

## **GENERAL BLOCK EXEMPTION CONSULTATION REVISION**

We welcome the opportunity to comment on the ongoing revision of the General Block Exemption regulation, defining the scope of activities for which the EC grants automatic approval for aid. The proposal focuses on revising the GBER in order to enable Member States to implement State aid measures in the following areas without prior notification:

- Regional aid;
- Risk finance aid;
- Research and Development and Innovation (“R&D&I”) aid;
- Environmental and Energy aid.

The revision focuses on a range of relevant areas for SNAM within the Environmental and Energy aid category, on which we would like to comment.

### **• ENVIRONMENTAL AND ENERGY AID: BLUE AND GREEN HYDROGEN**

#### **1. Low carbon hydrogen definition (Art. 2 (102e)):**

**We strongly suggest not to pre-empt the space for discussion at Parliament/Council level on low carbon hydrogen standards by setting a standard as part of this regulation:** *“ 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 tCO<sub>2</sub>eq/tH<sub>2</sub>] relative to a fossil fuel comparator of [94g CO<sub>2</sub>e/MJ (2.256 tCO<sub>2</sub>eq/tH<sub>2</sub>)]. 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”.* **Alike the definition of renewable electricity (Art. 2 (102d)) a reference should be made to the relevant separate piece of legislation – most likely the Gas & Hydrogen decarbonisation package together with the relevant GHG reduction provisions of the RED III.**

#### **2. CCS/CCU/CCUS (Art. 36):**

We welcome the inclusion of CCS/CCU/CCUS in the discipline. However, the **treatment within does not seem fit for purpose (Art. 36), as the allowed aid intensity for CCUS is capped at 20%**. In that respect, we would welcome a revision of the regulation such that:

- **CCUS is treated alike all other energy sources and vectors in Art. 36;**
- More broadly, in consideration of technology maturity, **a temporary derogation** from the standard discipline is envisaged both for blue and green hydrogen by means of **recognising 100% capex** support including outside competitive procedures **up to 2026**. After 2026, standard provisions – in the case of blue hydrogen (Art. 36.6-36.8) – shall apply.

#### **3. Investment aid to renewable hydrogen production (Art. 41)**

We welcome the inclusion of renewable hydrogen in the discipline. However, similarly to green hydrogen production, also **blue hydrogen production** should be included. We also suggest seeing at least a temporary derogation from standard provisions (Art. 41) with regard to considerations of technology maturity. The current approach which is based on size (30% aid intensity large undertakings; 40% medium undertakings; 50% small undertakings; 100% for competitive bidding) should be combined with a staged approach encompassing a temporary derogation – **support up to 100% allowed for green hydrogen until 2026**.

#### **4. Opex support (Art. 43):**

We welcome the exemptions for small scale hydrogen plants, eg. below 400KW (Art. 43); however, we suggest increasing the threshold to **at least 500 kW and that the size threshold approach should be relevant**

**from 2026 onwards only.** In fact, similarly to the considerations made on capex support for blue and green hydrogen, we rather consider apposite to allow for a **temporary derogation to the discipline to 2026** (in place of the dimensional criteria) so to recognise the level of technology maturity of hydrogen vis-a-vis other technologies (**100% opex support allowed including outside competitive processes up to 2026**). Moreover, as for investment aid, blue hydrogen production should be included. Furthermore, concerning Paragraph 5 of Art. 43 we would like it to be confirmed that an annual update of the levelized costs shall be performed and, if so, to be clarified how and to what extent this impacts the quantum of incentive already assigned under the relevant scheme.

## **5. Hydrogen infrastructure (Art. 48)**

We welcome the inclusion of hydrogen infrastructure support within the GBER. However, it is not clear how the infrastructure associated with hydrogen clusters that would ultimately become connected and become part of the European Hydrogen Backbone would be treated. We believe this infrastructure is important to include (potentially within the scope of Art. 56 or through including it into Art. 48). More broadly, a more explicit link to the provisions on dynamic regulation within the Gas and Hydrogen decarbonisation package would be beneficial.

Moreover, concerning the definition of “hydrogen infrastructure” (Art. 2(130)), we would suggest a more explicit definition of included systems (including pre-mixing systems).

Finally, we believe that the current wording relating blends does not necessarily reflect technology and end-use needs. Indeed, for hydrogen, it may well be the case that pipes are switched to 100% pure hydrogen from much lower blending percentages purely for technical reasons. We therefore suggest an alternative wording for the relevant excerpt in art 48.3.

- **Art. 48.3:** “3. 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 **increasing shares of** hydrogen and renewable gases.”

## **6. Investments using only renewable energy sources (Art. 41.9)**

We would welcome **more clarity on how the additional 15 percentage points applies to investments using only renewable energy sources (e.g. in which cases such uplift might not be applicable) (Art. 41.9).**

## **7. Renewable/low carbon hydrogen mobility (Art. 36a and Art. 36b)**

We welcome the inclusion of hydrogen mobility within Art. 36a and Art. 36b and the treatment associated. We believe that similar provisions should be extended to other low carbon/renewable gases (see below). Furthermore, we would like the interpretation of paragraphs 7 and 8 to be clarified, namely paragraph 8 seems to accord aid for “infrastructure not accessible to the public”, while paragraph 7 restricts aid to cost related to infrastructure accessible to the public. The latter provision could appear incoherent with the former one.

### **• ENVIRONMENTAL AND ENERGY AID: bioCNG/bioLNG MOBILITY**

We note that in relation to low carbon/renewable gas mobility the GBER draft regulation does not entail a fully technology neutral approach. In fact, in relation to mobility, the GBER draft is framed around the (direct) tailpipe emissions approach (definitions of “clean vehicle” (Art. 2(102f)) and the “zero-emission vehicle” definition (Art. 2(102g)). As a consequence, the draft proposal covers electric and hydrogen mobility only while excluding bioLNG and bioCNG. We believe that a fully technology neutral approach would instead take into account life-cycle emissions, accounting for the effective environmental impact of vehicles. Under this approach bioLNG and bioCNG potential would be properly in their capacity to decarbonise the transport

sector. With this view, we suggest introducing a number of potential changes to the wording in the draft regulation:

- **Art. 2(102f):** either the definition of “clean vehicle” should be amended or a new category, including bioLNG and bioCNG vehicles, should be added.
- Moreover, **articles 36a and 36b** could be amended as follows:
  - Art. 36a.2:** “This Article shall only cover aid granted for recharging or refueling infrastructures that supply vehicles with electricity or with renewable or low-carbon **gases, including** hydrogen, for transport purposes.”
  - Art. 36a.3:** “[...] The eligible costs may also cover the investment costs of integrated on-site production of renewable **energy electricity** or the investment costs of storage units for storing renewable electricity or renewable or low-carbon **gases, including** 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.”
  - Art. 36b.2:** “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 **or by (bio)LNG/(bio)CNG** and for the retrofitting of vehicles allowing them to qualify as clean vehicles or zero-emission vehicles.” [note that the definition of clean vehicles must have been modified as above described to include bio(LNG)/(bio)CNG].

- **ENVIRONMENTAL AND ENERGY AID: ENERGY EFFICIENCY**

We welcome the inclusion of energy efficiency support within the draft GBER proposal. However, it would be beneficial to revisit the conditions underlying to ensure that support is channeled where best needed. In particular, according to the draft GBER, energy performance contracting can be exempted from notification subject to the fulfillment of four conditions, including that the beneficiaries must be SMEs or small-mid caps. We believe that the latter condition is too restrictive and probably not proportionate, hence we suggest removing it. Moreover, we believe that all forms of aid, including grants, should be made possible. With this view, we suggest the following changes to the regulation:

- **Art. 38.7:** “7. Aid for the improvement of the energy efficiency of buildings may also relate to the facilitation of energy performance contracting subject to the following cumulative conditions:
  - (a) the support takes the form of a loan, **a grant** or guarantee to the provider of the energy efficiency improvement measures under an energy performance contract, or consists in a financial product aimed to refinance the respective provider (for example, factoring or forfaiting);
  - (b) the nominal amount of total outstanding financing provided under this paragraph per beneficiary does not exceed EUR 30 million;
  - ~~(c) the support is provided to SMEs or small mid-caps that are providers of energy performance improvement measures;~~
  - ~~(d)~~ (c) the support is provided for the facilitation of energy performance contracting within the meaning of Article 2, point (27) of Directive 2012/27/EU;
  - ~~(e)~~ (d) the energy performance contracting relates to a building referred to in paragraph 3a”.”
- **Art. 38.3a:** With reference to § 3a, we remark that commercial buildings are excluded. We believe they should be included.
- **Art. 38.6a:** With reference to § 6a, the additional 15% is probably not material enough. We would rather suggest an increase of 20-25% in a way that the additional premium properly reflects the increased energy saving outcome and the related investment needed to achieve that performance.
- **Art. 39.5:** same remark as Art.38.7(a) (grants should be possible too)

- **ENVIRONMENTAL AND ENERGY AID: SUSTAINABLE and ADVANCED BIOFUELS**

The main remark on this subject relates to investments and operation for the support of renewables, and to taxation reductions for energy-intensive users. We believe that *sustainable* biofuels rather than *sustainable and advanced* biofuels should be best covered. In the present version of GBER, aid for the production of biofuels, bioliquids, biogas and biomass fuels (investment aid – Art. 41, operational aid – Art. 43 and tax reductions – Art. 44) can in fact be exempted from notification subject to compliance to two conditions: *i)* sustainability and GHG saving criteria of RED II, and *ii)* that fuels are made from the feedstock listed in Annex IX to that Directive. While the first requirement (sustainability and GHG savings) is necessary to ensure that renewable fuels concur to system's decarbonization, the second is in our opinion too restrictive as it restricts the exemption to advance biofuels only. We therefore suggest removing the relevant requirement in the regulation:

- **Art. 41.2:** "2. 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.~~"
- **Art. 43.3:** "3. 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.~~"
- **Art. 44.4:** "4. 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.~~"

- **ENVIRONMENTAL AND ENERGY AID: OPERATING AID IN SUPPORT OF RENEWABLES (other than H2)**

In relation to operating aid for the support of renewables, the same remarks already made for renewable hydrogen apply. In particular, we believe that no restriction should apply before 2026 and starting from 2026 we suggest setting the size limit at 500 kW installed capacity. We suggest amending **art 43.2** accordingly. In addition, a clarification point around **Art. 43.4 would be valuable**, specifically with regards to the exact meaning of the paragraph: "Aid shall not be granted for biofuels which are subject to a supply or blending obligation".

- **ENVIRONMENTAL AND ENERGY AID: CIRCULAR ECONOMY**

Art. 47 provides that investment aid for resource efficiency and circularity can be exempted from notification in cases that include investments for the reduction, prevention, preparing for re-use, sorting and recycling of waste. We believe that excluding from the perimeter of GBER aid for waste disposal and waste recovery operations to generate energy (Art. 47.3) would not necessarily be in line with the general decarbonization objective. Therefore, we suggest removing the reference in Art. 47.

- **Art. 47.3:** ~~“3. Aid for waste disposal and waste recovery operations to generate energy shall not be exempted under this Article from the notification requirement of Article 108(3) of the Treaty.”~~

- **AID INVOLVED IN FINANCIAL PRODUCTS SUPPORTED BY THE INVESTEU FUND: Conditions for aid involved in financial products supported by the InvestEU Fund**

In line with the amendment above proposed for the Environmental and Energy Aid Section, we propose the following revisions:

**Art.56e.4(b)(iv):** “in case of installations producing biofuels, aid shall only be granted for installations producing biofuels compliant with the sustainability and greenhouse gases emissions saving criteria referred to in article 29 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.~~”

**Art.56e.6(a)(v):** “recharging or refueling infrastructure that supplies vehicles with electricity or renewable or low-carbon **gases, including** hydrogen”