, it can fall as low as 28.1% in scenario V4 and the threshold is still met. Given the EU calculates the trade intensity correctly for the first time, falling below the ICLI of 0.064 must therefore be considered unlikely.

⁴⁰ European Commission, Carbon Leakage List EU ETS Phase 4

D. Summary

61. In our expert opinion, the subsector “Forging, pressing, stamping and roll-forming of metal; powder metallurgy” (NACE Rev. 2 code 25.50) meets one of the two eligibility criteria.
62. In detail, based on the above explanations and calculations, the following assessment of the individual issues arises:
 - **Trade intensity** exceeds the required threshold, ranging from 21.3% to 38.7% based on the different scenarios.
 - In terms of the **intensity of indirect emissions**, the required minimum intensity of 0.32 kgCO₂/EUR is not met, with a value of **0.226 kg** CO₂/EUR.
63. This expert opinion is based on the case law and literature known to us as of 20 March 2026, as well as on the versions of the relevant and cited laws applicable as of 20 March 2026. Future developments in the laws and/or their interpretations may therefore alter the assessment in ways that cannot currently be foreseen.

E. Fulfilment of the formal requirements for the expert opinion

64. This expert opinion, its findings and all calculation steps have been presented in a manner that is, in principle, fully verifiable. The interim and final results are all replicable based on the data available to the expert. All data and sources used in the context of the expert opinion and for the calculations are cited in the footnotes or in the attached bibliography. Any raw data on which the calculations are based are provided as an annex to this report. The raw data and proxy data provided by the French national statistical authority, from which the raw data can be derived, are subject to specific confidentiality requirements. The competent national statistical office has made the data available only on the express condition that these data are not published or disclosed. This restriction is due to competition considerations and the protection of economically sensitive information. For this reason, the relevant raw and proxy data cannot be presented in detail here or included in the appendix. Furthermore, the methodology for determining indirect emissions cannot be fully disclosed within the scope of this report, as this would otherwise allow conclusions to be drawn about the French data.
65. To ensure representativeness at EU level, a sufficiently large market was also considered, covering approximately 70% of the EU market. Publicly available data from the last three available years (here: 2021 to 2023) were primarily used. Where different data sources were used, any weaknesses in the data sources and any potential limitations on comparability were highlighted in the description of caveats. The quality and adequacy of the data are hereby confirmed by the expert.

66. The necessary independence is inherent in the professional status of an Auditor (Wirtschaftsprüfer), as this profession is required by law to practise independently, conscientiously, confidentially and on its own responsibility.⁴¹ Furthermore, the chartered accountant must act impartially, particularly when issuing audit reports and expert opinions, i.e. must not disadvantage or favour any of the parties involved.⁴² Professional qualifications are guaranteed by the professional licensing requirements of the German Public Accountant Act (Wirtschaftsprüferordnung).

Düsseldorf, 20 March 2026

PricewaterhouseCoopers GmbH
Wirtschaftsprüfungsgesellschaft



Alexander Stötzel
Wirtschaftsprüfer



ppa. Linda Sendula

⁴¹ See Section 43(1), first sentence of the Public Accountant Act (WPO).

⁴² See Section 43(1), second sentence of the Public Accountant Act (WPO).

F. Appendix

Appendix A – Bibliography

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Appendix B – Calculation

Indirect emission intensity in the EU

Electricity Consumption [kWh]

Countries	2021	2022	2023 Sources
Germany			Destatis
France			INSEE
Spain			INE; Eurostat
Austria			Statistik Austria
Poland			Statistisches Bundesamt
Czechia			Czech Statistical Service
Slovakia			Statistics SK
Hungary			MENH
Portugal			DGED

Emission factor [kgCO2/kWh]

Countries	Factor	Sources
Germany		0.72 Europäische Kommission 2020, C 317/04
France		0.44 Europäische Kommission 2020, C 317/05
Spain		0.53 Europäische Kommission 2020, C 317/06
Austria		0.72 Europäische Kommission 2020, C 317/07
Poland		0.81 Europäische Kommission 2020, C 317/08
Czechia		0.85 Europäische Kommission 2020, C 317/09
Slovakia		0.85 Europäische Kommission 2020, C 317/10
Hungary		0.58 Europäische Kommission 2020, C 317/11
Portugal		0.53 Europäische Kommission 2020, C 317/12

Indirect emission intensity [kgCO2/€]

Countries	2021	2022	2023 Sources
Germany			Calculation
France			Calculation
Spain			Calculation
Austria			Calculation
Poland			Calculation
Czechia			Calculation
Slovakia			Calculation
Hungary			Calculation
Portugal			Calculation
Weighted average indirect emission intensity [kgCO2/€]	0.237	0.226	0.215

Value added [€]

Countries	2021	2022	2023 Market Share
Germany	8.989.920.000	9.424.820.000	44,39%
France	2.411.690.000	2.522.920.000	12,21%
Spain	1.887.960.000	2.070.670.000	9,45%
Austria	589.140.000	623.530.000	2,89%
Poland	362.780.000	425.780.000	1,86%
Czechia	230.760.000	253.340.000	1,21%
Slovakia	131.200.000	136.760.000	0,65%
Hungary	107.040.000	109.280.000	0,54%
Portugal	59.690.000	62.690.000	0,31%
accumulated			73,51%

Conclusion: The threshold value for indirect emissions intensity of 0.32 is not exceeded

Trade Intensity in the EU

Trade Intensity NACE 25 vs. CN 73-83 Ex 77&81

V1	2013	2014	2015 Average	2016	2017	2018	2019	2020	2021	2022	2023 Average
Export Extra EU [€]	81.252.128.581	80.262.462.485	80.763.227.671	80.262.462.485	80.763.227.671	80.262.462.485	80.763.227.671	80.262.462.485	88.870.813.963	102.501.200.221	102.910.744.262
Import Extra EU [€]	61.541.352.205	64.593.321.588	69.662.302.314	64.593.321.588	69.662.302.314	64.593.321.588	69.662.302.314	64.593.321.588	95.653.129.863	127.754.376.203	103.871.678.385
Turnover [€]	422.015.700.000	426.752.800.000	433.176.300.000	426.752.800.000	433.176.300.000	426.752.800.000	433.176.300.000	426.752.800.000	560.705.750.000	653.819.060.000	633.772.310.000
Trade Intensity	29,53%	29,48%	29,92%	29,48%	29,92%	29,48%	29,92%	29,48%	28,11%	29,46%	28,03%
Export Extra EU [€]	81.252.128.581	80.262.462.485	80.763.227.671	80.262.462.485	80.763.227.671	80.262.462.485	80.763.227.671	80.262.462.485	88.870.813.963	102.501.200.221	102.910.744.262
Import Extra EU [€]	61.541.352.205	64.593.321.588	69.662.302.314	64.593.321.588	69.662.302.314	64.593.321.588	69.662.302.314	64.593.321.588	95.653.129.863	127.754.376.203	103.871.678.385
Production Value [€]	311.163.791.769	317.610.958.371	325.665.377.671	317.610.958.371	325.665.377.671	317.610.958.371	325.665.377.671	317.610.958.371	394.542.365.763	447.841.044.495	435.845.663.176
Trade Intensity	38,31%	37,90%	38,09%	37,90%	38,09%	37,90%	38,09%	37,90%	37,64%	40,00%	38,31%

Trade Intensity NACE 25-24.5-24.2-24.4 vs. CN 73-83 Ex 77&81

V3	2013	2014	2015 Average	2016	2017	2018	2019	2020	2021	2022	2023 Average
Export Extra EU [€]	81.252.128.581	80.262.462.485	80.763.227.671	80.262.462.485	80.763.227.671	80.262.462.485	80.763.227.671	80.262.462.485	88.870.813.963	102.501.200.221	102.910.744.262
Import Extra EU [€]	61.541.352.205	64.593.321.588	69.662.302.314	64.593.321.588	69.662.302.314	64.593.321.588	69.662.302.314	64.593.321.588	95.653.129.863	127.754.376.203	103.871.678.385
Turnover [€]	590.055.600.000	590.717.600.000	604.548.000.000	590.717.600.000	604.548.000.000	590.717.600.000	604.548.000.000	590.717.600.000	789.066.870.000	923.240.700.000	881.080.770.000
Trade Intensity	21,91%	22,10%	22,31%	22,10%	22,31%	22,10%	22,31%	22,10%	20,86%	21,91%	21,25%
Export Extra EU [€]	81.252.128.581	80.262.462.485	80.763.227.671	80.262.462.485	80.763.227.671	80.262.462.485	80.763.227.671	80.262.462.485	88.870.813.963	102.501.200.221	102.910.744.262
Import Extra EU [€]	61.541.352.205	64.593.321.588	69.662.302.314	64.593.321.588	69.662.302.314	64.593.321.588	69.662.302.314	64.593.321.588	95.653.129.863	127.754.376.203	103.871.678.385
Production Value [€]	456.233.576.308	462.145.857.975	475.147.028.972	462.145.857.975	475.147.028.972	462.145.857.975	475.147.028.972	462.145.857.975	577.514.502.014	667.234.559.200	632.697.779.106
Trade Intensity	27,58%	27,50%	27,61%	27,50%	27,61%	27,50%	27,61%	27,50%	27,41%	28,96%	28,07%

Conclusion: All scenarios exceed the 20% threshold

Indirect Carbon Leakage Indicator (ICLI) in the EU

Indirect Carbon Leakage Indicator (ICLI) 2021-2023

Scenarios	V1	V2	V3	V4
Indirect emission intensity	0,23	0,23	0,23	0,23
Trade intensity	28,5%	38,7%	21,3%	28,1%
Indirect Carbon Leakage Indicator (ICLI)	0,065	0,087	0,048	0,064

Conclusion: With the exception of V3, all scenarios exceed the threshold of 0.64

Appendix C– General Engagement Terms for Wirtschaftsprüferinnen, Wirtschaftsprüfer and Wirtschaftsprüfungsgesellschaften [German Public Auditors and Public Audit Firms] as of January 1, 2024

[Translator's notes are in square brackets]

General Engagement Terms

for
**Wirtschaftsprüferinnen, Wirtschaftsprüfer and
 Wirtschaftsprüfungsgesellschaften**
[German Public Auditors and Public Audit Firms]
 as of January 1, 2024

1. Scope of application

(1) These engagement terms apply to contracts between German Public Auditors (Wirtschaftsprüferinnen/Wirtschaftsprüfer) or German Public Audit Firms (Wirtschaftsprüfungsgesellschaften) – hereinafter collectively referred to as “German Public Auditors” – and their engaging parties for assurance services, tax advisory services, advice on business matters and other engagements except as otherwise agreed in writing (Textform) or prescribed by a mandatory rule.

(2) Third parties may derive claims from contracts between German Public Auditors and engaging parties only when this is agreed or results from mandatory rules prescribed by law. In relation to such claims, these engagement terms also apply to these third parties. A German Public Auditor is also entitled to invoke objections (Einwendungen) and defences (Einreden) arising from the contractual relationship with the engaging party to third parties.

2. Scope and execution of the engagement

(1) Object of the engagement is the agreed service – not a particular economic result. The engagement will be performed in accordance with the German Principles of Proper Professional Conduct (Grundsätze ordnungsmäßiger Berufsausübung). The German Public Auditor does not assume any management functions in connection with his services. The German Public Auditor is not responsible for the use or implementation of the results of his services. The German Public Auditor is entitled to make use of competent persons to conduct the engagement.

(2) Except for assurance engagements (betriebswirtschaftliche Prüfungen), the consideration of foreign law requires an express agreement in writing (Textform).

(3) If circumstances or the legal situation change subsequent to the release of the final professional statement, the German Public Auditor is not obligated to refer the engaging party to changes or any consequences resulting therefrom.

3. The obligations of the engaging party to cooperate

(1) The engaging party shall ensure that all documents and further information necessary for the performance of the engagement are provided to the German Public Auditor on a timely basis, and that he is informed of all events and circumstances that may be of significance to the performance of the engagement. This also applies to those documents and further information, events and circumstances that first become known during the German Public Auditor's work. The engaging party will also designate suitable persons to provide information.

(2) Upon the request of the German Public Auditor, the engaging party shall confirm the completeness of the documents and further information submitted as well as the explanations and statements provided in statement as drafted by the German Public Auditor or in a legally accepted written form (gesetzliche Schriftform) or any other form determined by the German Public Auditor.

4. Ensuring independence

(1) The engaging party shall refrain from anything that endangers the independence of the German Public Auditor's staff. This applies throughout the term of the engagement, and in particular to offers of employment or to assume an executive or non-executive role, and to offers to accept engagements on their own behalf.

(2) Were the performance of the engagement to impair the independence of the German Public Auditor, of related firms, firms within his network, or such firms associated with him, to which the independence requirements apply in the same way as to the German Public Auditor in other engagement relationships, the German Public Auditor is entitled to terminate the engagement for good cause.

5. Reporting and oral information

To the extent that the German Public Auditor is required to present results in a legally accepted written form (gesetzliche Schriftform) or in writing (Textform) as part of the work in executing the engagement, only that

presentation is authoritative. Draft of such presentations are non-binding. Except as otherwise provided for by law or contractually agreed, oral statements and explanations by the German Public Auditor are binding only when they are confirmed in writing (Textform). Statements and information of the German Public Auditor outside of the engagement are always non-binding.

6. Distribution of, a German Public Auditor's professional statement

(1) The distribution to a third party of professional statements of the German Public Auditor (results of work or extracts of the results of work whether in draft or in a final version) or information about the German Public Auditor acting for the engaging party requires the German Public Auditor's consent be issued in writing (Textform), unless the engaging party is obligated to distribute or inform due to law or a regulatory requirement.

(2) The use by the engaging party for promotional purposes of the German Public Auditor's professional statements and of information about the German Public Auditor acting for the engaging party is prohibited.

7. Deficiency rectification

(1) In case there are any deficiencies, the engaging party is entitled to specific subsequent performance by the German Public Auditor. The engaging party may reduce the fees or cancel the contract for failure of such subsequent performance, for subsequent non-performance or unjustified refusal to perform subsequently, or for unconscionability or impossibility of subsequent performance. If the engagement was not commissioned by a consumer, the engaging party may only cancel the contract due to a deficiency if the service rendered is not relevant to him due to failure of subsequent performance, to subsequent non-performance, to unconscionability or impossibility of subsequent performance. No. 9 applies to the extent that further claims for damages exist.

(2) The engaging party must assert a claim for subsequent performance (Nacherfüllung) in writing (Textform) without delay. Claims for subsequent performance pursuant to paragraph 1 not arising from an intentional act expire after one year subsequent to the commencement of the time limit under the statute of limitations.

(3) Apparent deficiencies, such as clerical errors, arithmetical errors and deficiencies associated with technicalities contained in a German Public Auditor's professional statement (long-form reports, expert opinions etc.) may be corrected – also versus third parties – by the German Public Auditor at any time. Misstatements which may call into question the results contained in a German Public Auditor's professional statement entitle the German Public Auditor to withdraw such statement – also versus third parties. In such cases the German Public Auditor should first hear the engaging party, if practicable.

8. Confidentiality towards third parties, and data protection

(1) Pursuant to the law (§ [Article] 323 Abs 1 [paragraph 1] HGB [German Commercial Code: Handelsgesetzbuch], § 43 WPO [German Law regulating the Profession of Wirtschaftsprüfer: Wirtschaftsprüferordnung], § 203 StGB [German Criminal Code: Strafgesetzbuch]) the German Public Auditor is obligated to maintain confidentiality regarding facts and circumstances confided to him or of which he becomes aware in the course of his professional work, unless the engaging party releases him from this confidentiality obligation.

(2) When processing personal data, the German Public Auditor will observe national and European legal provisions on data protection.

9. Liability

(1) For legally required services by German Public Auditors, in particular audits, the respective legal limitations of liability, in particular the limitation of liability pursuant to § 323 Abs. 2 HGB, apply.

(2) Insofar neither a statutory limitation of liability is applicable, nor an individual contractual limitation of liability exists, claims for damages due to negligence arising out of the contractual relationship between the

engaging party and the German Public Auditor, except for damages resulting from injury to life, body or health as well as for damages that constitute a duty of replacement by a producer pursuant to § 1 ProdHaftG [German Product Liability Act: Produkthaftungsgesetz], are limited to € 4 million pursuant to § 54 a Abs. 1 Number 2 WPO. This applies equally to claims against the German Public Auditor made by third parties arising from, or in connection with, the contractual relationship.

(3) When multiple claimants assert a claim for damages arising from an existing contractual relationship with the German Public Auditor due to the German Public Auditor's negligent breach of duty, the maximum amount stipulated in paragraph 2 applies to the respective claims of all claimants collectively.

(4) The maximum amount under paragraph 2 relates to an individual case of damages. An individual case of damages also exists in relation to a uniform damage arising from a number of breaches of duty. The individual case of damages encompasses all consequences from a breach of duty regardless of whether the damages occurred in one year or in a number of successive years. In this case, multiple acts or omissions based on the same source of error or on a source of error of an equivalent nature are deemed to be a single breach of duty if the matters in question are legally or economically connected to one another. In this event the claim against the German Public Auditor is limited to € 5 million.

(5) A claim for damages expires if a suit is not filed within six months subsequent to the written statement (Textform) of refusal of acceptance of the indemnity and the engaging party has been informed of this consequence. This does not apply to claims for damages resulting from scienter, a culpable injury to life, body or health as well as for damages that constitute a liability for replacement by a producer pursuant to § 1 ProdHaftG. The right to invoke a plea of the statute of limitations remains unaffected.

(6) § 323 HGB remains unaffected by the rules in paragraphs 2 to 5.

10. Supplementary provisions for audit engagements

(1) If the engaging party subsequently amends the financial statements or management report audited by a German Public Auditor and accompanied by an auditor's report (Bestätigungsvermerk), he may no longer use this auditor's report.

If the German Public Auditor has not issued an auditor's report, a reference to the audit conducted by the German Public Auditor in the management report or any other public reference is permitted only with the German Public Auditor's consent, issued in a legally accepted written form (gesetzliche Schriftform), and with a wording authorized by him.

(2) If the German Public Auditor revokes the auditor's report, it may no longer be used. If the engaging party has already made use of the auditor's report, then upon the request of the German Public Auditor he must give notification of the revocation.

(3) The engaging party has a right to five official copies of the report. Additional official copies will be charged separately.

11. Supplementary provisions for assistance in tax matters

(1) When advising on an individual tax issue as well as when providing ongoing tax advice, the German Public Auditor is entitled to use as a correct and complete basis the facts provided by the engaging party – especially numerical disclosures; this also applies to bookkeeping engagements. Nevertheless, he is obligated to indicate to the engaging party any material errors he has identified.

(2) The tax advisory engagement does not encompass procedures required to observe deadlines, unless the German Public Auditor has explicitly accepted a corresponding engagement. In this case the engaging party must provide the German Public Auditor with all documents required to observe deadlines – in particular tax assessments – on such a timely basis that the German Public Auditor has an appropriate lead time.

(3) Except as agreed otherwise in writing (Textform), ongoing tax advice encompasses the following work during the contract period:

- a) preparation and electronic transmission of annual tax returns, including financial statements for tax purposes in electronic format, for income tax, corporate tax and business tax, namely on the basis of the annual financial statements, and on other schedules and evidence documents required for the taxation, to be provided by the engaging party
- b) examination of tax assessments in relation to the taxes referred to in (a)
- c) negotiations with tax authorities in connection with the returns and assessments mentioned in (a) and (b)
- d) support in tax audits and evaluation of the results of tax audits with respect to the taxes referred to in (a)
- e) participation in petition or protest and appeal procedures with respect to the taxes mentioned in (a).

In the aforementioned tasks the German Public Auditor takes into account material published legal decisions and administrative interpretations.

(4) If the German Public auditor receives a fixed fee for ongoing tax advice, the work mentioned under paragraph 3 (d) and (e) is to be remunerated separately, except as agreed otherwise in writing (Textform).

(5) Insofar the German Public Auditor is also a German Tax Advisor or and the German Tax Advice Remuneration Regulation (Steuerberatungsvergütungsverordnung) is to be applied to calculate the remuneration, a greater or lesser remuneration than the legal default remuneration can be agreed in writing (Textform).

(6) Work relating to special individual issues for income tax, corporate tax, business tax and valuation assessments for property units as well as all issues in relation to sales tax, payroll tax, other taxes and dues requires a separate engagement. This also applies to:

- a) work on non-recurring tax matters, e.g. in the field of estate tax and real estate sales tax;
- b) support and representation in proceedings before tax and administrative courts and in criminal tax matters;
- c) advisory work and work related to expert opinions in connection with changes in legal form and other re-organizations, capital increases and reductions, insolvency related business reorganizations, admission and retirement of owners, sale of a business, liquidations and the like, and
- d) support in complying with disclosure and documentation obligations.

(7) To the extent that the preparation of the annual sales tax return is undertaken as additional work, this includes neither the review of any special accounting prerequisites nor the issue as to whether all potential sales tax allowances have been identified. No guarantee is given for the complete compilation of documents to claim the input tax credit.

12. Electronic communication

Communication between the German Public Auditor and the engaging party may be via e-mail. In the event that the engaging party does not wish to communicate via e-mail or sets special security requirements, such as the encryption of e-mails, the engaging party will inform the German Public Auditor in writing (Textform) accordingly.

13. Remuneration

(1) In addition to his claims for fees, the German Public Auditor is entitled to claim reimbursement of his expenses; sales tax will be billed additionally. He may claim appropriate advances on remuneration and reimbursement of expenses and may make the delivery of his services dependent upon the complete satisfaction of his claims. Multiple engaging parties are jointly and severally liable.

(2) If the engaging party is not a consumer, then a set-off against the German Public Auditor's claims for remuneration and reimbursement of expenses is admissible only for undisputed claims or claims determined to be legally binding.

14. Dispute Settlement

The German Public Auditor is not prepared to participate in dispute settlement procedures before a consumer arbitration board (Verbraucherschlichtungsstelle) within the meaning of § 2 of the German Act on Consumer Dispute Settlements (Verbraucherstreitbeilegungsgesetz).

15. Applicable law

The contract, the performance of the services and all claims resulting therefrom are exclusively governed by German law.