



EUROPEAN COMMISSION

Brussels, 2.9.2021
C(2021) 6494 final

PUBLIC VERSION

This document is made available for information purposes only.

Subject: State aid SA.63198 (2021/N) – Sweden - Prolongation of SA.55695 (2020/N) - Tax exemptions for pure and high-blended liquid biofuels

Excellency,

1. PROCEDURE

- (1) By electronic notification on 26 May 2021, registered by the Commission on the same date, Sweden, in accordance with Article 108(3) of the Treaty on the Functioning of the European Union (hereinafter "TFEU"), notified its intention to prolong the tax exemption for pure and high-blended liquid biofuels for one additional year.
- (2) Following an information request sent on 29 June 2021, on 2 July 2021 Sweden provided additional clarifications and also submitted a language waiver, with which exceptionally agreed to waive its rights deriving from Article 342 of the TFEU, in conjunction with Article 3 of Regulation 1/1958¹ and to have this Decision adopted and notified in English.
- (3) The notified measure is a prolongation of an existing scheme which was approved by the Commission as compatible aid and subsequently prolonged several times². The latest approval decision in case SA.55695 (2020/N)³ was based on the Guidelines on State aid

¹ Regulation No 1 determining the languages to be used by the European Economic Community (OJ 17, 6.10.1958, p. 385).

² See Commission Decisions in N 480/2002; N 112/2004; N 592/2006; SA.35414 (2012/N); SA.36974 (2013/N); SA.38421 (2014/NN); SA.43301 (2015/N); SA.48069 (2017/N) and SA.55695 (2020/N).

³ State aid SA.55695 (2020/N) - Tax exemptions for pure and high-blended liquid biofuels in Sweden, adopted on 8 October 2020 (OJ C 7, 8.1.2021).

Utrikesminister Ann Linde
Utrikesdepartementet
Arvfurstens palats
Gustav Adolfs torg 1
SE - 103 23 Stockholm
SVERIGE

for environmental protection and energy 2014-2020 (“EEAG”)⁴ and is valid until 31 December 2021 (“the 2020 decision”).

2. DETAILED DESCRIPTION OF THE AID

2.1. Objective, form of aid, legal basis, beneficiaries and eligibility requirements

- (4) Sweden does not intend to introduce any modification to the scheme approved in 2020, but wishes to prolong its duration for one additional year (i.e. until 31 December 2022). All the elements of the 2021 scheme, notably as regards the objective, form of aid, legal basis, beneficiaries and eligibility requirements, will remain the same. More specifically, the scheme is part of the Swedish strategy on climate change and would help Sweden achieve its 2030 EU renewable target, as well as its national target to reduce greenhouse gas emissions from domestic transports with at least 70 percent by 2030 compared to 2010. The tax exemptions will ensure a high demand for biofuels, which will also promote the required investments for adapting the vehicles and the infrastructure for the transition towards fossil free transport. To support the above objective, the scheme allows sustainable high-blended and pure biofuels to benefit from a full exemption from the energy and CO₂ taxes applicable in Sweden⁵. This exemption is not available for low-blended biofuels and unsustainable biofuels.
- (5) Sweden provided data on the latest market developments and trends for the use of Ethanol, FAME and HVO.) Based on the 2020 monitoring report of the Swedish Energy Agency (“SEA”) ⁶, the trends in the use of high blended biofuels have remained stable. More specifically, Sweden explained that the share of Ethanol in transport fuels E85 (ethanol fuel blend of 85% ethanol fuel) and ED95 (ethanol fuel blend of 95% ethanol fuel) had been decreasing since 2012. This is mainly explained by a decrease in the use of E85, which is predicted to constitute only around 0.3 percent of the total energy used in the transport sector in 2021.
- (6) E85 is to a larger extent, in comparison to other high blended biofuels such as FAME or ED95, provided to private car owners of dedicated cars, directly at the petrol stations. The use of high blended FAME has also decreased since 2014 and the Swedish authorities explained that no major changes are expected in 2022, as the markets are relatively stable. Pure FAME is a possible substitute to both fossil diesel fuel and HVO. Since its introduction on the market, the use of high blended HVO has increased but the consumption is expected to stabilize according to the data available to the Swedish authorities (Short term energy outlook provided by SEA).

⁴ OJ C 200, 28.6.2014, p. 1-55.

⁵ The full tax exemption covers the following high-blended biofuels: – high-blended FAME (B100); – high-blended ethanol (E85, ED95); – hydrogenated vegetable and animal oils and fats, known as HVO when the volume of these motor fuels consists of more than 98 % biomass; – synthetic petrol, produced from lignin, when the volume of these motor fuels consists of more than 98 % biomass.

⁶ <https://www.energimyndigheten.se>

Table 1. Use of high-blended biofuels in the transport sector in 1 000 m3 and within brackets as share of total energy used in the transport sector 2013-2022 (forecast from 2021).

	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
Ethanol in E85 and ED95	176 (1.1%)	156 (1%)	103 (0.6%)	58 (0.4%)	49 (0.3%)	70 (0.4%)	49 (0.3%)	46 (0.3%)	41 (0.3%)	38 (0.3%)
High blended FAME	53 (0.5%)	175 (1.7%)	177 (1.7%)	78 (0.8%)	71 (0.7%)	110 (1.1%)	97 (1.1%)	98 (1.1%)	98 (1.1%)	99 (1.1%)
High blended HVO	1 (0%)	2 (0%)	34 (0.3%)	260 (2.6%)	565 (5.6%)	446 (4.4%)	244 (2.8%)	202 (2.3%)	203 (2.3%)	205 (2.3%)

Source: the Swedish authorities

2.2. Aid level and monitoring of overcompensation

- (7) The scheme is subject to regular monitoring by the Swedish authorities.
- (8) When setting the level of the tax exemption, the Swedish authorities have taken into account the initial forecasts by the SEA regarding the production costs of biofuels and how such costs compare to the market price of their equivalent fossil fuels. In this way, Swedish authorities have ensured that the aid level does not exceed the difference between the production costs of a biofuel and the reference market price of the fossil fuel it replaces, thus preventing overcompensation. The forecasts are provided by the SEA in the form of an annual monitoring report.
- (9) Sweden submitted the results of the latest report conducted by the SEA based on data from 2020. Tables 2 confirms that that the difference between the reference price of fossil fuel and the price of biofuels has remained positive (biofuels remained more expensive than the corresponding fossil fuel, even after taken into account the effect of the aid, i.e. the exemption from the energy and CO₂ taxes)⁷.

Table 2. Cost comparison liquid biofuels and fossil counterpart, 2020, EUR per litre

	High-blended ethanol in E85	Fossil Petrol	High-blended FAME B100	HVO	Fossil Diesel
A) Raw materials	0,68	-	0,86	0,98	-
B) Labour costs	0	-	0,01	0	-
C) Capital costs	0,01	-	0,01	0	-

⁷ In other words, the tax levied on fossil fuels and from which biofuels are exempted (I) is smaller than the difference between the biofuels production costs, once adjusted for energy content, (J), and the price of fossil fuels without the energy and CO₂ tax (J – I).

D) Processing costs and other costs	0,18	-	0,11	0,11	-
E) Transport costs	0,02	-	0,02	0	-
F) Sales of by-products	0	-	0	0	-
G) Total production costs (A+B+C+D+E-F)	0,89	0,44	1,02	1,1	0,52
H) Profit margin (gross margin for petrol and diesel)	-	0,14	-	-	0,1
I) Energy tax and CO ₂ tax for petrol and Diesel	-	0,64	-	-	0,45
J) Price (G+H+I) adjusted for energy content	1,37	1,22	1,09	1,15	1,07
K) Reference price of fossil fuel	1,22	1,22	1,07	1,07	1,07
L) Difference between reference price of fossil fuel and price of biofuels (J-K)	0,15		0,02	0,08	

Source: The Swedish authorities, SEA monitoring report for 2020 and own calculations; Exchange rate: Official journal 1 October 2020: 10,4853 SEK/EUR (2020/C 325/10).

- (10) In their submission, the Swedish authorities explain that, based on the results from the monitoring reports and the forecasted future oil prices by the SEA, the risk for future overcompensation is considered low. To further minimise the risk of overcompensation, the national authorities will continue their monitoring commitments under the scheme as approved in 2020. They will submit to the Commission annual monitoring reports and adapt the aid level if necessary to avoid overcompensation.

2.3. Share of food-based biofuels in the total transport energy consumption

- (11) According to the Swedish authorities, the share of food-based biofuels of the total energy consumption in the Swedish road and railway sectors reported to Eurostat according to Article 3(4)d, first paragraph, of the Renewable Energy Directive 2009/28/EC⁸ (“RED I”) was 5,6% in 2018. It has remained relatively stable for the past years and has not exceeded 7%. Furthermore, since it reached a peak of 6,8% in 2015, it has continuously decreased. Information on food-based biofuels is reported annually to Eurostat and this will continue to be the case under Directive 2018/2001/EU⁹, which replaces RED I.
- (12) While the Swedish authorities acknowledge that in a free market for biofuels the share of food-based biofuels is difficult to forecast, they estimate that their share would remain stable and is unlikely to exceed 7% in the period up to the 31 December 2022, which is the end date of the notified scheme. To underpin their forecast, they refer to the historical data (Table 3), as well as the contribution of national policies privileging non food-based biofuels produced from waste and residues¹⁰, which would have the effect of keeping the food-based biofuel share always under 7%.

⁸ Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC, OJ L 140, 5.6.2009, p. 16–62.

⁹ Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources, OJ L 328, 21.12.2018, p. 82–209.

¹⁰ See the support schemes for biogas and biopropane for heating (SA.56125) and for use as motor fuel (SA.56908), which apply only to non-food based biogas and biopropane.

Table 3. Reported shares of food-based biofuels 2011-2019 and predictions for 2020-2022

2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
4,90%	5,20%	5,10%	6,40%	6,80%	5,30%	5,00%	5,60%	5,30%	5,30%	5,70%	6,20%

Source: the Swedish authorities

2.4. Budget, duration, cumulation and other elements

- (13) The notified scheme will enter into force on 1 January 2022 and will prolong the existing scheme SA.55695 (2020/N) until 31 December 2022.
- (14) The overall budget for the scheme is estimated to be 2.09 billion SEK (EUR 199.3 million¹¹) and it covers a period of one year.
- (15) Sweden explained that in order to be granted a tax reduction for food-based biofuels, the taxpayers are obliged by law to have a verification system in place that ensures that aid is only claimed for food-based biofuels coming from plants that started operation before 31 December 2013, which are not fully depreciated. Non-food based biofuels are generally produced in modern plants using relatively new technology and no such legal obligation exists for plants using non food-based biofuels. Sweden explained that given that the notified scheme will end on 31 December 2022, these plants will not yet be depreciated within the duration of the scheme. The Swedish authorities also need to ensure that aid will only be granted to plants until they are fully depreciated and include this requirement, where needed, in the revised legislation.
- (16) Sweden confirmed that the granting of aid during the extended duration of the existing aid scheme will comply with all the requirements, common assessment principles and specific conditions on the basis of which the 2020 decision was adopted.

2.5. Evaluation of the scheme

- (17) The Swedish authorities undertook in 2017 to carry out an evaluation of the scheme SA.48069 (2017/N) to assess the scheme's direct impact, its indirect effects, including on competition, as well as the proportionality of the aid and the appropriateness of the chosen aid instrument.¹² Sweden submitted this report on 8 January 2020. However, the Commission found in its decision in case SA.55695 (2020/N) that the methodology adopted by the SEA to carry out the expected assessment did not comply fully with the approved evaluation plan in SA.48069. Therefore, Sweden and the Commission agreed to an action plan to address this issue through the submission of a revised report by April 2021, without prejudice to the scheme's prolongation beyond 2021. In line with their

¹¹ Calculated with official exchange rate of 1 October 2020: 10,4853 SEK/EUR (2020/C 325/10).

¹² State aid SA.48069 (2017/N) – Sweden - Tax reductions for pure and high-blended liquid biofuels (OJ C 380, 10.11.2017).

commitments, Sweden submitted on 1 April 2021 their revised evaluation report under SA.48069 (2017/N) to the Commission.

- (18) The revised evaluation report presented was in line with the amended evaluation plan as per Commission Decision SA.55695 (2020/N) (see recitals 31-32). However, due to the lack of robust statistical data, it was considered premature to draw a firm conclusion on the effectiveness of the scheme. For this reason, the Swedish authorities will continue the monitoring and evaluation of the scheme during the prolongation of the tax exemptions, based on the existing evaluation plan (described in recitals 31-32 of Commission Decision SA.55695 (2020/N)). A report for the prolongation will be submitted to the Commission by 31 December 2021 and will provide an update on the data collection process and discuss the additional evidences available; an additional evaluation report containing the results of the completed counterfactual evaluation will be submitted by 31 December 2025.

3. ASSESSMENT OF THE AID

3.1. Existence of aid

- (19) As the Commission held in its previous decisions, the scheme constitutes State aid within the meaning of Article 107(1) TFEU. Indeed, the tax reductions included in the Swedish Act (1994:1776) on Excise duties reduce the State's tax income. Those reductions are therefore imputable to the State and financed through State resources. They also selectively benefit biofuel producers against other transport fuel producers, and therefore provide for a selective advantage to those producers. Since biofuels serve as a substitute for fossil fuels, the tax reductions may distort competition among fuel producers and fuel suppliers. As fuels are traded internationally, the measure is also likely to affect trade between Member States.

3.2. Lawfulness of aid

- (20) Sweden has fulfilled its obligations according to Article 108(3) TFEU by notifying the scheme before putting it into effect.

3.3. Compatibility

- (21) The notified scheme prolongs the existing aid scheme for one additional year and cannot be separated from the scheme the Commission has already approved. The modification of the aid scheme was assessed according to Article 107(3)(c) TFEU and in the light of the EEAG, in particular sections 3.2 and 3.3.
- (22) As stated in the Green Deal Communication¹³, "*evaluations are underway of the relevant State aid guidelines including the environmental and energy State aid guidelines. The guidelines will be revised by 2021 to reflect the policy objectives of the European Green*

¹³ Communication 'The European Green Deal' (Brussels, 11.12.2019, COM(2019) 640 final).

Deal (...) ". In view of that planning, the Commission prolonged the application of the EEAG until 31 December 2021.¹⁴

- (23) The Commission notes however that, in the context of the EEAG revision, if an existing approved aid scheme becomes no longer compatible with the internal market, the Commission may adopt a recommendation proposing appropriate measures in line with Article 22 of the Procedural Regulation¹⁵.
- (24) Until the adoption of the revised guidelines, the EEAG continue to apply and remain the relevant legal framework for the assessment of the scheme prolongation. In that regard, the Commission takes into account that, when granting aid under the extended duration of the scheme, Sweden committed to comply with the all the requirements and conditions on the basis of which the 2020 decision was adopted (recital (16) of this Decision).
- (25) Moreover, Sweden has provided data from the SEA confirming that the relevant market calculations and assumptions applied on the assessment of SA.55695 (2020/N) remain valid (e.g. absence of overcompensation in view of the price difference between the relevant biofuels and their fossil equivalent). The extension of the duration of the scheme remains therefore compliant with the EEAG.
- (26) Based on the above considerations and as detailed below, the Commission concludes that the proposed alteration does not affect the assessment of the compatibility of the existing aid scheme with the internal market, as carried out in the 2020 decision.

3.3.1. Development of an economic activity

- (27) As noted in recital (4) above, the objective of the scheme remains the same as described in the 2020 decision, i.e. support to production of sustained biofuels and, moreover, the environmental protection through increased use of such biofuels.
- (28) Therefore, the Commission's assessment in section 3.3.1 of the 2020 decision remains unaffected by the notified one-year prolongation.

3.3.2. Need for State intervention and incentive effect

- (29) As demonstrated in recital (9) above, the production costs of the high-blended biofuels remain higher than the market price of the equivalent fossil fuel.
- (30) Hence, as considered in sections 3.3.2 and 3.3.3 of the 2020 decision, without the aid there would be insufficient incentive to produce these fuels in the quantities needed. Aid is therefore necessary.

¹⁴ See the Communication from the Commission concerning the prolongation and the amendments of [...] the Guidelines on State Aid for Environmental Protection and Energy 2014-2020 [...] (OJ C 224, 8.7.2020, p. 2–4).

¹⁵ Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union, OJ L 248, 24.9.2015, p. 9–29.

- (31) Furthermore, since the tax reductions will encourage the use of high-blended biofuels, they will also incentivise the production of these biofuels. The aid therefore has an incentive effect.

3.3.3. Specific provisions on food-based biofuels

- (32) As noted in recital (15), Sweden will ensure that the aid will only be granted to plants until they are fully depreciated and will include this requirement, where needed, in the revised legislation.
- (33) As the EEAG continue to apply and remain the relevant legal framework for the assessment of the scheme's prolongation, the same considerations apply in this case as in section 3.3.4 of the 2020 decision.

3.3.4. Appropriateness and proportionality

- (34) As noted in recital (4) above, the form of the aid remains the same as in the 2020 decision, i.e. tax reduction. Hence, the appropriateness assessment in section 3.3.5 of that decision remains unaffected by the one-year prolongation.
- (35) As regards proportionality, based on the data submitted by Sweden (see recital (9)), even with the notified aid in place, aid per unit of energy does not exceed the difference between the total costs of the high-blended biofuel and the market price of its respective counterfactual fuel's market price. Furthermore, Sweden confirmed that it will continue to monitor the market and send a monitoring report to the Commission (see recital (10)). On that basis, the assessment on proportionality carried out in section 3.3.6 of the 2020 decision remains valid.

3.3.5. Avoidance of undue negative effects on competition and trade between Member States

- (36) According to point 116 of the EEAG, the Commission presumes the limited effects of the aid provided that all other conditions are met, which is the case here.

3.3.6. Other conditions

- (37) Sweden confirmed (see recital 16) that granting of aid during the extended duration of the existing aid scheme will comply with all the requirements, common assessment principles and specific conditions on the basis of which the 2020 decision was adopted.
- (38) On that basis, the Commission considers that its assessment in sections 3.3.8 to 3.3.11 in the 2020 decision remain valid.

3.3.7. Evaluation plan

- (39) Also in terms of ex-post evaluation, the proposed alterations do not change the research questions, data, or methodology already approved for SA.55695 (2020/N), which remains valid. The Commission notes that the report submitted on 1 April 2021, albeit inconclusive on the effectiveness of the scheme, does not put into question the Commission's conclusion on the compatibility of the one year prolongation of the scheme with Article

107(3)(c) TFEU (see in particular recitals (9), (25), (29 and (35)). The reports scheduled respectively to 31 December 2021 and 31 December 2025 at the latest shall allow for a thorough assessment of the effectiveness of the scheme.

4. CONCLUSION

The Commission has accordingly decided not to raise objections to the notified aid prolongation on the grounds that it is compatible with the internal market pursuant to Article 107(3)(c) of the Treaty on the Functioning of the European Union.

Yours faithfully
For the Commission

Margrethe VESTAGER
Executive Vice-President