Consultation 'Regeling Energie Vervoer'

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Summary:

- **We welcome the fact that biomethanol based on biomethane with GoO is eligible for HBE's.**
- **We recommend to simplify the regulation and to harmonize the approach on materials (co)transported via pipeline infrastructure (biomethane and renewable hydrogen) regardless their use (fuel or intermediate) and status (liquid or gaseous).**
- **We recommend not to introduce testing methods for tracing physical biofuels**
- **We recommend to issue HBE's delivered on the GW of renewable fuel delivered to the Dutch market and not introduce a factor for fuels based on the amount of GoO used.**
- **We recommend to include RFNBO's in the opt-in for (sea)shipping.**
- **We would like to emphasize that in general, the methanol producer is not the obligated party and is not the inbooking party.**

General remarks

- As a Dutch producer of Annex IX, A biomethanol we welcome the fact that the Ministry explicitly acknowledges that our Annex IX, A biomethanol produced in the Netherlands from unsubsidized biomethane transported via the grid is eligible for HBE's. We appreciate that besides exporting our product to other European countries and EU Member States, we can now blend our product into our home market and contribute to decarbonizing emissions in Dutch road transport.

- We do think the approach taken is rather complex. We don't understand why the regulation does not prescribe a consistent and harmonized approach for (co)transport via pipeline of biomethane and renewable hydrogen and of its use in end-fuels regardless of its gaseous or liquid form. By setting rules and incorporating the pipeline transport in the certification of the renewable- and or biofuels supply and production chain, the regulation could be simplified and harmonized with the RED 2. It would clear out the inconsistencies from the regulation in the way that is dealt with gaseous fuels and liquid fuels. This way no distinction by separate procedures will have to be made between:
    - Renewable fuels and Greened (bio) fuels
    - Renewable gaseous fuels and renewable liquid fuels
    - 'Greened' gaseous fuels and 'greened' liquid fuels

- The specific procedure for renewable fuels based on biomethane and or renewable hydrogen as an intermediate is complex and the legislation could be simplified. If the Ministry were to recognize that renewable gaseous materials/ intermediates (biomethane and renewable hydrogen) transported via pipelines can be traced according to the mass

balance, fuels using these renewable gaseous intermediates as a feedstock could be recognized as biofuels or RFNBO's as defined in the RED 2. Recognizing them as biofuels and/or RFNBO's would include those fuels under the article 6 not needing the introduction of the extra article 6a / 8a.

- Also, an approach allowing for the mass balancing of pipeline transport would tackle several problems to be foreseen with the implementation of the revision of the RED 2 and the development renewable hydrogen and transition towards a circular economy. With the Netherlands not allowing (mingled) pipeline transport and thus not acknowledging the produced fuels as biofuels or RFNBO's, the role of biomethane and of renewable hydrogen in the Energy transition and Circular Economy will be obstructed and made even more expensive.
  With the fit for 55 package and the proposed revision of the RED 2 the scope of the RED 2 is likely to be broadened to other sectors: Industry, Heating & Cooling (Housing). The RED 2 revision proposes to apply the definitions and sustainability criteria of both biofuels and RFNBO's to all renewable fuels regardless their end use: Transport, Housing (Heating & Cooling) and Industry. The consequences of the Dutch positioning is that use of biomethane or renewable hydrogen can not efficiently contribute to the targets as proposed in the RED 2 revision addressing Housing (Heating & Cooling) and Industry.

- Our concern is that the deviant position within the EU together with the lack of consistent long term policy, will influence Dutch investment climate, its ambitions regarding hydrogen, its frontrunner position in the Circular Economy and the position of the Rotterdam Harbor as an international bunkering hub for (alternative) fuels.

- We understand the desire to have more control on the biofuels chain of custody due the fraud cases related to biodiesel made from Used Cooking Oil in the Netherlands. It is in the sectors own interest to have a trustworthy system guaranteeing the sustainability and traceability from feedstock to production to delivery to the end-market of the fuels. However, we feel that the emphasis on the presence of biomolecules (as is the implication of several amended articles) will and would not have prevented the fraud cases such as have occurred in the UCO biodiesel chain of custody. Also we are of the opinion that the requirements for testing as proposed by the Ministry are not in line with the mass balance principle as prescribed by the Renewable Energy Directive (RED 2) and as communicated on several occasions by the Minister/Secretary of State to parliament[1]

- More authority has been granted in the RED 2 to national bodies to request information and check upon the chain of custody. Also the introduction of the EU register for renewable fuels will increase the supervision on the renewable fuels chain of custody. Focus on the physical presence of biomolecules will increase production costs, increase the administrative burden on producers and suppliers is an additional requirement not prescribed by the RED and will only have limited, if any, effect on detecting fraud.

[1] Kst-30196-555, Kamerstuk 35000 XII nr. 85, Kamerstuk 30 196, nr. 555 en Kamerstuk 32813-553

Comments per article:

Article 1:

Change of the definition of mass balance:
(Dutch tekst) *massabalans: een boekhouding die een getrouwe weergave geeft van de in-en uitgaande stromen en voorraad van de duurzame biobrandstoffen van een onderneming op een locatie gedurende een bepaalde periode, als onderdeel van een door de inboeker gehanteerd duurzaamheidssysteem;*

(English translation)
'mass balance: an accounting system that gives a true and fair view of the in and outflows and stocks of sustainable biofuels of a business in a location for a specified period of time, as part of a sustainability system applied by the booking party;'

- Only sustainable biofuels are mentioned. (RED 2 refers to sustainable and unsustainable materials) The mass balance as described in the Renewable Energy Directive aims at managing the traceability of renewable fuels, including biofuels. The RED 2 regulates certification of renewable fuels and does not regulate fossil fuels.
- However, from this definition it may not be concluded that the mass balance does not allow for mixing of fossil material and fuels and renewable (including biogenic) material and fuels. The mass balance addresses the bookkeeping of the sustainable material and fuels.

➢ The definition refers only to biofuels and to the inbooking party. What does this mean? The RED 2 requires mass balance to be applied throughout the entire chain of custody (gathering of feedstock, transport, processing intermediate products, production of final biofuels and distribution to end customer). How should the above be read in this context? Or does this mean that mass balance only applies to the inbooking party and that prior to this, mixing of fossil and renewable materials is allowed?

Definition of Proof of Sustainability:
(Dutch tekst) De begripsbepaling van bewijs van duurzaamheid komt te luiden: bewijs van duurzaamheid: bewijs dat de duurzaamheid van een geleverde hoeveelheid fysieke biobrandstof bewijst, afgegeven door een gecertificeerde schakel van een duurzaamheidssysteem op basis van zijn massabalans;

(translation)
The definition of proof of sustainability will read: proof of sustainability: proof that assures the sustainability of a delivered amount ***of physical biofuel*** *issued by a certified party based on its mass balance;*

- In the RED 2 it speaks of a physical delivery of biofuels. This differs slightly from the wording delivery of physical biofuel. The latter seems to imply the delivery of biomolecules that can be assessed by C14 analysis. This is not necessarily how the RED 2 paragraph should be interpreted.

➢ We recommend to follow the definition of the RED 2 and not demand the presence of biomolecules which is in conflict with the mass balance method prescribed by the RED 2.

Article 6

6(1) *(*Dutch text) *Artikel 6 wordt als volgt gewijzigd: 1. In het eerste lid wordt 'hoeveelheid in liters' vervangen door 'fysieke hoeveelheid in liters', wordt 'hoeveelheid in kilogram' vervangen door 'fysieke hoeveelheid in kilogrammen' en vervalt 'de massabalans van het gehanteerde duurzaamheidssysteem […]'.*

(translation*) In the first paragraph, 'quantity in litres' is replaced by 'physical quantity in litres', 'quantity in kilograms' is replaced by 'physical quantity in kilograms' and 'the mass balance of the sustainability system used' is deleted*

(Previously: '*De hoeveelheid vloeibare biobrandstof die wordt ingeboekt is de hoeveelheid in liters bij een temperatuur van 15 °C, dan wel de hoeveelheid in kilogram,* ***die blijkens de massabalans van het gehanteerde duurzaamheidssysteem*** *en de bedrijfsadministratie van de locatie van de inboeker is geleverd aan de Nederlandse markt voor vervoer'*.

- The reference to the mass balance as proof of the inbooking of biofuels is deleted.
- Added is the wording: *physical amount.* This again seems to imply requirement of testing on the presence of the biocomponent.
- According to the RED 2 physical delivery can be proven by providing (the documentation/ administration of) the mass balance. Deviating from the mass balance as prescribed in the RED 2 for claiming deliveries of renewable fuels to the market by this very delicate wording signifies a major change and an additional requirement to the (production chains and) traceability of biofuels. It is a requirement that does not derive from the RED 2 but is an additional requirement at national level. The adding of 'physical' is introduced throughout the regulation.

➢ With this adjustment, in practice the Dutch regulation prescribes the far more stringent traceability method of segregation in stead of mass balance. This is in conflict with the RED 2 and with rules on the free trade of goods in the EU internal market.

➢ Our recommendation is not to change the wording of article 6 paragraph 1 and to consistently take out the reference to physical amounts implying presence (and testing of) biomolecule

6(2) States that based on the mass balance a PoS is issued for the purpose of the board of the NEa. we notice there is a decoupling of the delivery of a biofuel to the market (6(1) and the handing over of a PoS to the board of the NEa (6(2).

- The PoS is the documentation that lists all the sustainability requirements (as prescribed by the RED 2) and should be provided with the physically delivered batch of material. The PoS is part of the documentation supporting the mass balance. They are part of the documentation as required by the RED 2 to prove compliance with the mass balance of the deliveries of biofuels to the market.

➢ The booked in amount of biofuel (6(1) should be based on the delivery of the physical batch in combination with the PoS of the respective batch. The two should not be decoupled.

➢ A copy of the PoS accompanying the physical delivery of the fuel could be send to the board of the NEa.

(Dutch tekst) *In het derde lid wordt 'Bij een vermenging van een hoeveelheid vloeibare biobrandstof' vervangen door 'Bij vermenging in een opslagtank van een fysieke hoeveelheid vloeibare biobrandstof'.*

*(*translation*) In the third paragraph, 'When a quantity of liquid biofuel is mixed' is replaced by 'When a physical quantity of liquid biofuel is mixed in a storage tank'*

Previously*: Bij vermenging van een hoeveelheid vloeibare biobrandstof met een hoeveelheid vloeibare fossiele brandstof wordt de biobrandstof bij deelleveringen uit de gemengde hoeveelheid in gelijke percentages aan die deelleveringen toegekend.*

- Added is mixing in a tank storage of a physical amount of liquid biofuel. So it is recognized that the biofuel may be mixed with a fossil fuel, but due to adding the wording storage tank, it could be interpreted as such that the mixing is only allowed in storage tanks. (Based on ratio's, the percentage of renewable fuel can be claimed on (partial) deliveries.
- Do these requirements only apply to the inbooker? (as they are part of article 6).
- What does this mean for the mixing of renewable fuels and fossil fuels in the supply and production chain prior to the delivery to the inbooker?

An article 6a is added

This article specifically addresses the production of methanol and LNG based on GoO for gas from renewable sources.

(Dutch text)

1. *In afwijking van artikel 6, vierde lid, is de hoeveelheid ingeboekte vloeibare biobrandstof de aantoonbaar aanwezige hoeveelheid methanol in liters bij een temperatuur van 15 °C in een geleverde benzine, onderscheidenlijk de geleverde hoeveelheid LNG in kilogrammen, die door garanties van oorsprong voor gas uit hernieuwbare energiebronnen boekhoudkundig wordt vergroend, voor zover de inboeker kan aantonen dat in Nederland ter grootte van de inboeking een hoeveelheid methanol of LNG uit aardgas is vervaardigd, dat aan het gastransportnet in Nederland is onttrokken. Artikel 7, vijfde en zevende lid, is van overeenkomstige toepassing.*
2. *De geleverde hoeveelheid methanol of LNG, bedoeld in het eerste lid, heeft ten minste de omvang van de hoeveelheid die op de garanties van oorsprong voor gas uit hernieuwbare energiebronnen is vermeld.*
3. *Voor de bepaling van het aantal bij te schrijven hernieuwbare brandstofeenheden, wordt de omvang van de garanties van oorsprong, bedoeld in het eerste lid, uitgedrukt in GJ en a. voor methanol vermenigvuldigd met 0,8; b. voor LNG vermenigvuldigd met 0,85.*
4. *Voor het aantonen dat de geleverde benzine een hoeveelheid methanol bevat, voldoet de inboeker aan de in bijlage 2 genoemde eisen.*
5. *Een geleverde hoeveelheid methanol of LNG, bedoeld in het eerste lid, mag niet ook als een vloeibare hernieuwbare brandstof ingeboekt worden, als bedoeld in artikel 8, eerste lid, onderdeel a onderscheidenlijk c.*

(translation)

1. *Contrary to Article 6, fourth paragraph, the amount of liquid biofuel booked in is the demonstrably present amount of methanol in liters at a temperature of 15 °C in a delivered petrol, or the delivered amount of LNG in kilograms, respectively, which is covered by*

guarantees of origin for gas from renewable energy sources is greened in the accounts[2], insofar as the booking party can demonstrate that a quantity of methanol or LNG from natural gas has been produced in the Netherlands to the size of the booking, which has been extracted from the gas transport network in the Netherlands. Article 7, fifth and seventh paragraph, applies mutatis mutandis.

2. *The quantity of methanol or LNG supplied, as referred to in the first paragraph, is at least equal to the quantity stated on the guarantees of origin for gas from renewable energy sources.*
3. *To determine the number of renewable fuel units to be credited, the size of the guarantees of origin referred to in the first paragraph, expressed in GJ and a. for methanol, is multiplied by 0.8; b. for LNG multiplied by 0.85.*
4. *4. For demonstrating that the petrol supplied contains a quantity of methanol, the booking party must meet the requirements set out in **Appendix 2[3].***
5. *A delivered quantity of methanol or LNG, as referred to in the first paragraph, may not also be booked as a liquid renewable fuel, as referred to in Article 8, first paragraph, under a or c,*

- In 6a(1) it mentions 'greened methanol' and 'methanol from natural gas'. We were informed by the Ministry that greened methanol will not be recognized as a (RED 2 compliant) biofuel by the Dutch Government. We would like to emphasize that BioMCN delivers a product that is certified by an EU recognized scheme and complies with all the sustainability- and traceability requirements from the RED 2 and as such is recognized as a biofuel under the RED 2. The biomethane that is purchased as a feedstock is EU certified and transport of the biomethane via the gasgrid can physically be traced back to its origin in compliance with the mass balance traceability method as prescribed in the RED 2. The sustainability characteristics of the feedstock used remain attached to the final biofuel produced. The entire chain of custody from raw material to end-product is audited and certified by EU recognized Voluntary Schemes.

- Paragraph 2 is confusing. We assume that it intends to explain that the volumes of produced fuel (methanol or LNG) should be consistent with the volumes of converted feedstock. We understand from correspondence with the Ministry, that the factors (0.8 for methanol and 0.85 for LNG) listed in paragraph 3 are based on the conversion factors. Paragraph 3 seems to suggest to credit HBE's based on the Gigawatts represented by the GoO that are cancelled/forwarded to the (Vertogas) NEa account. Based on the conversion factor, HBE's for methanol would be credited per 0.8GJ of biomethane used.

- Our suggestion would be to credit HBE's based per Gigawatt (greenified/bio) methanol delivered. The conversion of biomethane (transported via the gasgrid) to produced volumes of biomethanol and the applied conversion rate is audited on a yearly base by the EU recognized Voluntary Scheme as part of the annual sustainability certification. Based on the conversion rates, biomethane is used in the production process and GoO are cancelled in the Vertogas register.

- By issuing HBE's based on the Gigawatts of (greenified) methanol delivered (rather than based on the GoO submitted), the amount of produced fuel would be consistent with the amount of

[2] The GoO must be transferred to the NEa account before the inbooking fuel into the HBE register. GoO have an end date (validity) that lies within or after the period of inbooking of the final fuel.
[3] Appendix 2: samples and analysis required to show the amount of methanol blended into gasoline.

fuel to which the double counting declaration would be applicable[4]. (The factor of 0.8 would no longer apply).

- Issuing HBE's based on the Gigawatts of (Annex IX, A) methanol should allow for issuing HBE-G's. (HBE advanced) and for double counting.

Article 7:

Article 7 (5) en (7) are also applicable to 'greenifying methanol'.

7(5) refers to the cancelling of GoO prior to the 'inbooking' of the amount of (bio)fuel.

- In case of our biomethanol production based on biomethane transported via the gasgrid, the GoO are cancelled at the time of production of the biomethanol. The biomethanol producer is not necessarily the obligated or inbooking party. The (bio)methanol is usually sold to the inbooking parties or to MTBE producers.
- The (bio)methanol producer is often not the inbooking party. This should be taken into account in the regulation. ('Prior' could include at the moment of production, however GoO are not cancelled by the inbooking party but by the producer of the fuel).
- Why are gaseous fuels based on GoO referred to as biofuels whereas liquid fuels based on GoO are referred to as 'greenified fuels'? A consistent approach should be taken.

7(7) refers to double counting but only to double counting of gaseous biofuels based on GoO.

- Why is the double counting for fuels based on GoO limited to gaseous fuels?
- We recommend a consistent approach should be taken and to include methanol in art. 7(7)

Article 8

Article 8 refers to renewable fuels based on GoO for renewable hydrogen.

8(1) Also in this case it is harmful that the text speaks of administratively greenifying fuels. Use and claiming of green hydrogen is subject to very strict RED 2 requirements.

- It should not be framed as greenifying.

8(2) The inbooker has to transfer the GoO to the account of the NEa.

- We recommend to add the option that the producer of the fuel transfers the GoO. In case of the methanol production, it should be the methanol producer that should transfer the GoO. In practice the producer sells the methanol to an obligated party/inbooker. (see comments 7(5))

[4] Explanatory note to the regultion: '*Anders dan bij een geleverde hoeveelheid vloeibare biobrandstof (artikel 6) en de boekhoudkundige vergroende hoeveelheid geleverd gas (artikel 7), komen boekhoudkundig vergroende leveringen van de aantoonbare hoeveelheid methanol in een geleverde benzine of een geleverde hoeveelheid LNG, niet voor dubbeltelling in aanmerking. De reden hiervoor is, dat de koppeling van de geproduceerde hoeveelheid biobrandstof, waarop de dubbeltellingverklaring betrekking heeft, en de hoeveelheid geleverde brandstof, die boekhoudkundig wordt vergroend en ingeboekt, door het gebruik van correctiefactoren is verbroken'*.

8(4) For e-methanol a conversion rate of 0,8 is set. We would like to refer to our comments under article 6a.

- We suggest to base the HBE's on the gigawatts of methanol produced (regardless of the production pathway).
- Our suggestion would be to credit HBE's based per Gigawatt renewable methanol delivered. The conversion hydrogen to produced volumes of renewable methanol and the applied conversion rate will be part of the verification scheme (including RFNBO's) and should be audited on a yearly base by the EU recognized Voluntary Scheme as part of the annual sustainability certification. Based on the conversion rates, renewable hydrogen will be used in the production process and GoO will be cancelled in respective register.
- We understand that (co) transport of hydrogen via pipeline is allowed in the case of renewable fuels (RFNBO's). Is this correct? If so, we recommend a consistent approach to be taken in case of transport via the 'gastransportnet'.

Article 11:

11(1) The factor meant in article 9.7.4.4 (2) of the law (Wet Milieubeheer) is two and a half.

- We don't see a factor being mentioned in the article 9.7.4.4. of the Wet Milieubeheer. Is the reference correct?
- From article 8(1) we understand that liquid fuels based on GoO for renewable hydrogen are considered renewable fuels (RFNBO's) and that the factor of two and a half is applicable also to liquid renewable fuels (RFNBO's) including renewable methanol. Is this correct?

11(6)

- It is not clear to what biofuels (9.7.4.8 (1) WMb) the factor 2 applies. Could this be specified?

Annex I Part A(5)

This includes deliveries to shipping. However, it is not very clear from main text of the Regulation that the opt-in for biofuels delivered to maritime (sea shipping) is prolongued.

- What articles apply to the opt-in for maritime?
- We understand that the opt-in is applicable only to Annex IX, A biofuels, is this correct?
- We recommend RFNBO's to be included in the opt-in for maritime.

Annex II

Part A (2) refers to gas invoices and production data for methanol production to be handed in by the inbooker. The article assumes the methanol producer to be the same as the inbooker. In our case this is not the case.

- Distinction should be made between the producer and the inbooker.
- The required gas invoices and production data are subject to the annual audit for our certification by the Voluntary Scheme. If this is deemed necessary, we can provide gas invoices together with the GoO for the biomethane and data on the produced biomethanol volumes to the NEa.

Explanatory Note (toelichting)

From the Explanatory Note, we understand that UCO will be eligible for Double Counting until 2025 and that the cap for UCO will be based on availability rather than on the caps set by the EC.

- Taking into account the fraud cases with UCO biodiesel in the Netherlands and the cap on UCO set by the EC in order to reduce the risk of fraud, what is the reason to maintain the Double Counting of UCO biodiesel?
- Why does the regulation link the cap of UCO to the availability and not to the cap set by the EC?
- When referring to availability, is the principle of 'national fair share' taken into account?

Final remarks

In the Explanatory Note (Memorie van Toelichting) it is explained that the option to submit greenified fuels based on guarantees of origin was introduced to incentivize the use of biomethane in transport. The proposed procedure for GoO is said to make an administrative connection between the amount of produced biomethane and the delivered fossil fuel.
We are of the opinion that with a correct interpretation and implementation of the Renewable Energy Directive 2 (RED 2) and its requirements on traceability (mass balance) such a link already exists for EU certified biofuels. The RED 2 requires a physical link between the flow of biomethane and the corresponding documentation (proof of sustainability). The connection as guaranteed by the RED 2 goes one step further then the procedure proposed in the Dutch regulation.
We don't understand why the Dutch authorities opt to choose for a less stringent traceability method when the RED 2 already has a system in place. Moreover the RED 2 offers a system that is consistent for all biofuels, regardless whether they are liquid or gaseous biofuels. If the Dutch government has concerns over the use of biomethane from the grid, the Government could require biomethane producers that intend to sell the biomethane to the transport sector, to list the certifying voluntary scheme and all the sustainability requirements on the GoO as issued by Vertogas and as such comply with the RED 2 requirements for proofs of sustainability (this option is already facilitated by the Regulation on Guarantees of Origin
The certifying body would check whether the amounts of GoO cancelled / forwarded to the NEa account are in accordance with the conversion rate and produced volumes of product produced. The certifying body also obtains a list of all customers and can thus verify what volumes are sold to the Dutch market.
This methodology could also be followed for RFNBO's. Assuming that once the electrons are converted into molecules, the mass balance applies. So the methodology for a GoO for renewable gas, in this case hydrogen, could be managed the same way as the above proposed methodology for GoO for biomethane.
This way a consistent and harmonized approach is followed. Certification and traceability of renewable fuels and intermediates transported via pipeline infrastructure is covered by the EU recognized Voluntary Schemes and can be audited by the national registers. This enables a harmonized approach on biofuels throughout the EU ensuring the free trade of biofuels without any nationally imposed additional requirements. This enables for future cross border trade of the biofuels.