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EBA's contribution to the consultation on ETS MRR

The European Biogas Association (EBA) welcomes the revision of the MRR rules and the emission factor zero for biogas. The sector has the potential to reduce global greenhouse gas (GHG) emissions by 10-13% and total emission savings through the use of biogas and biomethane can go beyond carbon neutrality, up to -240% when compared to fossil fuels¹. Furthermore, there is a large potential for renewable methane: according to several recent studies produced by neutral organisations (CERRE, Guidehouse, Trinomics), the European biomethane potential produced by anaerobic digestion and biomass gasification is above 100 billion m³ by 2050. It will help to replace natural gas and other fossil fuels across various sectors offsetting also ETS allowances.

In principle, the EBA supports the paragraph 4 of the Article 39 as

- i. it is more in line with the existing regulation which has been implemented in some countries already and works well, both for biomethane players and industrial consumers, providing continuity
- ii. it gives ETS operators the tool to be pro-active in their gas consumption greening
- iii. it does not introduce competitive bias and
- iv. it boosts the market of green gas offers to industry and supports further biogas development, since the demand ETS operators would create supports the entire sector's growth dynamic.

However, our main concern is the flexibility provided by the draft Regulation for Member States: Only one common methodology should be proposed in MRR as it will bring harmonisation across the EU and prevent market distortions. At the least, it shall be mandatory for Member States to implement the paragraph 4 methodology for the European interconnected gas network where no other option should be possible. An EU regulation should provide common rules, as it is indeed the fact for every other bioenergy recognized under the ETS. Choosing not to recognize biogas in the ETS should not be an option. The repercussion of that decision would be felt not only by the ETS operators but also by the entire biomethane sector. Excluding biogas from the ETS could imply that it is not viable and could effectively kill the consumers' interest in biogas. This exception does not exist for other bioenergy. The second methodology based on the average gas grid biomass fraction in paragraph 5 should be preferably abandoned or at least be restricted to separated smaller local grids only, and only if the methodology in paragraph 4 is not feasible or convenient for well-justified reasons. The paragraph 5 option

- i. will reduce incentives to biomethane consumption as ETS operators would have no interest in buying biogas anymore, destroying a whole section of the green gas offer to the market. This could have an impact on the entire supply chain and could considerably slow the development of new biogas plants that are much needed for the transition to a circular economy and to restore health and fertility of agricultural soils

¹ https://www.europeanbiogas.eu/wp-content/uploads/2020/04/20200419-Infographic_final.pdf

- ii. seems hardly compatible with the internal gas market, and
- iii. destroys a level playing field for the ETS operators.

Regarding the paragraph 4, we agree with the principle that *the operator may determine the biomass fraction using purchase records of biogas of equivalent energy content*. This so-called green gas principle has been used for many years already in the Swedish legislation such as in the tax regulation and the national sustainability criteria scheme. We strongly support that the biomass fraction for purchased biomethane co-distributed with natural gas in a gas grid should be based on purchase agreements along with proof of compliance with the sustainability criteria, as proposed. However, for the implementation phase, it is important to define the ‘purchase records’ as well as the certificates that can be used for proving the sustainability of biogas. We would recommend that GOs continue to be recognized as proof of the share of biomethane in the purchased and used gas by the ETS operator. A GO and/or purchase agreement/receipt of the biomethane purchase together with sustainability information/certificate should be enough. Recognising also GOs as “purchase record” would make the biomethane market more efficient and encourage Member States to properly implement guarantees of origin. It would also facilitate the implementation of the revision, since several Member States have already invested in a GO registry, which could be modified. Indeed, the GO system seems particularly adapted to fulfil the conditions required in the proposed methodology: REDII already lays down the rules to consider when the GO value is taken into account in the support scheme. The GO system provides safeguards against possible double counting for energy production and the GOs will be based on a European Standard which will ensure that the provided information is accurate, reliable, fraud-resistant and will prevent double counting. Furthermore, in the implementation and standardization processes of gas GOs, EBA calls for linking the information on sustainability and GHG emissions reduction criteria to the GO in order to facilitate the identification of GO that can be recognized in the ETS. Linking both documents (sustainability / GHG certificates and GO, when they exist) is also key to avoid confusion and complexity derived from market multiplicity.

The implementation of the ETS MRR should be closely aligned with the implementation of the REDII that is ongoing. In order to accelerate the use of biogas in the ETS sectors, it is crucial that the conditions do not become too burdensome for the operators;

- i. the control systems and the auditing processes set up throughout the whole production chain – to meet the sustainability criteria, the mass balancing traceability and to minimise risk of fraud – should be acknowledged in the ETS regulation as a proof of no double counting.
- ii. it cannot be a requirement for the operator to provide evidence on whether any national support systems have taken the market value of emission allowances in ETS into account. This must be reformulated so that this requirement is put on Member States when setting up their support systems, and not as a requirement for purchase and use of biogas in ETS. This is an issue for the State Aid rules and not for the MRR regulation and requirements on the ETS operators. In this context, another advantage of using GOs as purchase record, is that the Renewable Energy Directive already requires Member States to ensure that the value of the GO is taken into account in support mechanisms and provides ways to do (see Art. 19.2 RED II).

Finally, the EBA wants to underline the importance of creating a European biomethane market and allow cross-border trading of biomethane to match supply and demand across Europe. Biogas is a powerful enabler of local circular economy and agroecology. Such benefits that are quantifiable in local jobs, bioeconomy and renewable energy should be protected and sustained by national authorities. However, the European Union’s action is crucial to speed up the establishment of a

continental interconnected network. We consider the European gas grid as a single logistical facility and would therefore call for amending the condition about ‘the same grid’ to read *connected to the European interconnected gas network*, which should indeed be considered as a single logistical facility for the purpose of mass balance calculation. This specification will be more compatible with the functioning of the internal gas market and is allowed by Article 30 of Directive (EU) 2018/2001. Also according to the European Court of Justice C-549/15 (Sweden vs. E.ON Biofor Sverige), the mass balance system may not be limited to national borders if transportation via the gas grid is accepted as a mass balance system.

EU Commission Proposal for amending Implementing Regulation (EU) 2018/2066	Changes proposed by EBA	Comments and explanations
<p style="text-align: center;"><i>Article 39</i></p> <p><i>Determination of biomass and fossil fraction</i></p> <p>...</p> <p>3. By way of derogation from paragraphs 1 and 2 and Article 30, the operator shall not use analyses or estimation methods in accordance with paragraph 2 to determine the biomass fraction of natural gas received from a gas grid to which biogas is added.</p>	<p>3. By way of derogation from paragraphs 1 and 2 and Article 30, the operator shall not use analyses or estimation methods in accordance with paragraph 2 to determine the biomass fraction of a mixed fuel natural gas received from a gas grid network. to which biogas is added.</p>	<p><i>i) Gas networks may deliver not only natural gas but blends of gases, including biomethane and hydrogen, thus it is not logically correct to define biomass fraction as a fraction of a natural gas flow. For the purpose of MRR we suggest defining biomass fraction in a mixed fuel which means a fuel which contains both biomass and fossil carbon (see Article 3(33) of the current MRR). The idea remains the same: being able to differentiate in the gas flow the share of renewable gas and the share of natural gas. We just propose a drafting that seems clearer from our point of view.</i></p> <p><i>ii) In addition, we suggest aligning the terminology with the Gas Directive 2009/73/ EC, which refers to ‘gas networks’ instead of ‘gas grids’</i></p>
<p>The operator may determine a certain quantity of natural gas from the gas grid to be biogas by using one of the methodologies set out in paragraphs 4 and 5,</p>	<p>The operator may determine a certain quantity of natural gas from the gas grid to be biogas biomass fraction of a mixed fuel delivered via gas networks by</p>	<p><i>Propose only one methodology and ensure full recognition of biomethane in line with a market based approach.</i></p>

<p>which are mutually exclusive. Member States shall publish all relevant information required for the application of those two paragraphs, in particular an indication of which method is applicable to each gas grid to which installations are connected.</p>	<p>using one of the methodology set out in paragraph 4 and 5, which are mutually exclusive. Member States shall publish all relevant information required for its application. of those two paragraphs, in particular an indication of which method is applicable to each gas grid to which installations are connected.</p> <p>For a separate local gas network not connected to the European interconnected gas network the Member States can decide that the methodology set out in paragraph 5 may be used instead.</p> <p>Methodologies in paragraphs 4 and 5 are mutually exclusive.</p>	<p><i>The second methodology should be used only for small, separate gas networks.</i></p>
<p>4. Where the Member State allows for the application of this paragraph, the operator may determine the biomass fraction using purchase records of biogas of equivalent energy content, provided that the operator provides evidence to the satisfaction of the competent authority that:</p>	<p>4. Where the Member State allows for the application of this paragraph, The operator may determine the biomass fraction using purchase records of biogas or guarantees of origin (in the meaning of Article 2(12) of Directive (EU) 2018/2001) of equivalent energy content, provided that the operator provides evidence to the satisfaction of the competent authority that:</p>	<p><i>Propose preferably only one methodology and ensure full recognition of biomethane in line with a market based approach. It should be possible to use Guarantees of Origin (which include information on compliance with sustainability and GHG reduction criteria or in combination with relevant certificates) as the required purchase record.</i></p>
<p>(a) the biogas complies with the first subparagraph of Article 38(2);</p>	<p><i>No change proposed</i></p>	
<p>(b) there is no double counting of the same biogas quantity, in particular that the biogas purchased is not claimed to be used by anyone else, including through a disclosure of a guarantee of origin in the meaning of Article 2(12) of Directive (EU) 2018/2001;</p>	<p><i>No change proposed</i></p>	<p><i>Double counting can effectively be avoided if GOs are used as “purchase record”. Article 19(2) RED II on Guarantees of Origin already requires Member States to ensure that the same unit of energy from renewable sources is taken into account only once. Moreover, where transferable</i></p>

		<i>certificates are issued to proof compliance with sustainability and GHG reduction criteria, these could be inseparably linked with the GOs to avoid confusion and double counting.</i>
(c) the operator and the producer of the biogas are connected to the same gas grid;	(c) the operator and the producer of the biogas are connected via the gas infrastructure, including the European gas transmission and distribution network, with a view to ensure that the biogas is assessed in accordance with Article 30 of Directive (EU) 2018/2001.	<i>The functioning of the internal gas market may not be compromised through different and too limited interpretations of “the same gas grid” by different Member States. The European gas infrastructure and national gas markets are well interconnected and allow gas physically injected in one Member State to be supplied and withdrawn in another Member State. The reference to Article 30 RED II makes the link with the concept of mass balancing required in the context of showing compliance with sustainability and GHG reduction requirements. RED II allows to consider the European gas network as a single logistical facility for the purpose of mass balancing which is most compatible with the functioning of the internal gas market.</i>
(d) the market value of that biogas consumption was taken into account appropriately in the relevant support scheme, if support has been granted for the biogas production. For the purpose of demonstrating compliance with this paragraph, the operator may use the data recorded in a database set up by one or more Member States which enables tracing of transfers of biogas.	<i>No change proposed</i>	<i>For Guaranties of Origin RED II already includes clear provisions on how to take into account the market value of Guarantees of Origin in support mechanisms.</i>
5. Where the Member State allows for the application of this paragraph, the operator may determine the quantity of biogas based on an average emission	5. Where the Member State allows for the application of this paragraph for separate local gas network not connected to the European interconnected gas	<i>This methodology should be allowed to be used only for small separate gas networks as market fragmentation and distortions among operators should be avoided.</i>

<p>factor and biomass fraction published by the competent authority for a specific gas grid provided that:</p> <p>(a) the emission factor and the biomass fraction are based on a mass balance which takes into account all biogas fed to that gas grid which complies with the first subparagraph of Article 38(2) as well as natural gas, biogas which does not comply with the first subparagraph of Article 38(2) and other combustible gases fed to that gas grid;</p> <p>(b) there is no double counting of the same biogas quantity, in particular that the biogas purchased is not claimed to be used by anyone else, including through a disclosure of a guarantee of origin in the meaning of Article 2(12) of Directive (EU) 2018/2001;</p> <p>(c) the market value of that biogas consumption was taken into account appropriately in the relevant support scheme, if support has been granted for the biogas production.</p>	<p>network, the operator may determine the quantity of biogas based on an average emission factor and biomass fraction published by the competent authority for a specific gas grid provided that:</p> <p>(a) the emission factor and the biomass fraction are based on a mass balance which takes into account all biogas fed to that gas grid which complies with the first subparagraph of Article 38(2) as well as natural gas, biogas which does not comply with the first subparagraph of Article 38(2) and other combustible gases fed to that gas grid;</p> <p>(b) there is no double counting of the same biogas quantity, in particular that the biogas purchased is not claimed to be used by anyone else, including through a disclosure of a guarantee of origin in the meaning of Article 2(12) of Directive (EU) 2018/2001;</p> <p>(c) the market value of that biogas consumption was taken into account appropriately in the relevant support scheme, if support has been granted for the biogas production.</p>	<p><i>Moreover, this proposed methodology is not in line with the principles of the internal gas market and provides no incentives for further biomethane development.</i></p>
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