

Czech Gas Association position on General Block Exemption Regulation

The Czech Gas Association is an independent association of companies and experts operating in the gas and related industries. It brings together organizations active in the gas industry, along with research and scientific institutes, and further comprises experts whose specialization corresponds to the focus of the Czech Gas Association.

CGA welcomes the possibility to comment on the draft Commission Regulation (EU) .../... of XXX amending Regulation (EU) No 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (also known as General Block Exemption Regulation) and would like to propose recommendations for amendments, which predominantly focus on a consistency between aforementioned Commission Regulation and other EU strategies and legislative acts such as Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources or Hydrogen strategy for a climate-neutral Europe.

Recommendations

Proposal for a regulation

AM1 - Recital 8

Text proposed by the Commission

It is appropriate to broaden the scope of Regulation (EU) No 651/2014 by introducing compatibility conditions for aid for hydrogen in line with the objectives of the Hydrogen strategy for a climate-neutral Europe and for storage. Those conditions should be added to the existing provisions concerning aid for the promotion of energy from renewable sources. Aid for the promotion of hydrogen should be considered compatible with the internal market and be exempted from the notification requirement of Article 108(3) of the Treaty, only insofar as exclusively renewable **hydrogen** is produced. Aid for storage projects should be

Amendment

It is appropriate to broaden the scope of Regulation (EU) No 651/2014 by introducing compatibility conditions for aid for hydrogen **and hydrogen-based synthetic fuels** in line with the objectives of the Hydrogen strategy for a climate-neutral Europe, **EU Strategy for the Energy System Integration** and for storage. Those conditions should be added to the existing provisions concerning aid for the promotion of energy from renewable sources. Aid for the promotion of hydrogen **and hydrogen-based synthetic fuels** should be considered compatible with the internal market and be exempted from the notification

exempted from the notification requirement only to the extent that storage and renewable energy generation facilities are connected.

requirement of Article 108(3) of the Treaty, only insofar as exclusively renewable *fuels of non-biological origin* is produced. *Aid for production of low-carbon hydrogen should be exempted from the notification requirement only for transitional period when the Member State demonstrates that renewable alternatives are not readily available on the market and are not expected to be available in the short term.* Aid for storage projects should be exempted from the notification requirement only to the extent that storage and renewable energy generation facilities are connected.

Justification

Consistency between the Regulation (EU) No 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (GBER) and Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (RED) should be ensured.

Therefore, Czech Gas Association argues for replacing definition of renewable hydrogen in the draft revised GBER with a definition of renewable fuels of non-biological origin (RFNBOs) that is already established in the RED II framework and is about to be amended in the RED III. Renewable fuel of non-biological origin, according to Article 2(63) of the Renewable Energy Directive includes, but is not limited to renewable hydrogen. Renewable fuels of non-biological origin are also hydrogen based synthetic fuels.

*Including RFNBOs and not only renewable hydrogen in the scope of the revised GBER would be also in line with the European Commission COM(2020), 299 final « Powering a climate-neutral economy: An EU Strategy for Energy System Integration » and also proposal for the RED III, which states : **Promoting the use of renewable fuels of non-biological origin is fully in line with the Energy System Integration Strategy and the Hydrogen Strategy as well as the CTP especially if considering the post-2030 perspective.***

*Moreover, **part 1/2** of the Impact Assessment Report accompanying the Proposal for a Directive of the European Parliament and the Council amending Directive (EU) 2018/2001 of the European Parliament and of the Council, Regulation (EU) 2018/1999 of the European Parliament and of the Council and Directive 98/70/EC of the European Parliament and of the Council as regards the promotion of energy from renewable sources, and repealing Council Directive (EU) 2015/652 **on page 3** (Glossary) states following: **Renewable fuel of non-***

biological origin, according to Article 2(63) of the Renewable Energy Directive. This includes for instance renewable hydrogen and hydrogen based synthetic fuels.

All provisions in the revised GBER should be aligned with RED III and use renewable fuels of non-biological origin instead of renewable hydrogen – i.e. Article 4(v),(va), Article 36(1), Article 41(1),(3) and (7), Article 43(1),(2b) and other provisions of the GBER.

Low-carbon hydrogen will play important role in hydrogen market ramp-up. Hydrogen Strategy for climate-neutral Europe states: “Boosting demand and supply of hydrogen is likely to require various forms of support, differentiated in line with the vision of this strategy to prioritise the deployment of renewable hydrogen. While in a transition phase, appropriate support will be needed for low carbon hydrogen...”

Furthermore, aid for low-carbon gases (low-carbon hydrogen and synthetic fuels the energy content of which is derived from low-carbon hydrogen) should be considered to be exempted from the notification requirement for transitional period as well.

Proposal for a regulation

AM2 - Article 1 – paragraph 102b

Text proposed by the Commission

‘refuelling infrastructure’ means a fixed or mobile installation supplying vehicles with hydrogen for transport purposes;

Amendment

‘refuelling infrastructure’ means a fixed or mobile installation supplying vehicles with hydrogen, **hydrogen-based synthetic fuels, CNG and LNG**, for transport purposes;

Justification

We are of opinion that the support for CNG and LNG should be included and the same conditions should apply as in the draft version of the CEEAG point 185: Aid for the deployment or upgrade of CNG and LNG refuelling infrastructure may be regarded as not creating long-term lock-in effects and not displacing investments into cleaner technologies if, at the moment when the Member State notifies the Commission of its plans to implement the aid measure or when the aid measure is implemented, the Member State demonstrates that cleaner alternatives are not readily available on the market and are not expected to be available in the short term. Aid for the deployment or upgrade of CNG and LNG refuelling infrastructure may also be regarded as not creating long-term lock-in effects where the Member State commits to ensure that the CNG and LNG is blended with biogas or renewable gaseous transport fuels of non-biological origin (minimum 20%).

Moreover, as proposal for Regulation on deployment of the alternative fuels infrastructure (AFIR) recitals explain, not all MS have been able to achieve their deployment targets. It would be coherent to introduce more ambitious targets to keep sending robust investment signals to stakeholders. In essence, investments in CNG and LNG infrastructure are future-proof since they enable the deployment of decarbonized energy when compressed biomethane and bio-LNG are used, in the same way that electrical vehicles initially source their electricity from a carbon-emitting generation plant. The infrastructure itself does not produce the lock-in. As noted in recital (8) of the AFIR proposal, “those decarbonised fuels can be used in the same infrastructure as gaseous fossil fuels thereby allowing for a gradual shift towards decarbonised fuels”. In addition, it is paramount to underline the strong benefits associated to (liquified) gaseous fuels in terms of pollutants emissions (SO_x, NO_x, particulates with significant negative effects on health). In addition, the original wording referring to the “demand” or to “disproportionate” costs should be removed, as those terms are not sufficiently clear to ensure a correct implementation of the Regulation.

Finally, when it comes to infrastructure investments, what matters is the fuel carried, which is why infrastructure provisions of the GBER should remain neutral.

Proposal for a regulation

AM3 - Article 1 – paragraph 102c

Text proposed by the Commission

Amendment

‘renewable hydrogen’ means hydrogen produced using only renewable sources of energy, in accordance with [Reference to delegated act by DG ENER pursuant to Article 28 of the RED II];’;

‘renewable fuels of non-biological origin’ means liquid and gaseous fuels the energy content of which is derived from renewable sources other than biomass;’;

Justification

See justification in AM1

Proposal for a regulation

AM4 - Article 1 – paragraph 102e

Text proposed by the Commission

Amendment

(102e) ‘low-carbon hydrogen’ means fossil-based hydrogen with carbon capture and

(102e) ‘low-carbon hydrogen’ means fossil-based hydrogen with carbon capture and

storage or electricity-based hydrogen, where that hydrogen achieves life-cycle greenhouse gas emissions savings of at least [73.4 %] [resulting in life-cycle greenhouse gas emissions below 3 tCO₂eq/tH₂] relative to a fossil fuel comparator of [94g CO₂e/MJ (2.256 tCO₂eq/tH₂)]. *The carbon content of electricity-based hydrogen shall be determined by the marginal generation unit in the bidding zone where the electrolyser is located in the imbalance settlement periods when the electrolyser consumes electricity from the grid;*

storage or electricity-based hydrogen, where that hydrogen achieves life-cycle greenhouse gas emissions savings of at least [73.4 %] [resulting in life-cycle greenhouse gas emissions below 3 tCO₂eq/tH₂] relative to a fossil fuel comparator of [94g CO₂e/MJ (2.256 tCO₂eq/tH₂)].

Justification

The determination of the hydrogen's carbon content through the marginal generation unit in the bidding zone is hardly feasible in the real conditions. The definition of "low-carbon hydrogen" shall be reformulated in way to allow the use of guarantees of origin or power purchase agreements (PPA) supplemented by the information about time, location and the GHG intensity information of the electricity generation used for the low-carbon hydrogen production. Alternatively, in an initial deployment phase to allow for the European electrolysis industry to scale up, putting the EU in a leadership position for the decarbonisation of sectors such as steel and chemicals, System-Level Matching (as was the case of RES-E in the transport sector in the RED II Art.27) should be considered alongside updated GoOs and PPAs.

Moreover, Czech Gas Association is of opinion that GBER should also include definition of low-carbon gases, instead of focusing only on low-carbon hydrogen. Low-carbon gases include also recycled carbon fuels as defined in article 2 of Directive (EU) 2018/2001, low-carbon hydrogen and synthetic gaseous and liquid fuels the energy content of which is derived from low-carbon hydrogen.

Proposal for a regulation

AM5 – Article 36 – paragraph 2a(a)

Text proposed by the Commission

the CO₂ capture, transport and use or storage, including individual elements of the CCUS chain, shall be integrated into a complete

Amendment

the CO₂ capture, transport and use or storage, including individual elements of the CCUS chain, shall *eventually* be integrated into a

CCS, CCU or CCUS chain ;

complete CCS, CCU or CCUS chain ;

Justification

It may not be possible to complete the CCS, CCU or CCUS chain at one moment. Therefore, we argue for an introduction of a time aspect into cumulative conditions that investments in carbon capture and utilisation or storage ('CCUS') shall fulfil. Otherwise, up-take of the technologies will be hindered.

Proposal for a regulation

AM6 - Article 36a – paragraph 2

Text proposed by the Commission

This Article shall only cover aid granted for recharging or refuelling infrastructures that supply vehicles with electricity **or with** renewable **or** low-carbon hydrogen for transport purposes. The Member State shall ensure that the requirement to supply renewable or low-carbon hydrogen is complied with throughout the economic lifetime of the infrastructure. This Article is without prejudice to the possibility to grant aid for investments relating to alternative fuel infrastructure as part of port infrastructure under Articles 56b and 56c.

Amendment

This Article shall only cover aid granted for recharging or refuelling infrastructures that supply vehicles with electricity, renewable ***fuels of non-biological origin***, low-carbon hydrogen ***or CNG and LNG*** for transport purposes. The Member State shall ensure that the requirement to supply renewable or low-carbon hydrogen is complied with throughout the economic lifetime of the infrastructure. ***The Member State shall ensure that that the CNG and LNG is blended with biogas or renewable gaseous transport fuels of non-biological origin (minimum 20%) or the Member State demonstrates that cleaner alternatives are not readily available on the market and are not expected to be available in the short term.*** This Article is without prejudice to the possibility to grant aid for investments relating to alternative fuel infrastructure as part of port infrastructure under Articles 56b and 56c.

Justification

We are of opinion that the support for CNG and LNG should be included and the same conditions should apply as in the draft version of the CEEAG point 185: Aid for the deployment or upgrade of CNG and LNG refuelling infrastructure may be regarded as not creating long-term lock-in effects and not displacing investments into cleaner technologies if,

at the moment when the Member State notifies the Commission of its plans to implement the aid measure or when the aid measure is implemented, the Member State demonstrates that cleaner alternatives are not readily available on the market and are not expected to be available in the short term. Aid for the deployment or upgrade of CNG and LNG refuelling infrastructure may also be regarded as not creating long-term lock-in effects where the Member State commits to ensure that the CNG and LNG is blended with biogas or renewable gaseous transport fuels of non-biological origin (minimum 20%).

Moreover, as proposal for Regulation on deployment of the alternative fuels infrastructure (AFIR) recitals explain, not all MS have been able to achieve their deployment targets. It would be coherent to introduce more ambitious targets to keep sending robust investment signals to stakeholders. In essence, investments in CNG and LNG infrastructure are future-proof since they enable the deployment of decarbonized energy when compressed biomethane and bio-LNG are used, in the same way that electrical vehicles initially source their electricity from a carbon-emitting generation plant. The infrastructure itself does not produce the lock-in. As noted in recital (8) of the AFIR proposal, “those decarbonised fuels can be used in the same infrastructure as gaseous fossil fuels thereby allowing for a gradual shift towards decarbonised fuels”. In addition, it is paramount to underline the strong benefits associated to (liquified) gaseous fuels in terms of pollutants emissions (SO_x, NO_x, particulates with significant negative effects on health). In addition, the original wording referring to the “demand” or to “disproportionate” costs should be removed, as those terms are not sufficiently clear to ensure a correct implementation of the Regulation.

Finally, when it comes to infrastructure investments, what matters is the fuel carried, which is why infrastructure provisions of the GBER should remain neutral.

Proposal for a regulation

AM7 - Article 36a – paragraph 3

Text proposed by the Commission

The eligible costs shall be the costs of the construction, installation, upgrade or extension of the recharging or refuelling infrastructure. Those costs may include the costs of the recharging or refuelling infrastructure itself, installation of or upgrades to electrical or other components, including electrical cables and power transformers, required for connecting the recharging or refuelling infrastructure to the grid or to a local electricity **or** hydrogen production or storage unit, as well as related

Amendment

The eligible costs shall be the costs of the construction, installation, upgrade or extension of the recharging or refuelling infrastructure. Those costs may include the costs of the recharging or refuelling infrastructure itself, installation of or upgrades to electrical or other components, including electrical cables and power transformers, required for connecting the recharging or refuelling infrastructure to the grid or to a local electricity, hydrogen **and hydrogen-based synthetic fuels or biogas**

technical equipment, civil engineering works, land or road adaptations, installation costs and costs for obtaining related permits.

The eligible costs may also cover the investment costs of integrated on-site production of renewable electricity or the investment costs of storage units for storing renewable electricity **or** renewable or low-carbon hydrogen. The peak capacity of the integrated on-site renewable electricity production unit shall not exceed the maximum rated output of the recharging infrastructure to which it is connected.

production or storage unit, as well as related technical equipment, civil engineering works, land or road adaptations, installation costs and costs for obtaining related permits.

The eligible costs may also cover the investment costs of integrated on-site production of renewable electricity or the investment costs of storage units for storing renewable electricity, renewable **fuels of non-biological origin** or low-carbon hydrogen **or biogas**. The peak capacity of the integrated on-site renewable electricity production unit shall not exceed the maximum rated output of the recharging infrastructure to which it is connected.

Justification

We are of opinion that the support for CNG and LNG should be included and the same conditions should apply as in the draft version of the CEEAG point 185: Aid for the deployment or upgrade of CNG and LNG refuelling infrastructure may be regarded as not creating long-term lock-in effects and not displacing investments into cleaner technologies if, at the moment when the Member State notifies the Commission of its plans to implement the aid measure or when the aid measure is implemented, the Member State demonstrates that cleaner alternatives are not readily available on the market and are not expected to be available in the short term. Aid for the deployment or upgrade of CNG and LNG refuelling infrastructure may also be regarded as not creating long-term lock-in effects where the Member State commits to ensure that the CNG and LNG is blended with biogas or renewable gaseous transport fuels of non-biological origin (minimum 20%).

Moreover, as proposal for Regulation on deployment of the alternative fuels infrastructure (AFIR) recitals explain, not all MS have been able to achieve their deployment targets. It would be coherent to introduce more ambitious targets to keep sending robust investment signals to stakeholders. In essence, investments in CNG and LNG infrastructure are future-proof since they enable the deployment of decarbonized energy when compressed biomethane and bio-LNG are used, in the same way that electrical vehicles initially source their electricity from a carbon-emitting generation plant. The infrastructure itself does not produce the lock-in. As noted in recital (8) of the AFIR proposal, “those decarbonised fuels can be used in the same infrastructure as gaseous fossil fuels thereby allowing for a gradual shift towards decarbonised fuels”. In addition, it is paramount to underline the strong benefits associated to (liquified) gaseous fuels in terms of pollutants emissions (SOx, NOx, particulates with significant negative effects on health). In addition, the original wording

referring to the “demand” or to “disproportionate” costs should be removed, as those terms are not sufficiently clear to ensure a correct implementation of the Regulation.

Finally, when it comes to infrastructure investments, what matters is the fuel carried, which is why infrastructure provisions of the GBER should remain neutral.

Proposal for a regulation

AM8 - Article 36b – paragraph 2

Text proposed by the Commission

Aid shall be granted for the purchase or the leasing for a duration of at least 12 months of clean vehicles or zero-emission vehicles for road, railway, inland waterway and maritime transport powered at least partially by electricity **or by** hydrogen and for the retrofitting of vehicles allowing them to qualify as clean vehicles or zero-emission vehicles

Amendment

Aid shall be granted for the purchase or the leasing for a duration of at least 12 months of clean vehicles or zero-emission vehicles for road, railway, inland waterway and maritime transport powered at least partially by electricity, hydrogen, **hydrogen-based synthetic fuels or by biogas** and for the retrofitting of vehicles allowing them to qualify as clean vehicles or zero-emission vehicles.

Justification

*We are of opinion that the support for CNG and LNG should be included and the same conditions should apply as in the draft version of the CEEAG point 162: Aid for the acquisition or leasing of CNG and LNG vehicles may be regarded as not creating long-term lock-in effects and not displacing investments into cleaner technologies if, at the moment when the Member State notifies the Commission of its plans to implement the aid measure or when the aid measure is implemented, the Member State demonstrates that cleaner alternatives are not readily available on the market and are not expected to be available in the short term. **The aid may also be regarded as not having lock-in effects or displacing investments into cleaner technologies where the Member State commits to ensure that those vehicles would be operated using blending of biogas or renewable gaseous transport fuels of non-biological origin (minimum 20%).***

Proposal for a regulation

AM9 - Article 41 – paragraph 1

Text proposed by the Commission

Amendment

Investment aid for the promotion of energy from renewable sources, renewable **hydrogen** and high-efficiency cogeneration

Investment aid for the promotion of energy from renewable energy sources, renewable **hydrogen** and high-efficiency cogeneration shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.”;

Justification

See justification in AM1

Investment aid for the promotion of energy from renewable sources, **renewable fuels of non-biological origin, low-carbon hydrogen** and high-efficiency cogeneration

Investment aid for the promotion of energy from renewable energy sources, renewable **fuels of non-biological origin** and high-efficiency cogeneration shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.”;

Proposal for a regulation

AM10 - Article 41 – paragraph 2

Text proposed by the Commission

Investment aid for the production of biofuels, bioliquids, biogas and biomass fuels shall be exempted from the notification requirement of Article 108(3) of the Treaty only to the extent that the aided fuels are compliant with the sustainability and greenhouse gases emissions saving criteria of Directive (EU) 2018/2001 and its implementing or delegated acts **and are made from the feedstock listed in Part A of Annex IX to that Directive.**

Justification

Condition regarding the feedstock origin (listed in Part A of Annex IX) in case of the production of biofuels, bioliquids, biogas and biomass fuels should be deleted.

Amendment

Investment aid for the production of biofuels, bioliquids, biogas and biomass fuels shall be exempted from the notification requirement of Article 108(3) of the Treaty only to the extent that the aided fuels are compliant with the sustainability and greenhouse gases emissions saving criteria of Directive (EU) 2018/2001 and its implementing or delegated acts.

Annex IX to the Directive 2018/2001 applies to feedstocks for the production of biogas for transport and advanced biofuels, the contribution of which towards the minimum shares referred to in the first and fourth subparagraphs of Article 25(1) may be considered to be twice their energy content and hence is completely irrelevant for heat and electricity production from biomass fuels and article 41 of GBER which does not apply to fuels used in transport.

Proposal for a regulation

AM11 - Article 41 – paragraph 3

Text proposed by the Commission

Investment aid for the production of hydrogen shall be exempted from the notification requirement of Article 108(3) of the Treaty only for installations producing exclusively renewable **hydrogen**. For renewable **hydrogen** projects consisting of an electrolyser and one or more renewable generation units behind a single grid connection point, the capacity of the electrolyser shall not exceed the combined capacity of the renewable generation units. The investment aid may cover dedicated infrastructure for the transmission or distribution of renewable **hydrogen**, as well as storage facilities for renewable **hydrogen**.

Amendment

Investment aid for the production of hydrogen **and hydrogen-based synthetic fuels** shall be exempted from the notification requirement of Article 108(3) of the Treaty only for installations producing exclusively renewable **fuels of non-biological origin**. For renewable **fuels of non-biological origin** projects consisting of an electrolyser and one or more renewable generation units behind a single grid connection point, the capacity of the electrolyser shall not exceed the combined capacity of the renewable generation units. The investment aid may cover dedicated infrastructure for the transmission or distribution of renewable **fuels of non-biological origin**, as well as storage facilities for renewable **fuels of non-biological origin**. **Investment aid for production of low-carbon hydrogen should be exempted from the notification requirement only for transitional period when the Member State demonstrates that renewable alternatives are not readily available on the market and are not expected to be available in the short term.**

Justification

In cases where hydrogen production does not in itself economically fully justify dedicated hydrogen infrastructure (e.g. in the initial stages of market development when both

production and demand are expected not to be that high), blending of hydrogen may be an attractive solution, at least for a transitional period. Thus, we believe that blending of natural gas and hydrogen will be instrumental in scaling up hydrogen production capacities, facilitating transport of hydrogen when volumes are not sufficient for dedicated hydrogen systems. Therefore, role of blending should be recognized, otherwise development of hydrogen market will be hampered.

Moreover, consistency between the Regulation (EU) No 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (GBER) and Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (RED) should be ensured.

Therefore, Czech Gas Association argues for replacing renewable hydrogen in the draft revised GBER with a definition of renewable fuels of non-biological origin (RFNBOs) that is already established in the RED II framework and is about to be amended in the RED III. Renewable fuel of non-biological origin, according to Article 2(63) of the Renewable Energy Directive includes, but is not limited to renewable hydrogen. Renewable fuels of non-biological origin are also hydrogen based synthetic fuels.

Including RFNBOs and not only renewable hydrogen in the scope of the revised GBER would be also in line with the European Commission COM(2020), 299 final « Powering a climate-neutral economy: An EU Strategy for Energy System Integration »

*Low-carbon hydrogen will play important role in hydrogen market ramp-up. **Hydrogen Strategy for climate-neutral Europe states: “Boosting demand and supply of hydrogen is likely to require various forms of support, differentiated in line with the vision of this strategy to prioritise the deployment of renewable hydrogen. While in a transition phase, appropriate support will be needed for low carbon hydrogen...”***

Furthermore, aid for low-carbon gases (low-carbon hydrogen and synthetic fuels the energy content of which is derived from low-carbon hydrogen) should be considered to be exempted from the notification requirement for transitional period as well.

Proposal for a regulation

AM12 - Article 41 – paragraph 4a

Text proposed by the Commission

Amendment

Investment aid for high-efficiency cogeneration shall be exempted from the notification	Investment aid for high-efficiency cogeneration shall be exempted from the notification
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requirement of Article 108(3) of the Treaty only if it is not for fossil fuel fired cogeneration installations, with the exception of natural gas where compliance with *the 2030 and 2050 climate targets* is ensured.”

requirement of Article 108(3) of the Treaty only if it is not for fossil fuel fired cogeneration installations, with the exception of natural gas where compliance with *national energy and climate plan* is ensured.”

Justification

Exemption from the notification requirement of Article 108(3) of the Treaty in case of natural gas should not be linked to the compliance with the 2030 and 2050 climate targets, but to the “national energy and climate plan”.

Compliance with 2030 and 2050 climate targets cannot be verified on project level (beneficiary of aid). Compliance of the investment with national energy and climate plan which provides for concrete measures to reach climate and energy targets on national level can be ensured.

Moreover, Governance Regulation includes the necessary elements to track progress in the implementation of EU climate legislation and issue recommendations for Member States.

Proposal for a regulation

AM13 - Article 41 – paragraph 6

Text proposed by the Commission

The eligible costs shall be the total investment cost.

Amendment

The eligible costs shall be the total investment cost. ***Those costs may include the costs required for connecting the production facility to the energy infrastructure.***

Justification

We are of opinion that the eligible costs should include also the costs required for connecting the production facility (producing in particular biogas/biomethane) to the energy infrastructure. That would ensure an injection of biomethane into the grid, which is a cost-effective way to decarbonise gas, while enabling the development of the biomethane market and ensuring the liquidity of the Guarantees of Origin certificate market.

Proposal for a regulation

AM14 - Article 41 – paragraph 7a

Text proposed by the Commission

30 % of the eligible costs for the production of energy from renewable energy sources, renewable **hydrogen** and high-efficiency cogeneration;

Justification

See justification in AM1

**Proposal for a regulation
AM15/NEW - Article 42a**

Text proposed by the Commission

Amendment

30 % of the eligible costs for the production of energy from renewable energy sources, renewable ***fuels of non-biological origin, low-carbon hydrogen*** and high-efficiency cogeneration;

***Operating aid for the promotion of
electricity from high-efficiency cogeneration***

1. Operating aid for the promotion of electricity from high-efficiency cogeneration shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.

2. High-efficiency cogeneration shall not use fossil fuels with the exception of natural gas where compliance with national climate and energy plan is ensured.

3. Aid shall be granted in a competitive bidding process on the basis of clear, transparent, non-discriminatory and objective criteria, defined ex ante in accordance with the objective of the measure and minimising the risk of strategic

bidding. Those criteria shall be published at least 6 weeks in advance of the deadline for submitting applications, to enable effective competition. The competitive bidding process shall fulfil all of the following criteria:

(i) the budget or volume related to the bidding process shall be a binding constraint in that it can be expected that not all bidders would receive aid;

(ii) the expected number of bidders shall be sufficient to ensure effective competition;

(iii) the design of undersubscribed bidding processes during the implementation of a scheme shall be corrected to restore effective competition in the subsequent bidding processes or as soon as possible;

(iv) ex post adjustments to the bidding process outcome (such as subsequent negotiations on bid results or rationing) shall be avoided as they may undermine the efficiency of the process's outcome.

4. The bidding process can be limited to specific technologies where a process open to all generators would lead to a suboptimal result.

5. Aid shall be granted as a premium in addition to the market price whereby the generators sell their electricity directly in the market.

6. Aid beneficiaries shall be subject to standard balancing responsibilities. Beneficiaries may outsource balancing responsibilities to other undertakings on their behalf, such as aggregators.

7. Aid shall not be paid for any periods where prices are negative. For the avoidance of doubt, this applies as of the moment when prices turn negative.

8. Aid shall only be granted until the plant generating the electricity from high-efficiency cogeneration has been fully depreciated in accordance with generally accepted accounting principles. Any investment aid received shall be deducted from the operating aid.”;

Justification

Operating aid for promotion of high-efficiency CHP is important for number of Member states in order to achieve climate and energy targets. Provision of this aid by competitive bidding process has limited impact on internal market and should be facilitated by GBER.

Proposal for a regulation

AM16 - Article 43 – paragraph 1

Text proposed by the Commission

Operating aid for the promotion of energy from renewable sources **and** renewable **hydrogen** in small scale installations and for the promotion of renewable energy communities

Operating aid for the promotion of energy from renewable sources **and** renewable **hydrogen** in small scale installations and for the promotion of renewable energy communities shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.

Amendment

Operating aid for the promotion of energy from renewable sources, renewable **fuels of non-biological origin and low-carbon hydrogen** in small scale installations and for the promotion of renewable energy communities

Operating aid for the promotion of energy from renewable sources, renewable **fuels of non-biological origin and for transitional period also low-carbon hydrogen** in small scale installations and for the promotion of renewable energy communities shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this

Article and in Chapter I are fulfilled.

Justification

See justification in AM1

Proposal for a regulation

AM17 - Article 43 – paragraph 2b

Text proposed by the Commission

Amendment

Operating aid for the production of **hydrogen** shall be exempted from the notification requirement of Article 108(3) of the Treaty only for installations producing exclusively **renewable hydrogen**.”

Operating aid for the production of hydrogen **and hydrogen-based synthetic fuels** shall be exempted from the notification requirement of Article 108(3) of the Treaty only for installations producing exclusively **renewable fuels of non-biological origin**. **Operating aid for production of low-carbon hydrogen should be exempted from the notification requirement only for transitional period when the Member State demonstrates that cleaner alternatives are not readily available on the market and are not expected to be available in the short term.**”

Justification

In cases where hydrogen production does not in itself economically fully justify dedicated hydrogen infrastructure (e.g. in the initial stages of market development when both production and demand are expected not to be that high), blending of hydrogen may be an attractive solution, at least for a transitional period. Thus, we believe that blending of natural gas and hydrogen will be instrumental in scaling up hydrogen production capacities, facilitating transport of hydrogen when volumes are not sufficient for dedicated hydrogen systems. Therefore, role of blending should be recognized, otherwise development of hydrogen market will be hampered.

Moreover, consistency between the Regulation (EU) No 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (GBER) and Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources

(RED) should be ensured.

Therefore, Czech Gas Association argues for replacing renewable hydrogen in the draft revised GBER with a definition of renewable fuels of non-biological origin (RFNBOs) that is already established in the RED II framework and is about to be amended in the RED III. Renewable fuel of non-biological origin, according to Article 2(63) of the Renewable Energy Directive includes, but is not limited to renewable hydrogen. Renewable fuels of non-biological origin are also hydrogen based synthetic fuels.

Including RFNBOs and not only renewable hydrogen in the scope of the revised GBER would be also in line with the European Commission COM(2020), 299 final « Powering a climate-neutral economy: An EU Strategy for Energy System Integration »

*Low-carbon hydrogen will play important role in hydrogen market ramp-up. **Hydrogen Strategy for climate-neutral Europe states: “Boosting demand and supply of hydrogen is likely to require various forms of support, differentiated in line with the vision of this strategy to prioritise the deployment of renewable hydrogen. While in a transition phase, appropriate support will be needed for low carbon hydrogen...”***

Furthermore, aid for low-carbon gases (low-carbon hydrogen and synthetic fuels the energy content of which is derived from low-carbon hydrogen) should be considered to be exempted from the notification requirement for transitional period as well.

Proposal for a regulation

AM18 - Article 43 – paragraph 3

Text proposed by the Commission

Operating aid for the production of biofuels, bioliquids, biogas and biomass fuels shall be exempted from the notification requirement of Article 108(3) of the Treaty only to the extent that the aided fuels are compliant with the sustainability and greenhouse gases emissions saving criteria of Directive (EU) 2018/2001 and its implementing or delegated acts **and are made from the feedstock listed in Part A of Annex IX to that Directive.**

Amendment

Operating aid for the production of biofuels, bioliquids, biogas and biomass fuels shall be exempted from the notification requirement of Article 108(3) of the Treaty only to the extent that the aided fuels are compliant with the sustainability and greenhouse gases emissions saving criteria of Directive (EU) 2018/2001 and its implementing or delegated acts.

Justification

Condition regarding the feedstock origin (listed in Part A of Annex IX) in case of the

production of biofuels, bioliquids, biogas and biomass fuels should be deleted.

Annex IX to the Directive 2018/2001 applies to feedstocks for the production of biogas for transport and advanced biofuels, the contribution of which towards the minimum shares referred to in the first and fourth subparagraphs of Article 25(1) may be considered to be twice their energy content and hence is completely irrelevant for heat and electricity production from biomass fuels and article 41 of GBER which does not apply to fuels used in transport.

Proposal for a regulation

AM19 - Article 44 – paragraph 4

Text proposed by the Commission

Tax reductions for the products defined in Article 16(1) of Council Directive 2003/96/EC shall be exempted from the notification requirement of Article 108(3) of the Treaty only to the extent that the aided fuels are compliant with the sustainability and greenhouse gases emissions saving criteria of Directive (EU) 2018/2001 and its implementing or delegated acts, **and are made from the feedstock listed in Part A of Annex IX to that Directive.**

Justification

Condition regarding the feedstock origin (listed in Part A of Annex IX) in case of the production of biofuels, bioliquids, biogas and biomass fuels should be deleted.

Annex IX to the Directive 2018/2001 applies to feedstocks for the production of biogas for transport and advanced biofuels, the contribution of which towards the minimum shares referred to in the first and fourth subparagraphs of Article 25(1) may be considered to be twice their energy content and hence is completely irrelevant for heat and electricity production from biomass fuels and article 41 of GBER which does not apply to fuels used in transport.

Amendment

Tax reductions for the products defined in Article 16(1) of Council Directive 2003/96/EC shall be exempted from the notification requirement of Article 108(3) of the Treaty only to the extent that the aided fuels are compliant with the sustainability and greenhouse gases emissions saving criteria of Directive (EU) 2018/2001 and its implementing or delegated acts.

Proposal for a regulation

AM20 - Article 46 – paragraph 1b

Text proposed by the Commission

Aid shall not be granted for the construction or upgrade of fossil fuel based generation facilities, except for natural gas. Aid for the construction or upgrade of natural gas based generation may be granted only where compliance with *the 2030 and 2050 climate targets* is ensured.

Amendment

Aid shall not be granted for the construction or upgrade of fossil fuel based generation facilities, except for natural gas. Aid for the construction or upgrade of natural gas based generation may be granted only where compliance with *national energy and climate plan* is ensured.

Justification

Exemption from the notification requirement of Article 108(3) of the Treaty in case of natural gas should not be linked to the compliance with the 2030 and 2050 climate targets, but to the “national energy and climate plan”.

Compliance with 2030 and 2050 climate targets cannot be verified on project level (beneficiary of aid). Compliance of the investment with national energy and climate plan which provides for concrete measures to reach climate and energy targets on national level can be ensured.

Moreover, Governance Regulation includes the necessary elements to track progress in the implementation of EU climate legislation and issue recommendations for Member States.

Proposal for a regulation

AM21 - Article 46 – paragraph 1c(c)

Text proposed by the Commission

in case of an upgrade to the storage or network distributing heating and cooling generated from natural gas, compliance with *the 2030 and 2050 climate targets* is ensured.

Amendment

in case of an upgrade to the storage or network distributing heating and cooling generated from natural gas, compliance with *national energy and climate plan* is ensured.

Justification

Exemption from the notification requirement of Article 108(3) of the Treaty in case of natural gas should not be linked to the compliance with the 2030 and 2050 climate targets, but to the “national energy and climate plan”.

Compliance with 2030 and 2050 climate targets cannot be verified on project level (beneficiary of aid). Compliance of the investment with national energy and climate plan which provides for concrete measures to reach climate and energy targets on national level can be ensured.

Moreover, Governance Regulation includes the necessary elements to track progress in the implementation of EU climate legislation and issue recommendations for Member States.

Proposal for a regulation

AM22 - Article 48 – paragraph 3

Text proposed by the Commission

Aid for gas infrastructure shall only be exempted from the notification requirement of Article 108(3) of the Treaty where the infrastructure in question is dedicated to the use for hydrogen and/or for renewable gases, **or mainly** used for the transport of hydrogen and renewable gases.

Amendment

Aid for gas infrastructure shall only be exempted from the notification requirement of Article 108(3) of the Treaty where the infrastructure in question is **either** dedicated to the use for hydrogen and/or for renewable gases, or **partially** used for the transport of hydrogen and renewable gases. ***Aid for Projects of Common Interest as defined in Regulation (EC) No 347/2013 and for smart gas grids shall be exempted from the notification requirement of Article 108(3) of the Treaty, as the market failures in terms of positive externalities and coordination problems are such that financing by means of tariffs may not be sufficient and State aid may be granted.***

Justification

In case of mainly used infrastructure for the transport of hydrogen and renewable gases will be not exempted from notification requirement, support of blending 0-50% H2 in natural gas will be much more difficult. This will slow down development and opening of hydrogen market.

*Smart gas grids should be also included as the market failures associated with smart gas grids was already recognized by the EEAG point 206 - „The Commission considers that for Projects of Common Interest as defined in Regulation (EC) No 347/2013, for smart grids, and for infrastructure investments in assisted areas, **the market failures in terms of positive externalities and coordination problems are such that financing by means of tariffs may not be sufficient and State aid may be granted.**“*

