

**From:** [Moore, Stephen \(DETI\)](#)  
**To:** [Hughes, Seamus](#); [Briggs, Peter](#)  
**Cc:** [Clydesdale, Alison](#); [Murphy, Shane](#); [Kelly, Andrea](#)  
**Subject:** RHI meeting today - agreed action points and EC's decision that NIRO revisions did not need to be notified  
**Date:** 01 June 2016 17:06:21  
**Attachments:** [image001.gif](#)  
[SA.34140 – RHI Northern Ireland.pdf](#)

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Peter / Seamus

Thought I should drop you a short note to confirm the action points from today's meeting.

### Action Points

1. State Aid Unit will attend the next RHI Steering group meeting – Alison to confirm next date.
2. State Aid Unit to find and provide a copy of the discussion with the Commission on the NIRO that detailed that changes to the NIRO that are part of the periodic reviews that were envisaged do not need to be notified to the Commission. This discussion is detailed below.
3. Energy Efficiency Branch will provide State Aid Unit with a copy of the State aid text in the draft NIAO report.

If there are references to State aid in any other reports (e.g. Internal Audit reports), we would like to see these as well.

In relation to point 2 above and the Commission view on the NIRO that changes that are part of the periodic reviews do not need to be notified, whilst this is relevant and possibly justifies not notifying in relation to the actions that were taken in November 2015, you should also bear in mind the following:

1. This EC view on the need to not re-notify NIRO may not be seen by the Commission as being a global precedent, as it related to a pre-notification that was submitted to the Commission in 2014, a year when the Energy and Environmental aid team in DG Comp was facing an extremely high workload and had dealt with a succession of relatively minor revisions to the NIRO, which it probably concluded were an unnecessary administrative burden on its resources;
2. In para 11 of the EC Decision (SA.34140), we did commit to re-notify if we added 'further technologies';
3. In para 15, the Commission notes that we are minded to review the scheme periodically and "upon the need to commence such reviews" that we committed to re-notify the scheme;
4. In para 17, the Commission is expecting us to re-notify if we continue to provide funding beyond 2020; and
5. In para 80, the Commission reminded us that any plans to refinance, alter or change this scheme have to be notified.

Therefore, I do think we should notify the changes we are making as soon as possible, if only to provide legal certainty, in the event of any legal challenges in the UK courts.

Happy to discuss.

Stephen

**Stephen Moore**

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**NEW** - 'State aid: A Beginner's Guide for Public Bodies in Northern Ireland' can now be accessed through the DFE Internet site: <https://www.detini.gov.uk/publications/state-aid-beginners-guide-public-bodies-northern-ireland>



[NI Year of Food & Drink 2016](#)

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**From:** Stephen.Clark-Foulquier@fco.gsi.gov.uk [mailto:Stephen.Clark-Foulquier@fco.gsi.gov.uk]  
**Sent:** 14 March 2014 09:48  
**To:** Stephen.Moore@detini.gsi.gov.uk  
**Cc:** Irrelevant information redacted by the RHI Inquiry; Michael.Harris@detini.gsi.gov.uk; Michael.Blower@detini.gsi.gov.uk; Alberta.Pauley@detini.gsi.gov.uk; Damien.Ryan@detini.gsi.gov.uk  
**Subject:** RE: SA.38154 (2014/PN) - Renewables Obligation in Northern Ireland

Stephen,

DG COMP will close the PN on their side.

Nothing more needed from your side.

Regards,

Stephen Clark-Foulquier

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**From:** Moore, Stephen (DETI) [mailto:Stephen.Moore@detini.gsi.gov.uk]  
**Sent:** 10 March 2014 11:35  
**To:** Stephen ClarkFoulquier \* (Restricted)  
**Cc:** Irrelevant information redacted by the RHI Inquiry; Harris, Michael; Blower, Michael; Pauley, Alberta; Ryan, Damien  
**Subject:** FW: SA.38154 (2014/PN) - Renewables Obligation in Northern Ireland

Stephen

Re the Commission comment below that ...

“The proposed changes in Northern Ireland follows in time and substance closely the changes to the UK support scheme. In particular, they seem to follow exactly the same principles and can therefore be viewed as a correction of the level of support for ground-mounted solar PV above 250kW imposed by the geographical conditions in Northern Ireland, but still part of the regular review. Such changes to the National scheme were considered compatible (Decision No SA.35565 – UK Amendment to the

Renewables Obligation scheme) as they are part of the periodic revision envisaged under the approved aid scheme N414/2008 (Decision of 11 February 2009) and the Commission concluded that there was no need to notify."

We think that the Commission is referring to para 35 in the UK decision and specifically the last part that suggests we need to be content the data shows that the mid-point of the costs range is lower than (or close to) the mid-point of the revenues range.

Having looked at the supporting data, we are content that the revised ROC levels in NI continue to meet this criteria.

Would you pass on our thanks to the Commission for this clarification and confirm that we will not now be notifying.

Could you also confirm what action I should take next? I see I have the option on SANI of deleting the 'notification', is this all I need to do?

Happy to discuss.

Stephen

## Stephen Moore

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**From:** [Stephen.Clark-Foulquier@fco.gsi.gov.uk](mailto:Stephen.Clark-Foulquier@fco.gsi.gov.uk) [mailto:[Stephen.Clark-Foulquier@fco.gsi.gov.uk](mailto:Stephen.Clark-Foulquier@fco.gsi.gov.uk)]  
**Sent:** 24 February 2014 16:42  
**To:** [Stephen.Moore@detini.gsi.gov.uk](mailto:Stephen.Moore@detini.gsi.gov.uk)  
**Cc:** Irrelevant information redacted by the RHI Inquiry  
**Subject:** SA.38154 (2014/PN) - Renewables Obligation in Northern Ireland

Stephen,

Good news on RO – COMP informally say the changes do not need to be notified: are you content to go ahead on that basis?

“Following our preliminary analysis of the pre-notification SA.38154 – Renewables Obligation in Northern Ireland, submitted on 13/01/2014 – we are of the view that the pre-notified change does not need to be notified. In particular, it is noted that:

1. The proposed changes in Northern Ireland follows in time and substance closely the changes to the UK support scheme. In particular, they seem to follow exactly the same principles and can therefore be viewed as a correction of the level of support for ground-mounted solar PV above 250kW imposed by the geographical conditions in Northern Ireland, but still part of the regular review. Such changes to the National scheme were considered compatible (Decision No SA.35565 – UK Amendment to the Renewables Obligation scheme) as they are part of the periodic revision envisaged under the approved aid scheme N414/2008 (Decision of 11 February 2009) and the Commission concluded that there was no need to notify.
2. The proposed digression rates for subsidies to large PV installation were adopted after a transparent public consultation procedure.
3. The reasons for setting slower degression rates than in the rest of the UK are clearly explained and the consequences analysed. From the documentation provided, it appears that the increased aid intensity is unlikely to results in overcompensation for PV generators. It seems likely that the increased support level will be necessary to reach the renewable generation targets given the prevailing conditions in Northern Ireland (in particular, the reduced solar irradiance and the longer administrative delays).

Within the limits of our preliminary analysis, it appears that the proposed amendments to the Renewables Obligation Order in Northern Ireland should therefore be considered part of the periodic revision to the approved environmental aid N414/2008. As such, the proposed modifications are covered by the provisions of the Decision approving the aid N414/2008 and notification is not necessary.

This e-mail does not include a definitive position of the European Commission itself, but only a preliminary view of the services of DG Competition as regards your pre-notification, based on the information available at this stage and pending any additional comments your authorities or any third party might bring forward in the course of the notification procedure.”

Regards,

Stephen Clark-Foulquier

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**From:** Moore, Stephen (DETI) [<mailto:Stephen.Moore@detini.gsi.gov.uk>]

**Sent:** 03 February 2014 18:19

**To:** Stephen ClarkFoulquier \* (Restricted)

**Cc:** Irrelevant information redacted by the RHI Inquiry Mulligan, Gerry; Pauley, Alberta; Brush, Paul; Ryan, Damien; Harris, Michael; Blower, Michael; Frazer, Fred; McAllister, Irene; Stevenson, Bill; Rutherford, Joyce; Irrelevant information redacted by the RHI Inquiry

**Subject:** 1. SA.38154 (2014/PN) - Renewables Obligation in Northern Ireland, 2. SA.36290 (2013/PN) - Northern Ireland Gas Pipeline - extension to the West and the North West & 3. Electricity grid strengthening project

Stephen

Hope all is well in Brussels.

### **1. SA.38154 (2014/PN) - Renewables Obligation in Northern Ireland**

You may recall we pre-notified a very minor proposed change to the level of support for ground-mounted solar PV (above 250kW) on 13 January 2014.

At that time, in paragraph 15 of the document detailing the rationale for the proposed changes, Energy Division colleagues highlighted the proposed ROC levels were subject to public consultation and that these might be changed following the consultation exercise.

They also committed to informing and updating the Commission of the outcome of the consultation as soon as possible.

The consultation exercise is now complete and DETI has published its response (see attached).

As you will see, it has been decided that very slightly higher levels of support should be provided.

I would be grateful if you could update the casehandler and forward the attached response to the consultation.

### **2. SA.36290 (2013/PN) - Northern Ireland Gas Pipeline - extension to the West and the North West**

You will recall that we pre-notified this project on 4 March 2013 and will be aware that we have yet to receive any pre-notification questions etc.

The last information we had on the progress of this project came via Tim Figures when he met with our Junior Ministers at the start of December 2013. See attached email.

You will see that Tim asked whether "it would be possible to go out to tender in the mean time given the straightforward nature of the case".

I have now been told that the Regulator has decided to do just that and the licence application process will commence any day now.

Therefore, would you contact the Commission, update them on the licence application process and see if they have given our project any consideration?

As you might expect we are now extremely keen that the Commission progresses its consideration of this project.

### **3. Electricity grid strengthening project**

You may also be aware that we are developing a pre-notification for a project to strengthen the electricity grid in Northern Ireland. This is so the grid can absorb more electricity from renewable generation.

This project will draw down a substantial share of our 2014 – 2020 ERDF allocation, approximately 20%, and its inclusion in the ERDF programme has been agreed in principle.

The size of the project also means there will be a major project application to DG Regio

Unfortunately, there doesn't seem to be any way we can avoid a full notification, in particular as the aid will fund infrastructure that will be owned and operated commercially by a multi-national company.

If the development of the pre-notification continues as I expect, we will be submitting the pre-notification before the end of March.

Happy to discuss.

Stephen

**Stephen Moore**

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