



Council of the European Union
General Secretariat

Brussels, 29 November 2022

WK 16678/2022 INIT

LIMITE

**ENER
CLIMA
CONSOM
TRANS**

**AGRI
IND
ENV
COMPET
FORETS**

This is a paper intended for a specific community of recipients. Handling and further distribution are under the sole responsibility of community members.

WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on Energy
Subject:	Presidency paper on the Revision of the Renewable Energy Directive - Preparation of next iterations with the European Parliament (Art. 19 and FQD)

Delegations will find in the annex the Presidency paper for the preparation of next iterations with the European Parliament on RED II.

Presidency non-paper
Revision of the Renewable Energy Directive

Preparation of next iterations with the European Parliament

In view of further exchanges with the European Parliament, the Presidency would like to seek Delegations' views and flexibilities around Articles 19 as well as to some changes to the amendments to the Fuel Quality Directive (FQD) as part of the proposed revision of the Renewable Energy Directive.

- Regarding Article 19 (Guarantees of Origin), the Presidency has presented to delegations a first possible compromise text discussion at the Energy Working Party on 10 November as contained in WK 14888/2022. Following the feedback received, the Presidency has prepared a new text. The Presidency would welcome Delegations' agreement on the new revised drafting suggestions as contained in the Annex to this note. In particular:

- A reference to the right of producers of hydrogen from renewable sources to receive a Guarantee of Origin is included as suggested by both PCY and EP.
- The proposed simplified registration processes, reduced fees, and pooling is taken on board as it links to the existing approaches to small scale installations in 19 (7).
- A reference is added to the publication of the residual mix. There is already an existing obligation of Member States to perform the calculation of the residual mix in 19 (3). Making it publicly available is considered relevant as it improves consumer information and transparency. In order to provide more time to MS to implement relevant changes, the timing is extended to the transposition date of the directive instead of the 1 year after entry into force as proposed by EP.
- The closer to real time guarantees of Origin is also addressed.
- The extension of the disclosure obligation to gases is also addressed. It is clarified that the obligations only relate to gases from a hydrogen or natural gas network.

In addition, the Presidency would like Delegations' views on the proposal from the EP on an obligation to include the greenhouse gas emissions over the life cycle of the guaranteed energy in accordance with the standard ISO 14067:2018.

- Regarding the amendments of the Fuel Quality Directive (FQD) via the RED, the Commission has recently acknowledged that some technical error has been made concerning an update of some numerical codes setting the requirement for fuels used in vehicles as reported in points in Article 3(2)a. The Commission is asking co-legislators to correct those technical errors to avoid an unintended and incorrect change for the definitions of diesel, petrol and gas-oil in the FQD. The Presidency would welcome Delegations' confirmation to the proposed deletion as reported in the Annex to this note. With this deletion, the current provisions of the FQD would continue to apply, solving the issue created by the introduction of incorrect codes.

Article 19

Guarantees of origin for energy from renewable sources

1. For the purposes of demonstrating to final customers the share or quantity of energy from renewable sources in an energy supplier's energy mix and in the energy supplied to consumers under contracts marketed with reference to the consumption of energy from renewable sources, Member States shall ensure that the origin of energy from renewable sources can be guaranteed as such within the meaning of this Directive, in accordance with objective, transparent and non-discriminatory criteria.

2. To that end, Member States shall ensure that a guarantee of origin is issued in response to a request from a producer of energy from renewable sources **including gaseous renewable fuels of non-biological origin such as hydrogen**, unless Member States decide, for the purposes of accounting for the market value of the guarantee of origin, not to issue such a guarantee of origin to a producer that receives financial support from a support scheme. Member States may arrange for guarantees of origin to be issued for energy from non-renewable sources. Issuance of guarantees of origin may be made subject to a minimum capacity limit. A guarantee of origin shall be of the standard size of 1 MWh. **Where appropriate, this standard size may be divided to a size of 1 Wh**. No more than one guarantee of origin shall be issued in respect of each unit of energy produced.

Member States shall ensure that the same unit of energy from renewable sources is taken into account only once.

Simplified registration processes and reduced registration fees shall be introduced for small installations of less than 50 kW and for renewable energy communities.

Member States shall ensure that when a producer receives financial support from a support scheme, the market value of the guarantee of origin for the same production is taken into account appropriately in the relevant support scheme.

It shall be presumed that the market value of the guarantee of origin has been taken into account appropriately in any of the following cases:

- (a) where the financial support is granted by way of a tendering procedure or a tradable green certificate system;
- (b) where the market value of the guarantees of origin is administratively taken into account in the level of financial support; or
- (c) where the guarantees of origin are not issued directly to the producer but to a supplier or consumer who buys the energy ~~from renewable sources~~ either in a competitive setting or in a long-term renewables power purchase agreement.

In order to take into account the market value of the guarantee of origin, Member States may, *inter alia*, decide to issue a guarantee of origin to the producer and immediately cancel it.

The guarantee of origin shall have no function in terms of a Member State's compliance with Article 3. Transfers of guarantees of origin, separately or together with the physical transfer of energy, shall have no effect on the decision of Member States to use statistical transfers, joint projects or joint support schemes for compliance with Article 3 or on the calculation of the gross final consumption of energy from renewable sources in accordance with Article 7.

3. For the purposes of paragraph 1, guarantees of origin shall be valid **for transactions** for 12 months after the production of the relevant energy unit. Member States shall ensure that all guarantees of origin that have not been cancelled expire at the latest 18 months after the production of the energy unit. Member States shall include expired guarantees of origin in the calculation of their residual energy mix.

4. For the purposes of disclosure referred to in paragraphs 8 and 13, Member States shall ensure that energy companies cancel guarantees of origin at the latest six months after the end of the validity of the guarantee of origin. **Furthermore, by ... [transposition deadline of this amending Directive], Member States shall ensure that the data on their residual mix is published on an annual basis.**

5. Member States or designated competent bodies shall supervise the issuance, transfer and cancellation of guarantees of origin. The designated competent bodies shall not have overlapping geographical responsibilities, and shall be independent of production, trade and supply activities.

6. Member States or the designated competent bodies shall put in place appropriate mechanisms to ensure that guarantees of origin are issued, transferred and cancelled electronically and are accurate, reliable and fraud-resistant. Member States and designated competent bodies shall ensure that the requirements they impose comply with the standard CEN - EN 16325.

7. A guarantee of origin shall specify at least:

(a) the energy source from which the energy was produced and the start and end dates of production, **which may be specified:**

(i) in case of gas, including gaseous renewable fuels of non-biological origin, and heating and cooling, at an hourly or subhourly interval;

(ii) for electricity, in accordance with the imbalance settlement period as defined in point (15) of Article 2 of Regulation (EU) 2019/943.'

(b) whether it relates to:

(i) electricity;

(ii) gas, including hydrogen; or

(iii) heating or cooling;

(c) the identity, location, type and capacity of the installation where the energy was produced;

(d) whether the installation has benefited from investment support and whether the unit of energy has benefited in any other way from a national support scheme, and the type of support scheme;

(e) the date on which the installation became operational; and

(f) the date and country of issue and a unique identification number.

Simplified information may be specified on guarantees of origin from installations of less than 50 kW.

8. Where an electricity supplier is required to demonstrate the share or quantity of energy from renewable sources in its energy mix for the purposes of point (a) of Article 3(9) of Directive 2009/72/EC, it shall do so by using guarantees of origin except:

- (a) as regards the share of its energy mix corresponding to non-tracked commercial offers, if any, for which the supplier may use the residual mix; or
- (b) where a Member State decides not to issue guarantees of origin to a producer that receives financial support from a support scheme.

Where a gas supplier is required to demonstrate the share or quantity of energy from renewable sources in its energy mix for the purposes of Annex I, section 5 of [proposal for a Directive on common rules for the internal markets in renewable and natural gases and in hydrogen COM(2021)0803], it shall do so by using guarantees of origin except :

- a) **as regards the share of its energy mix corresponding to non- tracked commercial offers, if any, for which the supplier may use the residual mix.**
- b) **where a Member State decides not to issue guarantees of origin to a producer that receives financial support from a support scheme.**

When a customer consumes gaseous renewable fuels of non-biological origin or biomethane from a hydrogen or natural gas network, Member States shall ensure that the guarantees of origin cancelled correspond to the relevant network characteristics

Where Member States have arranged to have guarantees of origin for other types of energy, suppliers shall use for disclosure the same type of guarantees of origin as the energy supplied. Likewise, guarantees of origin created pursuant to Article 14(10) of Directive 2012/27/EU may be used to substantiate any requirement to demonstrate the quantity of electricity produced from high-efficiency cogeneration. For the purposes of paragraph 2 of this Article, where electricity is generated from high-efficiency cogeneration using renewable sources, only one guarantee of origin specifying both characteristics may be issued.

9. Member States shall recognise guarantees of origin issued by other Member States in accordance with this Directive exclusively as evidence of the elements referred to in paragraph 1 and points (a) to (f) of the first subparagraph of paragraph 7. A Member State may refuse to recognise a guarantee of origin only where it has well-founded doubts about its accuracy, reliability or veracity. The Member State shall notify the Commission of such a refusal and its justification.

10. If the Commission finds that a refusal to recognise a guarantee of origin is unfounded, the Commission may adopt a decision requiring the Member State in question to recognise it.

11. Member States shall not recognise guarantees of origins issued by a third country except where the Union has concluded an agreement with that third country on mutual recognition of guarantees of origin issued in the Union and compatible guarantees of origin systems established in that third country, and only where there is direct import or export of energy.

12. A Member State may, in accordance with Union law, introduce objective, transparent and non-discriminatory criteria for the use of guarantees of origin in accordance with the obligations laid down in Article 3(9) of Directive 2009/72/EC.

13. The Commission shall adopt a report assessing options to establish a Union-wide green label with a view to promoting the use of renewable energy coming from new installations. Suppliers shall use the information contained in guarantees of origin to demonstrate compliance with the requirements of such a label.

Article 3

Amendments to Directive 98/70/EC Directive 98/70/EC is amended as follows:

(1) Article 1 is replaced by the following:

‘Article 1 Scope This Directive sets, in respect of road vehicles, and non-road mobile machinery (including inland waterway vessels when not at sea), agricultural and forestry tractors, and recreational craft when not at sea, technical specifications on health and environmental grounds for fuels to be used with positive ignition and compression-ignition engines, taking account of the technical requirements of those engines.’

~~(2) Article 2 is amended as follows:~~

~~(a) points 1, 2 and 3 are replaced by the following:~~

~~‘1. ‘petrol’ means any volatile mineral oil intended for the operation of internal combustion positive ignition engines for the propulsion of vehicles and falling within CN codes 2710 12 41, 2710 12 45 and 2710 12 49; 2.~~

~~2 ‘diesel fuels’ means gas oils falling within CN code 2710 19 4335¹ as referred to in Regulation (EC) No 715/2007 of the European Parliament and the Council² and Regulation (EC) 595/2009 of the European Parliament and of the Council³ and used for self-propelling vehicles;~~

~~‘3. ‘gas oils intended for use by non-road mobile machinery (including inland waterway vessels), agricultural and forestry tractors, and recreational craft’ means any petroleum-derived liquid, falling within CN codes 27101943⁴, referred to in Directive 2013/53/EU of the European Parliament and of the Council⁵, Regulation (EU) 167/2013 of the European Parliament and of the Council⁶ and Regulation (EU) 2016/1628 of the European Parliament and of the Council⁷ and intended for use in compression ignition engines.’;~~

¹ The numbering of these CN codes as specified in the Common Customs Tariff, Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256 7.9.1987, p. 1).

² Regulation (EC) No 715/2007 of the European Parliament and of the Council of 20 June 2007 on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) [...] (OJ L 171, 29.6.2007, p. 1)

³ Regulation (EC) No 595/2009 of the European Parliament and of the Council of 18 June 2009 on type approval of motor vehicles and engines with respect to emissions from heavy duty vehicles (Euro VI) [...] and amending Regulation (EC) No 715/2007 and Directive 2007/46/EC and repealing Directives 80/1269/EEC, 2005/55/EC and 2005/78/EC (OJ L 188, 18.7.2009, p. 1);

⁴ The numbering of these CN codes as specified in the Common Customs Tariff, Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256 7.9.1987, p. 1).

⁵ Directive 2013/53/EU of the European Parliament and of the Council of 20 November 2013 on recreational craft and personal watercraft and repealing Directive 94/25/EC (OJ L 354, 28.12.2013, p.90).

⁶ Regulation (EU) No 167/2013 of the European Parliament and of the Council of 5.02.2013 on the approval and market surveillance of agricultural and forestry vehicles, (OJ L 060 of 2.3.2013, p. 1).

⁷ Regulation (EU) 2016/1628 of the European Parliament and of the Council of 14 September 2016 on requirements relating to gaseous and particulate pollutant emission limits and type approval for internal combustion engines for non-road mobile machinery, amending Regulations (EU) No 1024/2012 and (EU) No 167/2013, and amending and repealing Directive 97/68/EC, (OJ L 354 of 28.12.2013, p.53).