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EBA position on the Renewable Energy Directive post-2020 recast

Introduction

Renewable energy has greatly contributed to the European economy by creating both high and low skilled jobs and boosting the European manufacturing and service sectors. In 2014 renewables employed a total of 1.1 million persons and produced a turnover of 143.6 billion euros in the EU. The biogas sector accounts for 66,000 jobs in Europe, out of which most are in rural areas, generating inclusive growth.¹ Europe is a world leader in renewables' research and development, advantaging its researchers and companies both at home and abroad. Furthermore, the EU is a key player of the COP21 agreement on climate change. The provisions set out to promote renewables will be indispensable to fulfil the EU's international pledges and maintain the global temperature below 2°C.

In 2014 the EU imported 53.5% of its energy from a hand full of countries headed by Russia,² where this dependence not only costs hundreds of billions of euros in exports, but it also puts the continent's energy supply under severe risk. Mirroring these risks, opportunities and commitments, the proposal for a recast of the Renewable Energy Directive (RED) for the 2020-2030 period released by the European Commission endorses the contribution of bioenergy as a strategic source of renewable energy in the EU's decarbonisation roadmap.

The *Clean Energy for All Europeans* package aims to bring clarity and harmonise the criteria intended to secure the development of sustainable bioenergy, stabilising the legal framework, strengthening investors and plant operator's certainty while building a resilient bioenergy sector that respects the climate and local resources. This comprehensive overhaul of the EU's energy should not be seen as an isolated action, as there are strong links with many other important EU policy priorities, including: the recently published Waste-to-Energy Communication, the ongoing revision of the Waste Framework and the Landfill Directives, along with the future revision of the Common Agriculture Policy and the Guidelines on State aid for environmental protection and energy

The current proposals bring many opportunities and some potential risks for the anaerobic digestion and gasification sectors. The European Biogas Association (EBA) welcomes a mass-balancing system seeking to cover renewable gases along with Guarantees of Origin (GOs), which should help to establish an EU common market for biomethane, increasing the possibility to trade green gas cross-border and making it available to more consumers. At the same time, opening up the European market should not harm local producers, nor should it result in a race to the bottom in terms of support for

¹ EurObserv'ER Report 2015 on the State of Renewable Energies in Europe.

² Eurostat 2016 on Energy Production and Imports

renewables. The combination of a blending target for heating and a blending obligation for transport will greatly contribute towards unlocking the potential of biomethane to replace polluting fossil fuels in the existing energy infrastructure. However, the ambition for transport and the thermal sector should go further.

The rules on the electricity sector are also on the verge of a big transformation, with a focus on more fluid markets that reward flexible generation. This is a unique opportunity for dispatchable renewables such as biogas to take the centre stage by strengthening the reliability of the system. At the same time, renewable electricity should be given a reasonable level of priority to ensure that the green transition does not stall.

A stronger commitment should be placed on the overall renewables target and a planning – reporting system ensuring Member States' compliance. An ambitious 2030 renewables target is indispensable, where the proposed 27% by 2030 falls short from the EU international commitments, even below when compared to the EU's current 20% target. For this reason, EBA supports an **EU renewable energy target of at least 35%**. This commitment is well within reach considering the rapid decrease in costs for renewables and could give Europe a much more realistic chance of decarbonising its energy by 2050.

In addition, the proposed deletion of national binding targets poses an equally serious threat, as some EU Member States may not pursue their fair share in reaching an overall EU target, creating further divisions within the single market between the front runners and laggards. Introducing a flexible governance system that helps countries to fill gaps in renewable energy generation should not come at the expense of national binding targets for renewable energy. Therefore, **EBA supports a new governance system as long as this is anchored by national binding targets.**

EBA recommendations for amendments

Biomethane access to grid and trade

Article 19 - Guarantees of Origins (GO)

Explanation: EBA welcomes the proposed inclusion of Guarantees of Origin for renewable gases, which will help renewable energy producers to better access the market. Those renewable gas producers that choose to auction their GOs to fuel suppliers should be able to supply additional sustainability information if they want to. Consumers in several EU countries have been very supportive of having wider choice in terms of biomethane sustainability. While some producers may choose to comply with the EU requirements set in article 27 of this directive, others may wish to go further and for example produce biomethane that surpasses the required GHG emission savings.

In order to better reflect to consumers the qualities of the biomethane that they are buying, EBA proposes to add to GOs two additional information specifications: (i) GHG emission savings; (ii) other benefits related to the production of energy. By other benefits, producers should be able to include advantages such as recycling nutrients in the case of biomethane from anaerobic digestion. These two

elements are essential to raise awareness and provide the final customer with the product's accurate characteristics, thereby reinforcing the visibility and value of higher quality renewable gasses for auctions. Building up on these principles, EBA will present in spring 2017 a detailed voluntary scheme for renewable gasses named ERGaR under the current Renewable Energy Directive 2009/28/EC.³

Proposed amendments in Article 19.7: Add two additional optional requirements:

- ***New (g) –GHG emission savings may be specified optionally;***
- ***New (h) - other benefits related to the production of energy may be specified optionally.***

Explanation: In order to keep a level playing field between renewable gas producers of a given member state and those exporting to it, EBA suggests introducing measures to avoid double compensation via auctions once a producer is receiving state support. At the same time, it is important to have a flexible system which is not overly prescriptive on the manner in which member states support renewable energy production. Therefore, EBA supports amendment 61 in the Blanco Lopez draft report as it was published in 18.5.2017.

Proposed amendments in Article 19.2 on double subsidies as proposed in Blanco Lopez draft report: Member States shall ensure that **in the case of new renewable energy installations commissioned after ...[date of the entry into force of this Directive]** no guarantees of origin are issued to a producer that receives financial support from a support scheme for the same production of energy from renewable sources, **unless double compensation is avoided. It shall be presumed that there is no double compensation where:**

- (a) financial support is granted by way of a tender procedure;**
- (b) the value of the guarantees of origin is administratively taken into account in the level of financial support; or**
- (c) the guarantees of origin are not issued directly to the producer but to a supplier who buys back the renewable energy in a competitive setting.**

Where guarantees of origin are not issued to a producer that receives financial support from a support scheme, Member States shall issue such guarantees of origin and transfer them to the market by auctioning them. The revenues raised as a result of the auctioning shall be used to offset the costs of renewables support.

Explanation: Fuel suppliers should, as much as possible, provide specific or averaged information on the sustainability of their products to the final costumers. The information transmitted in guarantees of origin can be of use to fuel suppliers to improve consumer awareness on what they are purchasing. This should either be added in a new recital in connection to GOs or directly in article 19.

Article 20 - Access of renewables to the gas grids

Explanation: Granting grid access to renewable gas producers is an essential precondition for their economic success, as well as for the large scale decarbonisation of the heat and transport sectors. Priority is already foreseen for the penetration of electricity in the grids, this same right should also be

³ www.ergar.org

granted to biomethane in the natural gas grids. Biomethane from anaerobic digestion is produced constantly across the year and there is a risk that its access to the grid may be restricted during periods of low heat demand in summer. In contrast, priority access for biomethane would enable gas grids to be used as a storage facility for renewables, avoiding sizeable income losses for the plant operators injecting biomethane, while at the same time substituting imported natural gas. In practice, renewable gasses should get guaranteed access to the distribution network, and whenever possible, also to the transmission network.

Proposed amendment removing words in Article 20.1: ~~“Where relevant,~~ *Member States shall assess the need to extend existing gas network infrastructure to facilitate the integration of gas from renewable energy sources.*

Proposed amendment removing words in Article 20.2: ~~“Where relevant,~~ *Member States shall require transmission system operators and distribution system operators in their territory to ensure priority access to renewable gases and to publish technical rules in line with [..]”*

Article 27 - Mass balancing of biomethane in the grid

Explanation: In order to enable mass balancing of renewable gases, and consequently the transfer of sustainability characteristics, it is fundamental that the term “mixture” should explicitly relate also to the mixture of energy carriers, namely fossil natural gas and renewable biomethane in the natural gas grid. In addition, the term “processing or logistical facility, transmission and distribution infrastructure or site” should be further specified to recognise the European natural gas system (consisting of the transmission and distribution systems) as a single logistical facility.

Proposed amendment to add new Article 27 1 (bb): *allows consignments of gaseous biomass fuels to be mixed with natural gas in the European natural gas network (treated as one logistical facility).*

Strengthening sectorial targets and obligations

Targets and obligations

Article 23 – Soft target for renewable heating & cooling

Explanation: EBA welcomes the newly introduced target for renewable heating and cooling as well as the possibility to involve non-state actors. EU energy efficiency measures have significantly contributed towards reducing GHG emissions and will continue to do so. Nonetheless, decarbonising the thermal sector may well be the biggest challenge in the energy sector to be tackled: it accounts for almost half of the EU’s total energy consumption and 82% of it comes from non-renewable sources.⁴ If Europe is to have a chance at matching the objectives of the Paris agreement and be almost carbon free by 2050, it is essential to take decisive action to promote renewables in the thermal sector in the period of 2020-2030.

EBA strongly recommends strengthening the wording of article 23 to ensure that Member States are both required to implement the necessary measures (as they are now), and in addition also to

⁴ Commission Heating and Cooling Communication COM(2016) 51 final of 16.02.2016

guarantee the fulfilment of the target. The heating and cooling target of 1% a year is low to the point that energy efficiency measures alone may result in the desired annual increase until 2030. This would mean giving up on Europe's leadership in renewables for heating and cooling and it would unnecessarily delay decarbonisation of this vital sector. Therefore, EBA welcomes and supports amendment 68 in the Blanco Lopez draft report to increase the yearly target to 2%.

Proposed amendment to Article 23.1 increasing heating and cooling target as proposed in Blanco Lopez draft report: *In order to facilitate the penetration of renewable energy in the heating and cooling sector, each Member State shall ~~endeavour to~~ increase the share of renewable energy supplied for heating and cooling by at least ± 2 percentage points (pp) every year, expressed in terms of national share of final energy consumption and calculated according to the methodology set out in Article 7.*

Article 25 - Obligation on fuel suppliers in the transport

Explanation: Fuel suppliers for transport are required to ensure a minimum blending of renewable fuels in the final share of energy sold. Rather than respecting a renewed target in transport, Member States would instead be responsible to implement a national system requiring fuel suppliers to report this information. By leaving the actual blending of renewable fuels to the individual actions of economic operators, EBA is concerned that this would result in gaps and inefficiencies without proper tools to implement corrective actions (e.g. infringement procedures). Clearer wording is needed to ensure that national measures can guarantee that fuel suppliers will fulfil their obligations.

Proposed amendment adding to Article 25.4: ***Member States shall specify a detailed timeline, corrective measures to be applied in the case of deviations from the annual obligations and penalties in situations of non-compliance to be respected by the fuel suppliers with the blending mandate.***

Explanation: EBA strongly supports the architecture and ambitious objectives set for renewable transport in the Commission's proposal under article 25, as well as annexes IX and X. EBA supports initiatives by the co-legislators to further increase the ambition in the transport sector, including a higher transport target of 12% as proposed by the Blanco Lopez draft report. At the same time and in view of the slow take up of renewables in transport so far, EBA requests decision-makers not to undermine efforts to decarbonise transport by trying to go below the Commission proposal's ambition and therefore advises the following:

- Avoiding the introduction of multipliers for any kind of renewable in transport, as this will artificially inflate the shares of renewables as is already the case in the current Directive;
- Not removing advanced feedstocks from annex IX (including 'non-food cellulosic material' definition in article 2 (q)), nor changing the conditions under either new feedstocks are added or existing ones are removed, as this would severely undermine investors' certainty;
- Refraining from decreasing the proposed trajectory for advanced biofuels, which is both realistic and essential to decarbonise transport.

Biowaste in the waste hierarchy

Article 7 - Incinerated biowaste not to be considered as renewable energy

Explanation: Burning recyclable and reusable materials goes against resource efficiency and is contradictory to the waste hierarchy as set in Directive 2008/98/EC on waste. Incinerating biowaste is a missed opportunity for Europe's circular economy as valuable nutrients and carbon are lost, which could otherwise be utilised for agriculture if digested. The current situation, where a sizeable part of incinerated biowaste counts towards renewable energy production, undermines the recycling target in the Waste Framework Directive and leads to a wasted opportunity for Europe's green industry. To avoid this unwanted development, EBA proposes that energy recovered from biowaste incineration shall not contribute to the renewable energy target.

Proposed amendment to add new sentence at the end of article 7.1: ***“The energy resulting from biowaste incineration shall not be considered as renewable from 2021 onwards.”***

Definitions

Article 2 (bb) – Definition of ‘Renewable self-consumption’

Explanation: It is important that the definition also includes all renewables in their different applications, including renewable gas, for the purposes of generation, consumption and storage by renewable self-consumers. This is of particular importance for isolated rural communities. Also heating and cooling have to be taken into account.

Proposed amendment in Article 2 (aa): *‘renewable self-consumer’ means an active customer as defined in Directive [MDI Directive] who consumes and may store and sell renewable ~~electricity~~ **energy** which is ~~generated~~ **produced** within his or its premises, including a multi-apartment block, a commercial or shared services site, **a farm** or a closed distribution system, provided that, for non-household renewable self-consumers, those activities do not constitute their primary commercial or professional activity;*

Proposed amendment in Article 2 (bb): *‘renewable self-consumption’ means the generation and consumption, and, where applicable, storage, of renewable ~~electricity~~ **energies** by renewable self-consumers*

Proposed change in Article 21: replace word ‘electricity’ by ‘energy’ throughout the article on self-consumers.

Article 2 - (q) – Definition of ‘non-food cellulosic material’

Explanation: As long as there is no change to food production and no additional land use (neither direct nor indirect), when farmers introduce an additional second harvest for energy purposes, they should have the possibility to innovate into secondary crops with high starch content for energy use. Cover crops are already recognised in Directive 2015/1513 as eligible feedstock for advanced biofuels, but limited to *“grassy energy crops with a low starch content”*. Several southern regions are fit for the production of high yield cover crops, several of which are not grasses, and moreover R&D is ongoing

that promises more types of fast growing high yield cover crops. This Directive should encourage the use of high yield cover crops, rather than trying to restrict it, as this can increase GHG emission savings and profitability for farmers, without bringing about any threat to land use. A 2017 study of ECOFYS shows several of the benefits of sequential cropping for biogas production.⁵ Concretely, EBA proposes to move the bracket, taking out cover crops from the category of grassy energy crops with low starch.

Proposed amendment in Article 2 (g): *(g) ‘non-food cellulosic material’ means [...] grassy energy crops with a low starch content (such as ryegrass, switchgrass, miscanthus, and giant cane) and cover crops before and after main crops, industrial residues [...]*

Support schemes and other incentives

Article 4 – Financial support for electricity

Explanation: Most biogas installations have efficient cogeneration units producing heat, which should also be taken into account in support schemes. Only by effectively integrating the support scheme for both electricity and heat, Member States can avoid thinking in silos when it comes to renewable cogeneration. In addition, biogas technology presents other important environmental and economic advantages which are covered by energy related support schemes, including methane emission avoidance, reducing nutrient leakage into water, producing organic fertilisers. As long as these environmental advantages are not adequately compensated, it is essential to give a margin of discretion to the Member States to determine their own schemes of electricity support.

Proposed amendment to article 4.1: *“Subject to State aid rules, in order to reach the Union target set in Article 3(1), Member States may apply support schemes. **The validity of support schemes will be assessed by the Commission in line with the objectives of this Directive, energy security priorities and considering the extent to which it is necessary to rectify existing market distortions and unaccounted externalities in electricity generation.** Support schemes for electricity from renewable sources shall be designed so as to avoid unnecessary distortions of electricity markets and ensure that producers take into account the supply and demand of electricity as well as possible grid constraints.”*

Proposed amendment to Article 4.2: *“**For renewable cogeneration units, support schemes shall also take into account thermal demand.**”*

Proposed amendment to Article 4.3: *“Member States **shall design support schemes at their discretion and shall ensure that support for renewable electricity is granted in an open, transparent, competitive, non-discriminatory and cost-effective manner.**”*

Explanation: Support schemes should be set to counterbalance market distortions playing in favour of established electricity generators such as indirect subsidies and preferential access for plants using fossil fuels. Moreover, a new paragraph 5 should be added, requiring the European Commission’s competition authority to assess authorisation of new national support schemes based on wider

⁵ ECOFYS: [_](#) Benefits outlined in the study include: additional income to farmers, a high rate of biogenic carbon storage in soil, enhanced soil quality and fertility, no impact on the on-farm biodiversity, low impact on water availability and savings in the purchase of organic fertilisers.

parameters, including the previous and existing support system in place and the actual success of the scheme in delivering renewable energy.

Proposed amendment adding new paragraph 5: ***Where support for electricity generated from renewable sources is allocated through national support schemes, the European Commission shall examine the authorisation and feasibility of the new national support schemes considering the previous and existing support, their effectiveness in delivering renewable energy, taking into account the need to strengthen the electricity system via diversification by deploying complementary renewable technologies.***

Article 5 - Opening of supporting schemes for renewable electricity

Explanation: A clearer mention of all involved parties' contractual duties should be added, to ensure that the commitments in cross-border projects are honoured. This would secure energy supply and protect investors from contract violations or retroactive changes, cementing confidence on cross-border support schemes.

Proposed amendment in Article 5.3: [...] *Member States respective contributions shall be subject to a cooperation agreement setting out rules for the cross-border disbursement of funding, following the principle that energy should be counted towards the Member State funding the installation. **The cooperation agreement should include provisions guaranteeing cross-border transmission, even under potential security of supply scenarios in the Member State where the energy is produced, to ensure that the energy is delivered.***

Article 6 - Stability of financial support

Explanation: The article should state in a clearer way that the conditions attached to the supports granted to renewable energy projects are not revised retroactively and the subsequent changes will not affect previous support commitments to avoid negative impacts on the plant economics and investments security. In particular, changes outside the support scheme which could still damage the overall profitability of a renewable installation, such as a substantial new tax or administrative fee, should be avoided.

Proposed amendment in Article 6: *“Without prejudice to adaptations necessary to comply with State aid rules, Member States shall ensure that the level of, and the conditions attached to, the support granted to renewable energy projects are not revised **retroactively** in a way that negatively impacts the rights conferred thereunder and the economics of supported projects. **Member States shall ensure that the economics of projects are not significantly impacted in a negative way by changes to rules outside the support scheme, including, but not restricted to, taxation and registration requirements.***