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The European Commission

Contribution on suggested changes in the General block exemption regulations (GBER)

Jernkontoret represents steel industry in Sweden producing a wide range of steel products and being highly dependent of export to the whole world market. Competitiveness on the European and the global market is a precondition to enable steel production in Sweden and continue to contribute to the development of a sustainable society.

Summary

The suggested changes contains several shortcomings in relation to the handling of hydrogen and also when it comes to the possibilities and conditions for giving discounts on the energy taxation. During the process the industry now has entered, with a major change in technology and a wide conversion towards electricity-based production of hydrogen in order to meet the climate target, it is of highest importance not to hamper any of the possibilities we have at hand in Europe. These possibilities must be taken care of if the European industry is to lead the way and create both climate neutrality and growth.

Article 25

Jernkontoret interpret the new wording in article 25.3 (e) as introducing an increased possibility to get support for other indirect costs, and supports that.

Article 36, and article 2 (102e)

Jernkontoret note in article 36 the use of a term "low carbon hydrogen". The definition of this, in article 2 (102e), defines different criteria for life cycle emissions from electricity-based production of hydrogen. These criteria are extremely hard to understand, analyze or see the consequences of. Generally, this definition must be easy to understand and not lead to unreasonable demands for administration and traceability. Any rules relating to the electricity market, must also take into account that the EU does not yet have a single market. Regulations and functioning of the electricity market differ largely between member states.

Especially, the last sentence in the definition 102e is not possible to see how it would be implemented and used in practice.

“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;”

Jernkontoret suggest that to be deleted.

Article 41

The shift to using hydrogen in the steel sector is a necessary measure to radically cut climate gas emissions. To be successful the industry as soon as possible must be given the right prerequisites to invest in production and possibly also storage of hydrogen. Increased investments in production technology will over time cut the costs for the necessary equipment and thereby increase the possibility for an increasing number of actors to go the same way.

From a Swedish perspective it is very important that industry will to be able to use all fossil free electricity available, and as a future producer of hydrogen to buy the electricity needed at the open market as usual. To demand dedicated production of renewable electricity and thereby neglect companies without that possibility support for investments in electrolysers will only delay the development we need to see. The responsibility to boost production of renewable electricity could never be placed on the consumer.

Article 41 in the suggested new version of GBER must be adjusted from this point of view and open the possibility to get support for hydrogen production from renewable sources as well as hydrogen based on all electricity. It must also be possible to produce and store hydrogen at the industry site, even if the electricity is purchased from the electricity market. The origin of the electricity and also the climate footprint thereof should be governed by demands on the producers and through the ETS, and needs not to be targeted by double regulations towards the user.

- Article 41.1: The words "renewable hydrogen" should be replaced by "renewable or electricity based hydrogen".
- Article 41.1a Demands on electricity production "behind the meter" is not relevant and should be deleted.
- Article 41.3 Same as in 41.1a.

Also in Whereas 8, all electricity based hydrogen production should be included alongside renewable sources.

Alternatively, a new article should be inserted, dealing with hydrogen exclusively. The point of that should be to not confuse the need and support for climate neutral hydrogen with support exclusively directed to renewables. The vast need for hydrogen and all possibilities to produce climate neutral hydrogen without using renewable electricity must be taken into account. To reduce the possibilities for industry to make necessary investments by placing unnecessarily detailed demands is not efficient or fit for purpose.

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.

Jernkontoret 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 Regulation¹ (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.

Furthermore, Jernkontoret believes that the proposed paragraph 2b should be changed so that operating aid for the low-carbon hydrogen is exempted from the notification requirement, rather than exclusively renewable hydrogen as stated in the current proposal.

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 IX to the Renewable Energy Directive, but instead extended to the entirety of Annex IX to the same directive.

Article 44

In Sweden the energy taxation is differentiated between consumers and industry. This is for the reason of competitiveness and based on the rules in ETD for "business - nonbusiness". The possibility of doing so is also based on the present GBER art. 44, pointing at ETD art. 5. As long as the present ETD is applied, and nothing is changed in the regulation, this possibility must stay also in the GBER, art. 44. The suggestion to delete this reference in GBER should therefore not be executed.

In the suggested changes in GBER article 44, we also notice a number of restrictions on when EII should be allowed reductions in the energy taxation. The new article 44.5 sets the conditions that have to be met in this regard. We can not support these conditions, and they should be deleted. The possibility to get a tax reduction is based on the need to keep up the industry's competitiveness. To then require industry to make specific investments for energy efficiency or reduced emissions without this end goal in mind, will totally counter the purpose. These investments are regulated through other legal acts and driven by other parameters.

Furthermore, the condition that demands investments in measures to reduce climate emissions corresponding to 50 % of the value of the reduced energy tax, is highly unjust, and will distort the EU market. The reduction of energy tax will be calculated based on the nominal level of the tax. Hence, a company in a MS with high level of nominal energy tax will have to invest more than a corresponding company in another country even if they both pay the same tax. This must therefore be deleted.

The regulators must instead rest assured that plans for reduced emissions already put in place by the industry will be executed and do all they can to support this development.

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¹ 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

