

EFET response to the draft decree on the future biomethane certificates scheme in France

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15 March 2022

The European Federation of Energy Traders (EFET¹) welcomes the opportunity to provide comments on the new draft decree on the future biomethane production certificates scheme (“CPB”) in France, put to consultation by DGEC on 23 February 2022. As we remain concerned about compliance of the scheme with Directive (EU) 2018/2001 (RED II) and emerging obstacles to cross-border trading, we comment below both on the draft decree and on the main design of the scheme.

1. Cross-border trading and compliance of the scheme with RED II/ III

As discussed in our response to the Commission consultation on the second revision of RED II², certification systems introduced at the national level should operationally be in an as common format as possible, at least per commodity and per quality, irrespective of the end-use sector. Ultimately, a single instrument should emerge that has a value that can be traded in any market and that contains the information necessary for this purpose, in order for markets to eventually converge.

A prospective common scheme that can operate across gases that are going to be conveyed in the same networks may ensure a common framework so that national quotas and national certificate schemes implemented for biogases and low-carbon gases do not pose risks to cross-border trading.

Turning to the DGEC proposal, we are concerned about the emergence of a national certificate scheme which is not open to cross-border trading via participation of supply and production from other countries, or, vice versa, via the compatibility of CPBs with certificates in other EU countries. In principle, this does not support the integration of the internal energy market. It may also hinder the development of a biomethane market and biomethane production in France.

¹ The European Federation of Energy Traders (EFET) promotes and facilitates European energy trading in open, transparent and liquid wholesale markets, unhindered by national borders or other undue obstacles. We build trust in power and gas markets across Europe, so that they may underpin a sustainable and secure energy supply and enable the transition to a carbon neutral economy. EFET currently represents more than 100 energy trading companies, active in over 27 European countries. For more information: www.efet.org

² See answer to question 2.7 in our response to the Commission consultation on the revision of RED II.

The proposal also contradicts the rationale of the Hydrogen and decarbonised gas markets package put forward by the Commission, which aims to support cross-border trading of renewable and low-carbon gases providing for tariff discounts for renewable and low-carbon gases and a zeroisation of tariffs at intra-EU hydrogen interconnection points.

We moreover understand that the proposed scheme remains disconnected from RED II and a voluntary market based on guarantees of origin (GoOs) for renewable and low-carbon gases, since a GoO and a CPB cannot be granted for the same amount of energy produced. We understand that the DGEC proposal refers to a book-and-claim system designed separately from the GoO system, which raises the issue of incompatibility with article 19 of RED II.

On the basis that transport sector certification of renewable and low-carbon gases under RED II based on sustainable life-cycle certification is to be extended to all end-uses under RED III, to ultimately complement the proposed Gas Directive and Gas Regulation, it is important for producers, suppliers and consumers of energy to have freedom of choice on the contractual use of GoOs and certificates.

We welcome the clarification provided during the DGEC workshops that CPBs will be freely fungible and separately tradable from the underlying commodity value. The same will seemingly apply to the Union database-compliant lifecycle sustainability certificates (or proof of sustainability) under RED II. However, sustainable certification under articles 25-30 of RED II pulls towards the direction of cross border trade. CPBs or any EU-wide certification system should be open to biomethane imported from or exported to any other EU country.

Therefore, purchase of CPBs will be of value to exporting suppliers only in cases of Member States with biogas supply quota systems already in place for specific sectors (e.g. transport), against which CPBs could be redeemed. Purely national quotas and certificate schemes which are mutually redeemable between a limited number of Member States bear the risk of restricting EU-wide trade in the underlying commodity.

2. Establishment of the biomethane production certificates scheme

As explained in detail in our first reaction to the DGEC proposal on a CPB scheme³, any new mechanism introduced to promote the production of biomethane in France should be designed in a way that respects the following conditions:

³ See the EFET response to the French Energy Ministry consultation on a green certificates scheme for the promotion of biomethane, dated 2 March 2021 and available at: https://data.efet.org//Files/Documents/Downloads/EFET_DGEC%20biomethane%20support_02032021.pdf.

- i. it is technology neutral, in order to provide commonality of instruments designed to financially support all technologies contributing to decarbonisation – with a view to extend it to renewable electricity, renewable and low-carbon hydrogen, and possibly any other low-carbon energy carriers;
- ii. it is scalable at European level, i.e. compatible with existing support schemes in other Member States;
- iii. it is open to foreign participation so that it does not exclusively favour domestic biomethane production;
- iv. it does not have any distortive effect on the French gas market in term of competition and liquidity;
- v. it provides regulatory incentives to decrease the costs of biogas production (and other types of renewable and low-carbon energy carriers) in order to limit the financial impact on the French market.

We regret to see that so far the scheme: (i) remains technology specific as it is reserved for biomethane only, (ii) has limited potential of scalability considering it is designed in isolation of current discussions at EU level on GoOs, (iii) does not recognise biomethane produced outside of mainland France, and (iv) may have distortive effects on competition in the French gas market by placing the local market in renewable gases at a disadvantage compared to neighbouring countries.

Moreover, it raises barriers to entry given the obligation to incorporate CPBs placed on local market participants (suppliers). It also raises distortion effects on competition among market participants both upstream, related to the procurement/production of CPBs, and downstream, related to the display of the regulated ratio of CPBs in their commercial offer.

Finally, the lack of definition of the overall target of the scheme so far does not enable a clear view on the fifth condition mentioned above, i.e. the capacity of the scheme to decrease the cost of biomethane production in France (see below).

3. Dimensioning of the scheme and level of obligation

While much of the discussion so far on the implementation of French biomethane production certificates scheme has focused on detailed aspects of functioning, we are still missing the broad picture of the dimensioning of the scheme. Giving a clear view to the market as to where the scheme is headed is vital to ensure visibility for investors in future biomethane production facilities. We also still struggle to understand how the general CPB target will be translated into individual incorporation obligations.

Hence, we urge DGEC to provide information rapidly on the following elements:

- What will be the targeted date of entry into force of the scheme (first delivery year)?
- What is the overall dimensioning of the scheme (number of certificates to be collectively redeemed), including a clear formula on how this dimensioning relates to the multi-annual energy planning (PPE) targets?
- What is the trajectory of this overall dimensioning for the five years following the first delivery year?
- How will the overall dimensioning of the scheme be broken down into individual targets for obliged parties? Will pro-rata – or any other method – be applied?
- How does the DGEC envision the coexistence of CPB and GoO schemes and whether they will be fungible?
- Under which conditions would the conversion between a certificate and a GoO be possible?

4. Obligated parties

While the draft decree sketches a number of elements pertaining to the obliged parties, it leaves vast areas for interpretation. Giving a clear view as to the perimeter of individual obligations as well as exemptions thereof is also essential for financial planning on the side of the future obliged parties to the scheme.

Hence, we urge DGEC to define and/or clarify the following points in the upcoming decree:

- What is the perimeter of consumptions and/or sales that will be used to designate an obliged party (legal entity, trading portfolio, transmission network exit point)?
- Ensure that the rewording of article R. 446-115 in the decree clarifies whether the proposed levels for the applicability of the obligation is unmistakable for deductibles (“franchises”) or for exemptions, as DGEC pointed out during the workshop of 11 January 2022.

- Provide a justification as to why the level of the deductibles differ from similar schemes such as the French white certificates schemes, and in particular:
 - Why is the deductible set at the level of 400 GWh for the first year of application of the scheme?
 - Why does a gradual decrease of the deductible apply on a yearly basis?
 - Why is there no minimum level of deductible applicable as of the fifth year of application of the scheme?
 - Why are two suppliers linked even in case of indirect or partial, but major, ownership from one to the other? We would appreciate clarifications as to how should a supplier equally owned (50-50) by two different suppliers act.
- We would also appreciate clarifications as to whether any specific market participant category is planned to be completely exempted from the scheme, as per the second paragraph of article L. 446-42.

5. Fungibility and tradability of CPBs

We welcome the clarification by DGEC during the workshop of 11 January 2022 that the biomethane production certificate schemes will be freely fungible and tradable, without discrimination. Allowing all market participants to take part and trade biomethane certificates – including those without production or consumption portfolios – will be key to provide more liquidity to this market.

To ensure that this openness is enshrined in legislation, we urge DGEC to explicitly specify in the decree that all market participants will be able to register and have access to the proposed biomethane certificates registry.

It is equally important for CPBs to determine their own price level through being traded and redeemed separately from gas as the underlying commodity. We welcome DGEC's intention to ensure that CPBs remain a tradable good, decoupled from the sale of gas in the wholesale market.

However, we would like to highlight that the value of these certificates outside France will likely be limited as long as they remain decoupled from the biomethane attributes trading in the rest of the EU.