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## **Answer to the review of the General Block Exemption Regulation (State aid): revised rules for State aid promoting the green and digital transition**

Biogas Syd<sup>1</sup>, the regional biogas-network in southern Sweden – has taken part in the above proposal. We thank you for the opportunity to contribute comments, and hereby present our opinion in accordance with the consultation about the targeted review of the General Block Exemption Regulation (State aid): revised rules for State aid promoting the green and digital transition, published the 06.10-21.

*Biogas Syd highlights several important points in our response below, but wish to particular emphasise that the proposed Article 43 must be amended to permit support for the production, upgrading (biomethane) and liquefaction of biogas and other renewable gases without limitation to small production plants. More detailed comments on Article 43 can be found below.*

### **Article 2(102f-g)**

This article proposes definitions of “clean vehicle and “zero-emission vehicle”. The requirements for maximum CO<sub>2</sub> emissions are made according to CO<sub>2</sub> emissions in vehicles’ exhaust gases (tailpipe emissions of CO<sub>2</sub>), even in those cases where the proposal refers to definitions in other regulations.

Biogas Syd opposes the proposal to formulate maximum CO<sub>2</sub> emissions purely on the basis of local emissions from vehicles and ships (that is, tailpipe emissions). We believe that both European and Swedish legislation should instead be based on a research-based WTW<sup>2</sup> – or LCA<sup>3</sup> – approach to climate emissions. The outdated tailpipe perspective does not take into account whether electricity is derived from fossil or renewable origin. It is not technology neutral and it hinders the use of biogas and other sustainable renewable biofuels. The tailpipe perspective in EU regulations makes the task of mitigating climate change more difficult.

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<sup>1</sup> Biogas Syd is the regional biogasnetwork in southern Sweden. In the network local authorities, Region Skåne, the County Administrative Board of Skåne, academy and biogas companies collaborate for facilitating collaboration, production and use of biogas and biofertilizer. The overall aim is to develop the biogas system as enabler for a sustainable development.

<sup>2</sup> WTW = Well-to-wheel

<sup>3</sup> LCA = Life-cycle analysis



## BIOGAS SYD

### Article 2(130)

This article introduces a new definition of “energy infrastructure” concerning gas, and a new definition of “energy infrastructure” concerning hydrogen.

Biogas Syd believes that it is important that “energy infrastructure” for gas and hydrogen are not limited to pipelines for the distribution and transmission of gas. In Sweden and other Member States that do not have a well-developed national gas grid, gas is mainly distributed in liquid form via infrastructure other than gas networks.

### Article 36

The changes proposed in Article 36 need to be read alongside the changes proposed in Article 2, (102f-g) (see comments above). The changes to Article 36a and the new Article 36b are limited almost exclusively to electrical and hydrogen technologies. Biogas (bio methane) refuelling infrastructure is not included here at all, and in most cases neither are vehicles or ships powered by biogas (bio methane) (due to the unfortunate tailpipe perspective adopted in Article 2(102 f-g)). We are concerned that these biogas technologies will not be covered by other parts of Article 36, or by other parts of the regulation, as the proposal currently stands.

Biogas Syd believes that the regulation should include support for refuelling infrastructure for biogas (bio methane), and for vehicles and ships powered by biogas (bio methane), as is the case for electricity and hydrogen. Biogas generally provides as great climate benefit as renewable electricity and renewable hydrogen, as well as delivering several other societal benefits such as the recycling of plant nutrients, reduced eutrophication and improved biodiversity and soil quality. The production of biogas and biofertilizer also provides increased security of supply, rural development, jobs, regional business development and innovation, and new export opportunities.

We are very concerned that the proposal presented in Article 36, in combination with the proposed changes in Article 2(102f-g), could hinder Sweden’s ability to support biogas investments through different investment support programmes. If this is indeed the consequence of the Commission's proposed changes to Article 36, we oppose the proposed changes.

### Article 41

This article concerns investment aid for the promotion of energy from renewable sources, renewable hydrogen and high-efficiency cogeneration.



## BIOGAS SYD

Biogas Syd believes that the condition which states that investment aid for the production of biofuels, bioliquids, biogas and biomass fuels should be exempted from the notification requirement if the fuel derives from the feedstock listed in Part A of Annex IX to the Renewable Energy Directive<sup>4</sup> should be changed, so that the condition refers instead to the entirety of Annex IX to that directive.

There are demarcation problems between Part A and B, in that Part B includes certain waste products that could be advantageously co-processed into biogas with other waste products mentioned in Part A. Excluding Part B from the proposed amendment would lead to unnecessary administrative costs and inhibit, among other things, biogas production from waste. We also see a clear risk that the Commission's ongoing revision of Annex IX (done through the delegated act detailed in the Renewable Energy Directive) could alter the negotiated distribution between Parts A and B, and thus damaging the conditions for biogas production in general and from certain residues and waste products in particular. Therefore, the condition should refer to the whole of Annex IX.

### **Article 43**

This article concerns 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.

Biogas Syd opposes the proposal that operating aid for renewable gas production is to be limited to projects below 400 kW installed capacity. The current version of the General Block Exemption Regulation<sup>5</sup> (GBER) permits operating aid for biofuel production plants with an installed capacity of less than 50,000 tonnes per year. This provision should remain in place for the production of biogas and other renewable gases, and be extended to apply to all its uses, rather than exclusively to fuel. This measure is very important to the introduction of a production support scheme to biogas, as proposed in the Swedish budget bill to be introduced in Sweden in 2022. A very strict (low) capacity limit effectively constrains the possibility to recover energy and nutrients in a cost-effective way from organic waste and residues like manure, sorted organic household waste and waste from food production to name a few substrate streams.

Finally, point 3 should be changed so that the opportunity to provide operating aid is not limited to installations that use fuel derived from the feedstock listed in Part A of Annex

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<sup>4</sup> 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.

<sup>5</sup> COMMISSION 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



## BIOGAS SYD

IX to the Renewable Energy Directive, but instead extended to the entirety of Annex IX to the same directive. The reasons for this are outlined in the comments on Article 41, above.

### Article 44

Article 44(4) states that tax reductions for the products defined in Article 16(1) of the Energy Tax Directive<sup>6</sup> shall be exempted from the notification requirement of Article 108(3) of the Treaty only to the extent that they are compliant with the sustainability and greenhouse gases emissions saving criteria in the Renewable Energy Directive and are made from the feedstock listed in Part A of Annex IX to that directive.

Biogas Syd believes that this condition should not be limited to fuels from feedstock listed in Part A of Annex IX to the Renewable Energy Directive, but should instead be broadened to apply to the entirety of Annex IX to that directive. The reasons for this are outlined in the comments on Article 41, above.

Yours faithfully

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<sup>6</sup>COUNCIL DIRECTIVE 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity