

Energy Traders Europe comments to CNMC on the draft MITECO order for the promotion of biomethane in the transport sector

Following up on our response to the draft Order on the promotion of renewable gases in Spain's transport sector, as consulted by MITECO in September 2023¹, Energy Traders Europe would like to bring to the attention of CNMC our comments to the new draft version of the Order. We understand that CNMC should provide an opinion to the Ministry on the content of the Order in due course. We therefore ask for our feedback to be considered in this regard and we remain at the full disposal of both the NRA and the Ministry for a more detailed discussion.

1. National implementation of EU commodity market regulations should not fragment the IEM

As presented by Energy Traders Europe during the 38th European Gas Regulatory Forum², the combination of RED III and the Hydrogen and Gas Markets Decarbonisation Package, as well as the forthcoming introduction of the Union Database for the tracing of renewable gases, together with national policies and requirements, risk preventing the emergence of cross-border trading necessary for the creation of an EU-wide market for renewable and low-carbon gases.

Open issues identified by Energy Traders Europe span:

- The UDB go-live and its integration with national registries abiding by AIB/ ERGaR guidelines and/ or wanting to undertake the role of national databases for target accounting through compliance trades;
- National certification requirements (GoO Plus in national markets);
- Emergence of alternative and additional compliance tools and supplier obligations at national levels – in most of the cases closed to biomethane coming from other Member States.

We note that, following ours and other stakeholders' presentations and interventions, the EU Commission acknowledged in the Forum conclusions³ the need to engage Member States to create common frameworks, rather than develop policy unilaterally, which may raise barriers to the IEM:

*The Forum invites Member States to **consider measures to remove barriers to cross-border trading of renewable and low-carbon gases and recognises the importance of the Union Database being set up pursuant to Article 31a of the Renewable Energy Directive to harmonise the renewable gas market and to facilitate cross-border transfers.***

¹ [Response to MITECO consultation on Draft Order for the promotion of renewable gases in Spain](#)

² [Energy Traders Europe presentation at the 38th European Gas Regulatory Forum of Madrid](#)

³ https://energy.ec.europa.eu/events/38th-european-gas-regulatory-forum-2024-04-25_en

Our detailed remarks to the draft Order below reflect this need to align the spirit of EU Law with national frameworks. The legal definition of biomethane under both the RED and the Hydrogen and Gas Markets Decarbonisation Package is based on articles 29 and 30 RED II, which include a 50% - 80% GHG reduction threshold for biogas⁴ depending on the sector and facility installation year. Certification of compliance with GHG emissions intensity, i.e. using renewable targets defined as percentage of emission reduction, based on the principle of mass balancing would facilitate harmonised cross-border trade and prospective commoditisation of biomethane.

2. Introductory remarks on the certification framework for gases under the Renewable Energy Directive

Voluntary national or international schemes setting standards for the production of renewable fuels and recycled carbon fuels, provide accurate data on GHG emissions savings for the purposes of Article 29(10) and Article 29a(1) and (2), to demonstrate compliance with Article 27(6) and Article 31a(5), or **demonstrate that consignments of biofuels, bioliquids and biomass fuels comply with the sustainability criteria** laid down in Article 29(2) to (7) of RED II and III.

The European Commission has specifically approved⁵ international schemes that certify biomethane and RFNBO plants against the RED III criteria (annual certificate) and enable system users of any such scheme to issue sustainable declarations (PoS) for the sustainable material they own (i.e., buy, sell, process) in the RED-defined interconnected gas system, subject to stringent auditing and verification processes.

Consequently, **PoS issued to renewable liquid and gaseous fuels are the de facto valid certification instrument for the legally binding target accounting policy requirement across Europe** (art. 3(1), 15a (1), 22(1), 23(1), 24(4), 25(1) RED III).

As for target accounting, no double counting occurs via the tracking of certified consignments of renewable gases passed from one counterparty to another with a link to a unique identifier generated by the Union Data Base (UDB). The UDB is expected to go live on 21 November 2024. It will also ensure that GoOs (if issued at the request of producers) are linked to the corresponding PoS-certified consignments.

EU wide certification instruments are today within the reach of all economic operators of liquid and gaseous fuels. European authorities focus on monitoring

⁴ Meaning: 50% - 65% GHG reduction for biogas consumed in the transport sector, compared to 94 gCO₂e/MJ / 70% - 80% GHG reduction for biogas consumed in other electricity, heating and cooling sectors compared to a 94 gCO₂e/MJ fossil comparator.

⁵ https://energy.ec.europa.eu/topics/renewable-energy/bioenergy/voluntary-schemes_en

and controlling the consignments of certified renewable fuels through a harmonised European system, covering EU production and consumption, and prospectively also non-EU imports/ exports.

In this respect, the issuance of Guarantees of Origin (GoOs) remains an optional request of producers, irrespective of suppliers' obligations. **GoO issuance only occurs at production level.** Renewable gas producers may not issue GoO because of many reasons.

GoOs are an instrument for disclosure to final customers (e.g. bills or commercialisation of 'eco-tariffs'), **not valid for compliance purposes.** As a complementary but distinct instrument with a different functionality, it will have a different value albeit lower than that of the PoS. Some customers will certainly require both instruments (GoO and PoS), but some others might not be interested in the additional cost related to disclosure function (e.g. maritime shipping companies or manufacturing industry using biomethane or RFNBOs as an input to produce other products). Finally, some customers will require renewable but not sustainable gas (GoO only) presumably at a lower cost.

Issuance of GoOs is subject to **different verification and auditing schemes not integrated with PoS auditing/verification processes.** Auditors/verifiers accepted by the national GoO registries might be different to the auditors and verifiers certified under voluntary schemes for the issuance of PoS. This double verification system doesn't apply to liquid fuels.

EU-wide **mutual recognition of GoOs between registries is still pending** (vs EU-wide recognition of PoS already existing). The standardisation of a GoO with optional RED sustainability & GHG data-fields (EN16325) may sort this out, but its finalisation is still pending.

Fragmentation of national GoO schemes and requirements on their use on the level of several Member States to fulfil national fuel quota schemes (e.g. x use of biomethane in x national sector) and/ or national supplier obligations (e.g. blending quotas) **risks fragmenting the internal market,** as it constrains acceptance of imported biomethane to pairs or clusters of Member States. It mostly encourages the accounting of biomethane produced in a given Member State towards that Member State's national statistics. Additionally, **it also impeaches the certification of renewable gas production outside of the EU,** where GoO systems are not implemented –which doesn't occur in the case of liquid fuels.

3. Detailed observations to the proposed draft Order

We do not support the intention of the Ministry to put in place a complex national certification system for biofuels. Based on the draft order, three different certification instruments must be used to demonstrate compliance with blending quotas:

1. GoO issued by Enagas GTS, embedding certain PoS info,
2. PoS issued by any voluntary scheme system user,
3. Biofuel certificate issued by the Ministry.

As a result, we understand that obligated parties will be subject to three different audit/administrative processes run by different bodies (ISCC, Enagas, the Ministry), with their associated costs and efforts. The Ministry shall consider simplifying this system and establishing a more cost-efficient process for compliance with transport sector obligations.

Although three platforms are envisaged for renewable gas suppliers, i.e., the Spanish GoO registry, the UDB and SICBIOs (national registry), the draft Order does not elaborate on how SICBIOs and/ or the Spanish GoO Registry will interface with the UDB. We also identify the risk of the establishment of a double certification/ auditing/ verification system applicable to gas suppliers. In this respect, we believe that PoS-audited Economic Operators should not be exposed to multiple auditing processes.

Additionally, we do not share the Ministry's concern regarding double counting. As clearly stated under the RED, the sole instrument for target compliance is the PoS. The Ministry currently proposes the use of a GoO Plus certificate which does not ensure the primacy of the PoS, whilst the latter must always be issued when the biomethane targets compliance sectors.

Regulatory certainty is needed for gas market participants and the Ministry must ensure that the features of GoOs issued, as well as the functionalities of the national GoO registry, do not hinder the accounting of PoS-certificated production. They should also not create barriers to importation and accounting of molecules plus PoS from other Member States into Spain.

Under the Spanish GoO system, GoOs cannot be issued to certified biomethane imports from other countries, as GoOs can only be issued at production level. Fuel suppliers may not opt for certified biomethane production without GoOs (a prerogative of producers). Enabling recognition of Spanish-produced biomethane and imports with PoS, but without GoOs, would align the conditions placed on gaseous fuel suppliers with liquid fuel suppliers, and therefore remove an unintended discrimination.

Observations to the draft Order proposal “por la que se desarrolla el mecanismo de fomento de biocarburantes y otros combustibles renovables con fines de transporte”

- × Art. 3 Definition of “Biogás”. **The biogas valid for the fulfilment of fuel supplier obligations is limited to consignments of Spanish GoO** (accompanied of PoS info)
- × Art 3. Definition of “Partida de biocarburantes y otros combustibles renovable” **(biogas consignments) requires Spanish GoO** (instead of PoS only as required for liquid fuels) **to demonstrate sustainability and GHG emission reduction criteria**, as referred in Art. 16)
- ~ Art. 3 Definition “Sistema de certificación de biocarburantes” (national registry). **Not a single mention to the Union Data Base**
- ✓ Disposición final primera – Modification of the Annex of the Orden TED/1026/2022 establishing the management procedure for the Spanish GoO system: **GoO issued to biomethane production plants with PoS will include the info related to the fulfilment of sustainability and GHG emission reduction criteria.**
- × Anexo II – Parte B – Apartado 1 – 2º **The info to be provided by biogas suppliers requires Spanish GoOs. The Spanish GoO registry will act as verifier of the provision of GoOs** (incl. PoS info) in the transport sector.
- × Anexo II – Parte C – Apartado 1 b) Suppliers will indicate that **the place from which r-gas is introduced into the market is the Spanish GoO Registry**
- × Anexo II – Parte C – Apartado 1 ñ) **Biogas suppliers required to provide Spanish GoO.** Fuel suppliers will also have to provide PoS information and the reports of the auditor of the voluntary scheme.
- ~ The Order refers to the Spanish GoO Registry as the site for storing certified renewable gas batches. **We question whether the compatibility of that definition with article 19 RED III has been checked.**