



Association of Issuing Bodies

Proposals on the Draft RES Directive

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Introduction

The AIB has analysed the Commission draft for a new Directive on the promotion of the use of energy from renewable sources (COM (2008) 19 final). The AIB strongly supports the numerous clarifications on the character and use of Guarantees of Origin which the Commission has proposed in its draft. These include *inter alia*:

- The requirement for Guarantee of Origin systems to be accurate, reliable and fraud-resistant.
- Clear designation of competent bodies for the management of the GO system per Member State.
- The definition of national registers for GO.
- The specification that GO shall be issued, transferred and cancelled electronically.
- The definition of a standard size of 1 MWh for all GO.

More generally, the AIB welcomes the establishment of mandatory, ambitious targets for the development of renewable energy in the EU until 2020, including the trajectories leading to these targets, and the clarifications in the draft Directive about how compliance with these targets will be measured.

At the same time, the AIB has found that some regulations proposed by the Commission would lead to what we suppose must be unintended – and from our point of view are certainly undesirable - effects in relation to the development of renewable energy markets:

- The draft Directive focuses on establishing the GO, primarily as an instrument for enabling flexibility in meeting the RES targets of Member States. This represents a clear change in the actual and straightforward interpretation that many Member States have given to the GO since its introduction by 2001/77/EC, namely disclosure; and has far-reaching and negative consequences both on the RES market as a whole, and on individual green supply offerings.
- The proposal that all exported GO will account for target transfer implies a set of fundamental restrictions on GO transferability. As GO are currently used for proofs of

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origin in electricity disclosure and green power markets, these restrictions apply for the voluntary market as well. These restrictions may be justified for purposes of target counting, but they will in practice make impossible most of the current international market for GO used for purposes of electricity disclosure.

- In proposing that GO can either be used for support, quota obligations or electricity disclosure, the draft Directive does not address how RES electricity shall be allocated to individual consumers if it has received support or has benefitted from a quota obligations scheme.
- Although the draft Directive specifies that no more than one GO may be issued in respect of each MWh of energy, the relation of GO under this Directive with those issued under the CHP Directive (2004/8/EC) remains unclear.
- Finally, the Directive establishes a closed accounting system which allocates all renewable energy from “old” (i.e. those which came into operation before the entry into force of the Directive) and/or supported plant to the country of production, while permitting the allocation of renewable energy from “new”, unsupported plant to the country in which the corresponding GO has been cancelled. However, this eliminates the possibility of green energy products stimulating the development of additional renewable energy (which is usually called “additionality”) by drawing upon renewable energy from unsupported plant and excluding such energy from target counting. Most consumers expect that by buying green energy they contribute to a better environment - e.g. by expanding the total share of renewable energy over and above the baseline of what would happen without their green purchase. The closed accounting system proposed by the draft Directive could significantly reduce the justification for voluntary green markets.

Single certificate and multi-certificate models

The AIB uses the generic term “Certificate” for a transferable evidential certificate, record or guarantee such as a guarantee of origin. One of the core principles of AIB is the uniqueness of a certificate: this principle is key to the prevention of fraud by multiple use of certificates in an international market.

A single certificate can be used for several purposes, such as electricity disclosure, support tracking and target accounting. The COM draft builds upon this principle of uniqueness: all the purposes are aggregated on a single certificate.

However, sometimes it is useful to have separate tradable instruments for each of the possible purposes. Some MS have therefore chosen to develop separate certificates for different purposes. In this case, it is essential that legislation and communication to consumers about the different uses is clear.

The single certificate model has proved to be operable in a reliable and cost-effective way. The multi-certificate model may offer a potential way forward, but has yet to be demonstrated in an international market and this would require regulation to give clear guidance on the purpose and permitted use(s) of the certificates. AIB is investigating the further development of such a model in order to support the Directive, should it adopt a multi-certificate approach.

Since the COM draft starts from a single, coordinated certificate approach, the next part of this position paper will outline the suggestions of AIB with respect to this model. The last part of this position paper will consider the implementation of a multi-certificate model that could achieve the same objectives in a different manner.

Suggestions for modifications of the draft Directive (single certificate model)

1. Proposed change to the linkage between GO and target accounting

Problem: The COM draft Directive is based on the principle that the cancellation of a GO in a country other than the country of issuing will always influence the calculation of target compliance by both countries (Article 10). At the same time, the draft Directive imposes a set of restrictions on the transferability of GO across borders (partly as an option for Member States to impose an authorisation scheme for GO exports and imports), which mostly relate to regulating the cross-border accounting for targets. However, these regulations also impose unnecessary restrictions on the disclosure market. Most significantly, the transfer of GO from “old” power plants across borders is completely prohibited. This may make sense with a view on target accounting, but is a severe restriction on the disclosure market.

Proposed solution

The Directive views the main use of GO as being for support and target purposes. In order to facilitate target accounting, GO should indicate whether they relate to: “old” plant (which are only valid for purposes of disclosure); or “new” plant (which, in addition to being valid for disclosure purposes, are also valid for target accounting in the country where they are cancelled). For further restrictions with regard to support see below.

The market, however, views the main use of GO as being for electricity disclosure, meaning that each GO can be used for disclosure purposes. The transferability of GO between market actors for purposes of disclosure should not be restricted more than necessary.

2. Proposed change to the linkage between GO and support

Problem: The COM draft Directive proposes that a given GO may solely be used for one of three purposes (Article 8 (1)), these being:

- Production support, such as feed-in, fixed premiums etc.,

- Compliance with a quota obligation, and
- Proving the share of RES-E in the disclosure portfolio of an energy supplier or consumer.

This implies that if a producer of energy from renewable energy sources is receiving support under any of the schemes mentioned in Article 8 (1) (a) and (b), then GO from the related production cannot be used to allocate generation attributes in the disclosure market.

Were this regulation to be implemented, then all support schemes mentioned in Article 8 (1) (a) and (b) would have to regulate how the supported energy should be allocated between consumers in terms of disclosure. The draft Directive does not address this issue, which could lead to inconsistent regulation among Member States.

Proposed solution

- The identification of different types of GO, which was introduced in proposal 1 (above), is also used in relation to support:
 - GO from production which has received support under any of the support schemes mentioned in Article 8 (1) (a) and (b) may not contribute to target compliance in any country other than that which has given the support; and
 - GO from production which has not received such support will be eligible to be counted for target compliance in the country of cancellation (note that under the proposed change to the linkage between GO and target accounting implicit in the current RES Directive, such target eligibility would be restricted to GO from “new” plants).
- Member States are required to clarify how supported¹ energy will be allocated in terms of disclosure. Where GO have been issued for supported energy, Member States may either require the submission of such GO to the competent body in this Member State, or allow the further transferability of the GO for disclosure purposes. In the latter case:
 - the GO must clearly be marked as relating to supported energy (which makes clear that they cannot be used for target accounting); and
 - the Member State may (or “The Directive may require MS to”) restrict the transferability of such supported GO to its national market.
- The AIB is open to quota obligations being facilitated, either through the GO system or via separate support certificates. However, if separate support certificates are introduced, they must be clearly distinguishable from GO and there must be no risk of confusion between the two systems.

¹ This relates to support as defined by Article 8 (1) (a) and (b).

3. Clarification of the relation between CHP-GO and RES-GO

Problem: The COM draft for the Directive does not clearly indicate a relationship between GO issued for high-efficiency CHP production, and RES-GO. In case of high-efficiency CHP from biomass, a separate issuing of two GO could lead to double counting.

Proposed solution

The RES Directive should clarify that in the case of overlap between the RES and the CHP directive in terms of GO issuing, only one GO may be issued for each MWh produced. Such GO would then qualify for the purposes allocated to them both by the RES and the CHP Directive and would have to contain all relevant information as defined by both Directives. Of course, this assumes that RES GO and CHP GO have similar uses (e.g. targets, support and/or disclosure).

4. Impact of transfers of GO between Member States

Problem: Article 9 (1) allows Member States to transfer to the competent body of another Member State ("Member State trade") GO which have been submitted for cancellation in recognition of their use in connection with disclosure, the receipt of support, or the receipt of benefits under a quota obligation. This raises two questions:

- What impact will such transfers have on the information disclosed to consumers in the two Member States involved?
- It seems clear that a Member State can "sell" to other Member States GO which have been submitted for cancellation to reflect receipt of support or following their use in quota obligation established by that Member State. However, why should a Member State be allowed to "sell" to other Member States GO which have been submitted for purposes of disclosure, i.e. voluntary demand?

Proposed solution

- Where Member States transfer GO between their competent bodies, this will have no effect on the allocation of generation attributes for purposes of disclosure.
- Member States can only transfer GO to the competent body of another Member State if these GO have been submitted in connection with a support scheme as listed in Article 8 (1) (a) and (b).

Note: The Commission has stated that GO will have to be issued for all RES energy which receives support or benefits from a quota obligation. This would ensure that GO are available for the transfers to other Member States as described above. However, this regulation should be expressed clearly in the Directive.

Considerations concerning modification to the draft Directive in the context of a multi-certificate model

As an alternative to the single certificate model discussed above, the Directive could be revised to adopt a multi-certificate approach introducing a new instrument: a target accounting certificate for target flexibility mechanisms; and clarifying the use of RES-GO and CHP-GO as tracking instruments for electricity disclosure. This would require careful revision of the proposed text of the Directive to take into account the specific requirements of a multi-certificate approach, including the content and treatment of separate certificates for disclosure and target accounting, and the inter-relationship of each with the other and with support. A specific area for consideration is the trading of unsupported electricity between Member States for purposes of target accounting; and the type of certificates that would be awarded for such production. There may also be a need for some Member States to review the amount of support offered per MWh.

Regulations on how to issue, transfer and cancel certificates can be common for both types of certificates or can differ according to policy views.

According to AIB, the principles of issuing the certificates electronically within a reliable framework and the designations of bodies responsible for a national registry could be identical. Both certificates could also contain the same specifications. The different purpose could be specified in the definition itself.

On the other hand, the rules for transfer and submission for cancellation of the certificates could be different. This is needed in order to facilitate the trade for the purpose of disclosure, whereas the trade in target accounting certificates could still be restricted in the way that is described in the COM proposal.

If this approach is followed, the four issues discussed in the previous part of this paper could potentially be solved based on the difference in purpose of both certificates. As the situation in Belgium demonstrates (single certificate model in Flanders and multi-certificate model in Brussels and Wallonia), policy objectives can be successfully achieved by more than one approach. Since both markets and consumers are stakeholders in this matter, the choice of model must be heavily influenced by the potential implications for both groups.