



EUROPEAN COMMISSION

Brussels, 14.9.2017  
C(2017) 6169 final

PUBLIC VERSION

This document is made available for  
information purposes only.

**Subject: State aid SA.48069 (2017/N) – Sweden**  
**Tax reductions for pure and high-blended liquid biofuels**

Madam,

**1. PROCEDURE**

- (1) On 7 July 2017, Sweden notified the above-mentioned aid scheme, pursuant to Article 108(3) of the Treaty on the Functioning of the European Union (TFEU), following previous exchanges with the Commission.
- (2) The notified measure is an amendment of an existing scheme which was repeatedly approved by the Commission as compatible aid. The latest approval decision in case SA.43301 (2015/N)<sup>1</sup> was based on the Guidelines on State aid for environmental protection and energy 2014-2020 (EEAG)<sup>2</sup>.
- (3) The Commission requested further information on 17 July 2017 to which Sweden replied on the same day.

---

<sup>1</sup> SA.43301 (2015/N) – Sweden – Tax exemptions and tax reductions for liquid biofuels (OJ C 241, 01.07.2016, p. 5).

<sup>2</sup> OJ C 200, 28.6.2014, p. 1-55.

Utrikesminister Margot WALLSTRÖM  
Utrikesdepartementet  
Arvfurstens palats  
Gustav Adolfs torg 1  
SE - 103 23 Stockholm

## 2. DETAILED DESCRIPTION OF THE AID

### 2.1. Objective, form of aid, legal basis and beneficiaries

- (4) The use of motor fuels produced from biomass is a vital part of the Swedish strategy on climate change. Increased shares of biofuels would help Sweden achieve its 2030 EU 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.
- (5) Currently, Sweden supports biofuel production through tax exemptions and reductions under a measure approved by the European Commission in 2015 until 31 December (SA.43301 (2015/N)). Sweden grants a full exemption from the CO<sub>2</sub> tax for all biofuels (both low and high blends including pure biofuels<sup>3</sup>) and it also grants various exemptions or reductions from the energy tax for both low and high-blended biofuel types:<sup>4</sup>
- (a) Under the existing and approved scheme low-blended biofuels receive the following reduction from the energy tax:
- a 74 % tax reduction for ethanol for low-blending;
  - a 100 % tax exemption for biofuels for low-blending other than ethanol;
  - a 8 % tax reduction for fatty acid methylester (FAME) for low-blending;
  - a 100 % tax exemption for biofuels for low-blending other than FAME.
- (b) Under the existing and approved scheme high-blended biofuels receive the following reduction from the energy tax:
- a 50 % tax reduction for FAME for high-blending;
  - a 73 % tax reduction for ethanol (E85) for high-blending;
  - a 100 % tax exemption for liquid for high-blending other than ethanol or FAME;
  - a 100 % tax exemption for hydrogenated vegetable and animal oils and fats, known as HVO.
- (6) In order to ensure a fossil fuel free vehicle fleet in Sweden, the Swedish authorities put forward that it is crucial to ensure that the share of pure and high-blended biofuels that supports an infrastructure at petrol stations all over the country further increases. A long term demand from consumers is crucial to ensure that car manufacturers can approve the use of biofuels as motor fuels in their vehicles.

---

<sup>3</sup> For the purpose of this decision, high-blended biofuels are understood to encompass pure biofuels with a biomass content of 100 %.

<sup>4</sup> See in particular recital (6) of decision SA.43301 (2015/N).

- (7) The Swedish authorities expect to achieve such an increase by establishing an 'emission reduction obligation system' on all low-blended fuels put onto the market and by maintaining and further increasing the energy tax reduction for high-blended biofuels.
- (8) The 'emission reduction obligation system' will impose on fuel suppliers the obligation as from 1 July 2018 to reduce the greenhouse gas (GHG) emissions of petrol and diesel put onto the market through the blending of sustainable low-blended biofuels. The provisional quota for 2018 has been set to 19.3 % for diesel fuel, followed by continuous increases until 2020 (20 % in 2019 and 21 % in 2020). For petrol, the provisional quota for 2018 has been set to 2.6 %, which is increased to 4.2 % in 2020.
- (9) Failure to fulfil the emission reduction obligation will be penalised with a fee. The fee may not exceed SEK 7 per kilogram of carbon dioxide equivalents that remain for the emission reduction obligation to be met.
- (10) High-blended and pure biofuels will not be covered by the emission reduction obligation. These fuels will instead be eligible for energy and CO<sub>2</sub> tax exemptions. The Swedish authorities explained that as of 1 July 2018, high-blended biofuels will benefit from a complete exemption from both the CO<sub>2</sub> tax and the energy tax for the part of the blended biofuel that derives from biomass. In contrast, low-blended biofuels and unsustainable biofuels will be taxed in the same way as their fossil fuel equivalents, thus they will no longer receive any exemption or reduction from either the CO<sub>2</sub> tax nor the energy tax.
- (11) The Swedish authorities have confirmed that the aid in the form of exemptions from the CO<sub>2</sub> and energy taxes will only concern biofuels that fulfil the EU sustainability criteria, as defined in Article 17(2)-(5) of the Directive 2009/28/EC of the European Parliament and of the Council<sup>5</sup>.
- (12) The Swedish authorities have also confirmed that the already existing definitions of high-blended biofuels as referred to in recital (5)(b) as regards the existing scheme will not change as a result of the proposed regulatory changes. The tax exemptions will thus cover the following high-blend 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 % of biomass;
  - synthetic petrol, produced from lignin, when the volume of these motor fuels consists of more than 98 % of biomass<sup>6</sup>.

---

<sup>5</sup> 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).

<sup>6</sup> Sweden explains that high-blended synthetic petrol (biomass content exceeding 98 %) is currently not available on the Swedish market and is not expected to become available before the expiration of the modified scheme on 31 December 2020.

The Swedish authorities add that if HVO or synthetic petrol from lignin consists of 98 % or less of biomass, it will not be covered by the notified amendment and will be taxed with the general tax rates for petrol and diesel.

- (13) The Swedish authorities argue that the aid aims at a tax level for biofuels that enables biofuels to become a competitive alternative to their fossil fuel equivalents for the consumer at the petrol station. They also argue that an increased aid level with a full tax reduction for high-blended FAME and ethanol instead of a partial tax reduction is important in order to maintain a market for these types of high-blended biofuels.
- (14) The Swedish authorities have provided data showing a significant decline in the use of high-blended ethanol since 2012 (see Table 1). As regards the use of high-blended FAME, the Swedish authorities put forward that, as of 2016, a sharp decline was expected which eventually was supported by the most recent preliminary data on sales volumes in 2016. The reduction of prices for petrol and diesel has been pointed out by Sweden as one of the causes of such decline. Therefore, according to the Swedish authorities, a further reduction for high-blended FAME and ethanol – from the energy tax reduction of 50 % and 73 % they benefit from today to a full exemption – would help increase their share of the market.

**Table 1: Use of high-blended biofuels in 1000 m<sup>3</sup> and in brackets as share of total energy used in the transport sector 2012-2018 (forecast as of 2016)**

	2012	2013	2014	2015	2016	2017	2018
Ethanol in E85 and ED95	215 (1.4%)	176 (1.1%)	156 (1%)	103 (0.6%)	55 (0.3%)	51 (0.3%)	47 (0.3%)
High blended FAME	42 (0.4%)	53 (0.5%)	175 (1.7%)	177 (1.7%)	79 (0.7%)	45 (0.4%)	12 (0.1%)
High blended HVO	0 (0%)	1 (0%)	2 (0%)	34 (0.3%)	260 (2.5%)	384 (3.7%)	453 (4.4%)

**Source:** Swedish Energy Agency and Swedish Ministry of Finance.

- (15) The tax exemptions are granted to compensate for the difference between the (higher) costs of producing sustainable high-blended biofuels and the market price of the equivalent fossil fuels.
- (16) The legal basis of the aid is paragraph 3c 1 of the 7<sup>th</sup> chapter of the Swedish Act (1994:1776) on Excise duties on Energy. The Swedish excise duty on energy consists of two parts, namely an energy tax and a carbon dioxide (CO<sub>2</sub>) tax.
- (17) The scheme applies to biofuels produced in Sweden and to imported biofuels. While the tax exemptions have to be claimed by the fuel suppliers who purchase the eligible biofuels and make the tax declarations, the tax exemptions will indirectly benefit the producers of sustainable biofuels (the “beneficiaries”) as it off-sets part of the biofuel production costs.

- (18) The Swedish Energy Agency (SEA) is responsible for a control system that ensures the fulfilment of the sustainability criteria and the control of depreciation of production facilities. According to Swedish tax legislation, a supplier of imported biofuels needs to be able to produce evidence that the biofuels are sustainable in order to receive aid.
- (19) In order to benefit from the tax exemption for high-blended biofuels, the supplier has to provide a decision from the SEA that any food-based biofuels that would benefit from the tax exemption is part of a controlling mechanism which ensures that those biofuels were supplied from plants that started operation before 31 December 2013 and that these are not fully depreciated. Such decision and monitoring is carried out by the SEA.

## 2.2. Aid level and monitoring of overcompensation

- (20) As the scheme has already been in place in the past, it has been subject to regular monitoring by the Swedish authorities.
- (21) The level of the energy tax increase is based on initial forecasts by the SEA in order to avoid that the aid level exceeds the difference between the high-blended biofuels' production costs and the market price of the equivalent fossil fuels (overcompensation). The forecasts are monitored by the SEA in the form of an annual monitoring report. To this extent Sweden submitted the results of a report conducted by the SEA for 2016 and estimations for 2017 and 2018.

**Table 2: Cost comparison liquid biofuels and fossil counterpart, 2016**

EUR per litre

	High-blended ethanol in E85	Fossil petrol	High-blended FAME (B100)	HVO	Fossil diesel
A) Raw materials	0.52	-	0.78	0.92	-
B) Labour costs	0.00	-	0.01	0.01	-
C) Capital costs	0.01	-	0.01	0.00	-
D) Processing costs and other costs	0.18	-	0.16	0.13	-
E) Transport costs	0.01	-	0.02	0.03	-
F) Sales of by-products	-	-	-	-	-
G) Total production costs (A+B+C+D+E-F)	0.72	0.31	0.98	1.08	0.28
H) Profit margin (gross margin for petrol and diesel)	-	0.15	-	-	0.11
I) Energy tax (and CO2 tax for petrol and diesel)	0.07	0.66	0.11	0.00	0.58
J) Price (G+H+I) adjusted for energy content	1.22	1.12	1.16	1.14	0.97
K) Reference price of fossil fuel	1.12	1.12	0.97	0.97	0.97
<b>L) Difference between reference price of fossil fuel and price of biofuels (J-K)</b>	<b>0.10</b>	<b>0.00</b>	<b>0.19</b>	<b>0.17</b>	<b>0.00</b>

**Source:** Swedish Energy Agency and Swedish Ministry of Finance

**Table 3: Expected costs for liquid biofuels and fossil counterpart, 2017**

EUR per litre

	High-blended ethanol in E85	Fossil petrol	High-blended FAME (B100)	HVO	Fossil diesel
A) Raw materials	0.57	-	0.79	0.93	-
B) Labour costs	0.00	-	0.01	0.01	-
C) Capital costs	0.01	-	0.01	0.00	-
D) Processing costs and other costs	0.18	-	0.16	0.13	-
E) Transport costs	0.01	-	0.02	0.03	-
F) Sales of by-products	0	-	0	0	-
G) Total production costs (A+B+C+D+E-F)	0.78	0.36	0.99	1.10	0.32
H) Profit margin (gross margin for petrol and diesel)	-	0.15	-	-	0.11
I) Energy tax (and CO2 tax for petrol and diesel)	0.03	0.68	0.10	0.00	0.60
J) Price (G+H+I) adjusted for energy content	1.25	1.19	1.16	1.15	1.03
K) Reference price of fossil fuel	1.19	1.19	1.03	1.03	1.03
<b>L) Difference between reference price of fossil fuel and price of biofuels (J-K)</b>	<b>0.06</b>	<b>0.00</b>	<b>0.13</b>	<b>0.12</b>	<b>0.00</b>

Source: Swedish Energy Agency and Swedish Ministry of Finance

**Table 4: Expected costs for liquid biofuels compared to fossil counterpart, 2018**

	High-blended ethanol in E85	Fossil petrol	High-blended FAME (B100)	HVO	Fossil diesel
A) Raw materials	0.58	-	0.78	0.93	-
B) Labour costs	0.00	-	0.01	0.01	-
C) Capital costs	0.01	-	0.01	0.00	-
D) Processing costs and other costs	0.18	-	0.16	0.13	-
E) Transport costs	0.01	-	0.02	0.03	-
F) Sales of by-products	0.00	-	0.00	0.00	-
G) Total production costs (A+B+C+D+E-F)	0.78	0.36	0.98	1.10	0.32
H) Profit margin (gross margin for petrol and diesel)	-	0.15	-	-	0.11
I) Energy tax (and CO2 tax for petrol and diesel)	0.00	0.68	0.00	0.00	0.54
J) Price (G+H+I) adjusted for energy content	1.20	1.19	1.04	1.15	0.97
K) Reference price of fossil fuel	1.19	1.19	0.97	0.97	0.97
<b>L) Difference between reference price of fossil fuel and price of biofuels (J-K)</b>	<b>0.01</b>	<b>0.00</b>	<b>0.07</b>	<b>0.18</b>	<b>0.00</b>

Source: Swedish Energy Agency and Swedish Ministry of Finance

- (22) As regards the interpretation of the above Tables 2 – 4 the Swedish authorities put forward that the J line is the sum of lines G, H and I, and is adjusted for the energy content of the relevant biofuel compared to its fossil counterpart. Since the energy content varies significantly between for instance petrol and ethanol, the adjustment is made in order to make them comparable per unit of energy. The adjustment consists of multiplying the total costs of biofuel production (G+H+I) by an adjustment factor that captures the relationship between the relevant biofuel and its fossil fuel counterpart, in terms of energy content. Table 5 summarises the energy content by fuel and the resulting adjustment factors:

**Table 5: Energy content and adjustment factors by fuel**

kWh per litre		
Fuel	Energy content	Adjustment factor
Petrol	9.1	1.0
Diesel	9.8	1.0
Ethanol	5.9	1.54
FAME	9.2	1.07
HVO	9.4	1.04

**Source:** Swedish Energy Agency and Swedish Ministry of Finance

- (23) The Swedish authorities have confirmed that the SEA will continue conducting regular cost comparisons of high-blended biofuels relative to the fossil fuels they replace and compiling the results in monitoring reports to be submitted at least annually to the Commission, and that necessary measures will be taken to avoid overcompensation in the future. As a general rule, any necessary changes will be proposed by the Government in the autumn budget bill. To assess overcompensation of biofuels in a given year, the SEA will gather data through a reporting obligation for beneficiaries by the support scheme. Required information includes data on volumes and costs for production, imports and direct purchase of biofuels. Reporting entities are also asked to provide an assessment of how costs are expected to develop over the coming year. The monitoring system described above has been used for liquid biofuels during the previous scheme as well.
- (24) Moreover, Sweden has explained that the average margin reported by Swedish biofuel producers (when expressed as the difference between sales and total costs, divided by total costs) has not exceeded 5 % and it is, based on historical data, expected to remain below this range for the coming years.

### **2.3. Budget, duration, cumulation and other elements**

- (25) The notified measure will enter into force on 1 July 2018 and repeal the existing scheme SA.43301 (2015/N) as of 1 July 2018. The notified measure will remain in force until 31 December 2020.
- (26) The overall budget for the scheme is estimated at 8.5 billion SEK (0.89 billion EUR). The Swedish authorities explain that the budget allocated is based on the estimated use of high-blended biofuels during the aid period including a reasonable margin which takes into account the rapid development

and several uncertainty factors that have proven influential in the past. If divided by year, the annual aid budget is 3.4 billion SEK (0.35 billion EUR).

- (27) Sweden does not apply a quota system, blending obligation or any other system with similar effects for high-blended biofuels, and has indicated that it does not intend to apply any such measure for the duration of the notified aid scheme.
- (28) As regards cumulation, Sweden puts forward that investment aid for the promotion of sustainable biofuels may currently be granted by Sweden under State aid schemes for research and innovation or environmental purposes. These aid schemes are set up according to the General Block Exemption Regulation<sup>7</sup> and the de minimis regulation<sup>8</sup>. For these measures the current and the notified tax measures are and will be part of the calculations of the counterfactual scenario that is used to calculate the market gap. The investment aid scheme is therefore adapted to the rules on cumulation preventing overcompensation. Any potential overcompensation is monitored by the SEA.
- (29) Sweden has committed to comply with the transparency provisions of the EEAG.
- (30) Sweden committed to ensure that no firm in difficulty<sup>9</sup> can receive aid under the notified scheme.
- (31) Sweden also confirmed that it would not grant aid to an undertaking that is subject to an outstanding recovery order.

#### **2.4. Evaluation of the scheme**

- (32) Sweden has submitted an evaluation plan for the measure. The main elements of the evaluation plan are described below.
- (33) The evaluation plan notified by Sweden includes eight evaluation questions in order 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.
- (34) The direct effects of the scheme will be evaluated by assessing whether the tax reduction affects the volumes used and sold, and how the market for unsustainable biofuels develops.
- (35) The evaluation plan also includes a general question on the broader contribution of the scheme to the Swedish long term ambition of a fossil fuel free vehicle fleet.
- (36) The indirect effects of the scheme that will be evaluated are those on consumers' behaviour (whether the aid scheme has led consumers to switch from fossil fuels to high-blended biofuels), on the market situation for biofuels for the end

---

<sup>7</sup> Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ L 187, 26.6.2014, p. 1–78).

<sup>8</sup> Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid Text with EEA relevance (OJ L 352, 24.12.2013, p. 1–8).

<sup>9</sup> See point 20 of the Communication from the Commission — Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty (OJ C 249, 31.7.2014, p. 1–28).

consumer (considering market prices of fuels at pump) and on competition between aid beneficiaries in the Swedish biofuels market (considering market concentration).

- (37) The appropriateness of the aid instrument will be evaluated by comparing the scheme with other similar schemes, used previously in Sweden and concurrently in other EU Member States.
- (38) The proportionality of the aid will be evaluated by checking whether there is any overcompensation of beneficiaries and the evaluation report will summarise the yearly monitoring reports that are carried out by the SEA. In this framework, detailed data will be collected from the beneficiaries of the scheme including on production costs, import costs, costs related to the direct purchase of biofuels, as well as selling prices.
- (39) According to Sweden, since producers of unsustainable high blended biofuels will not receive aid, the development of such fuels can offer a relevant counterfactual scenario to assess the direct impact of the aid scheme. An alternative, or complementary, counterfactual could be to use the development of high-blended biofuels in a EU Member State that has no similar aid scheme in place. A number of control variables will be monitored to account for other factors affecting outcomes.
- (40) The evaluation will be performed by the SEA, which is independent of the Swedish Government and has the necessary technical expertise in the energy field.
- (41) Sweden has committed to submit the final evaluation report to the Commission by the 15 January 2020. The final report will be published on the website of the SEA (<http://www.energimyndigheten.se>). The results of the evaluation will be one of the factors taken into account when the Swedish Government will be considering the options for future policy design after 2020.

### **3. ASSESSMENT**

#### **3.1. Existence of aid**

- (42) 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. They are therefore imputable to the State and financed through State resources. They also selectively benefit biofuel producers against other transport fuel 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**

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

### 3.3. Compatibility

- (44) The Commission has assessed the compatibility of the aid scheme according to Article 107(3)(c) in light of the EEAG, in particular Sections 3.2 and 3.3.
- (45) In compliance with Section 2.3 of the Community Guidelines for State aid in the agricultural and forestry sectors and in rural areas 2014-2020<sup>10</sup>, aid for the production of biofuels is to be assessed on the basis of the EEAG.

#### 3.3.1. Objective of common interest

- (46) The measure's primary objective is environmental protection through increased use of sustainable biofuels. Promoting the use of sustainable biofuels should contribute to meeting the targets mentioned in recital (4). Sweden has confirmed that the scheme only supports high blended biofuels that meet the EU sustainability criteria (see recital (11)).
- (47) The measure therefore supports an objective of common interest of increasing the level of environmental protection by promoting energy from renewable sources as identified by points 30 and 107 of the EEAG.

#### 3.3.2. Need for State intervention

- (48) According to point 36 of the EEAG, aid is needed if the Member State demonstrates that the aid effectively targets a (residual) market failure which is not addressed by other policy measures. As far as the deployment of renewable energy is concerned, it is presumed in point 115 of the EEAG that a residual market failure remains, which can be addressed through the granting of aid for renewable energy.
- (49) Indeed, without State intervention, the high-blended biofuels would have the same tax rates as fossil fuels. Due to the higher costs of producing and using biofuels, they would not be sold (see recitals (13)-(15) and (21)). Hence, there would be insufficient incentive to produce these fuels in the quantities needed. Aid is therefore necessary.
- (50) More specifically, Swedish authorities have confirmed that the biofuels supported by the notified tax scheme would not be subject to a quota system, blending obligations or other systems with the similar effect during the aid period (until the end of 2020). Point 114 of the EEAG is therefore complied with.

#### 3.3.3. Incentive effect

- (51) The incentive effect is present if the aid changes the beneficiary's behaviour towards reaching the objective of common interest. This is the case in particular where the costs for producing renewable energy exceed the market price and the aid can help reduce these environmental extra costs. As shown in Tables 2 – 4, the costs for producing high blended biofuels are higher than the market price of the equivalent fossil fuels.
- (52) Sweden explained (see recital (13)) that the current scheme in place appears insufficient to increase the production of certain high-blended biofuels,

---

<sup>10</sup> OJ C 204 of 1.7.2014, p. 1. Amended by the Notice published in OJ C 390, 24.11.2015, p. 4.

nonetheless the notified tax reductions contribute to reduce the extra costs set out in Tables 2 – 4. Since the tax reductions will encourage the use of high-blended biofuels, they will also incentivise the production of these biofuels. The aid will therefore have an incentive effect according to point 49 of the EEAG.

#### *3.3.4. Specific provisions on food-based biofuels*

- (53) According to point 113 of the EEAG, operating aid to food-based biofuels can be granted until 2020, but only to plants that started operation before 31 December 2013 and only until the plant is fully depreciated. Food-based biofuels are biofuels that are produced from cereal and other starch rich crops, sugars and oil crops<sup>11</sup>.
- (54) Currently, in order for biofuels to benefit from the tax reductions, the beneficiaries are required to verify that the biofuels fulfil the EU sustainability criteria and that the biofuels are not food-based or, failing this, that they were produced in plants that started operation before 31 December 2013 and that are not fully depreciated (see recitals (18) and (19)).
- (55) To demonstrate compliance, a verification system needs to be in place to ensure that the biofuels for which the tax reductions are claimed meet the conditions mentioned above. For that purpose, the supplier will continue to need to obtain an approval document from the SEA that the verification system set up by the supplier satisfies the legal requirements.
- (56) Accordingly, the requirement in point 113 of the EEAG is fulfilled.

#### *3.3.5. Appropriateness*

- (57) In accordance with point 116 of the EEAG, the Commission considers that the tax reductions are an appropriate instrument to fulfil the objective of common interest identified above provided that all other conditions are met, which is the case here (see recitals (46)-(54)). Indeed, the tax reductions encourage the use of sustainable biofuels for blending and thereby foster their production.

#### *3.3.6. Proportionality*

- (58) According to point 131 of the EEAG, operating aid for renewable energy production also needs to meet the following cumulative conditions:
  - (a) the aid per unit of energy does not exceed the difference between the total levelised costs of producing energy (LCOE) of the particular technology in question and the market price of the form of energy concerned (no overcompensation);
  - (b) the LCOE may include a normal return on capital. Investment aid is deducted from the total investment amount in calculating the LCOE;
  - (c) the production costs are updated regularly, at least every year;

---

<sup>11</sup> Article 2, point 113 of Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187, 26.6.2014, p. 1.

- (d) aid is only granted until the plant has been fully depreciated according to normal accounting rules in order to avoid that operating aid based on LCOE exceeds the depreciation of the investment.
- (59) As regards the condition in point 131(a) of the EEAG, it follows from the Tables 2 – 4 submitted by Sweden (based on the reports on projections commissioned by the SEA) that, even with the notified aid in place (i.e. full exemption of energy tax – see projections for 2018 in Table 4), 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 as the value in row (L) remains positive.
- (60) For the duration of the scheme, Sweden has confirmed that it will continue to monitor the market for motor fuels and that monitoring reports will be compiled and sent to the Commission regularly, at least once a year. These reports will include updated cost calculations. Sweden has also committed that, in case of overcompensation, the aid levels would be adapted so as to remedy the overcompensation.
- (61) In light of this information and of these commitments, the Commission considers that the aid will not exceed the difference between the production costs of biofuels and the market price of the form of energy concerned (the equivalent fossil fuels). The conditions in point 131(a) and (c) EEAG are therefore met.
- (62) As far as the rate of return is concerned, it appears that the margin reported by the Swedish biofuel producers is not excessive: as explained in recital (24), it does not exceed 5 % of total production costs.
- (63) If the biofuel producers have received investment aid, this will be reflected in their production costs, for instance in reduced capital costs. Lower production costs in turn influence the extent to which aid may be granted, given that the overcompensation test is based on a comparison of biofuel production costs and the market price of the equivalent fossil fuel. Therefore, Sweden's method of checking for overcompensation ensures that any investment aid granted is taken into account. The conditions in point 131(b) EEAG are therefore met.
- (64) Aid can normally only be granted until full depreciation of the plant. In principle, as shown in the cost calculations in Tables 2 – 4, the tax reductions apply in such a way that the aid may also compensate for a biofuel producer's capital costs.
- (65) However, as was explained in recital (19), beneficiaries that source food-based biofuels will need to have a verification system in place that ensures that no aid is claimed for food-based biofuels coming from depreciated plants.
- (66) As far as non-food-based biofuels are concerned, Sweden has confirmed that no aid would be granted after the plants are fully depreciated according to normal accounting rules. This is because the non-food based biofuels still come from modern plants using relatively new technology. Given that the notified scheme will end on 31 December 2020, these plants will not yet be depreciated within the duration of the scheme. The conditions in point 131(d) EEAG is therefore met.

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

- (67) 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 (see recitals (46)-(66)).

*3.3.8. Firms in difficulty or subject to an outstanding recovery order*

- (68) As set out in recitals (30) and (31), Sweden has committed not to grant any aid to firms in difficulty or to those which are subject to an outstanding recovery order following a previous Commission decision declaring an aid measure illegal and incompatible with the internal market, in compliance with points 16 and 17 of the EEAG.

*3.3.9. Transparency*

- (69) Member States are required under Section 3.2.7 of the EEAG to publish as of 1 July 2016 certain information related to the beneficiaries of aid.
- (70) Sweden has committed to complying with these provisions. The relevant information will be published on a website<sup>12</sup> as of 1 July 2018, the day of the scheme's entry into force.

*3.3.10. Duration*

- (71) The notified measure will apply until 31 December 2020. Therefore, the measure is compliant with points 113 and 121 of the EEAG, according to which operating aid schemes for food-based biofuels shall be limited to 2020.

*3.3.11. Compliance with Union tax law*

- (72) As the notified measure concerns excise duty reductions and exemptions for energy products, the Commission also assessed its compliance with Council Directive 2003/96/EC (“the Energy Taxation Directive”).<sup>13</sup>
- (73) Article 16(1) of the Energy Taxation Directive allows Member States to apply an exemption or a reduced rate of taxation to biofuels. Article 16(2) limits the exemption or reduction in taxation to the part of the product that actually derives from biomass, which is the case under the notified measure as the tax exemption will only be granted for the part of the blended fuel that derives from biomass.
- (74) Furthermore, the notified measure also complies with Article 16(3) of the Energy Taxation Directive: Indeed, as it was concluded in recitals (59) and (60), the aid will not entail overcompensation of biofuel production in 2018. Moreover, Sweden has committed that, in case of any overcompensation in the future, the aid levels would be adapted so as to remedy the overcompensation (see recital (23)).

---

<sup>12</sup> <http://www.tillvaxtanalys.se/statistik/statligt-stod.html>

<sup>13</sup> Council Directive 2003/96/EC on restructuring the Community framework for the taxation of energy products and electricity (OJ L 283, 31.10.2003, p. 51).

### *3.3.12. Evaluation plan*

- (75) The EEAG (paragraph 28 and Chapter 4) state that the Commission may require that certain aid schemes are subject to an evaluation, where the potential distortion of competition is particularly high, that is to say when the measure may risk significantly restricting or distorting competition, if their implementation is not reviewed in due time. Given its objectives, evaluation only applies for aid schemes with large aid budgets, containing novel characteristics or when significant market, technology or regulatory changes are foreseen.
- (76) The scheme fulfils the criteria of being a scheme with a large aid budget and containing novel characteristics; therefore, it will be subject to an evaluation.
- (77) The scope and modalities of the evaluation have been defined, taking into account the Commission Staff Working Document on Common methodology for State aid evaluation, in an evaluation plan that Sweden notified together with the aid scheme and whose main elements are described in Section 2.1 above.
- (78) The Commission considers that the notified evaluation plan contains the necessary elements: the objectives of the aid scheme to be evaluated, the evaluation questions, the result indicators, the envisaged methodology to conduct the evaluation, the data collection requirements, the proposed timing of the evaluation including the date of submission of the final evaluation report, the description of the independent body conducting the evaluation or the criteria that will be used for its selection and the modalities for ensuring the publicity of the evaluation.
- (79) The Commission notes that the scope of the evaluation is defined in an appropriate way. It comprises a list of evaluation questions with matched result indicators. Data sources are individually defined for each question. Moreover, the evaluation plan sets out and explains the main methods that will be used in order to identify the impacts of the scheme, and discusses why these methods are likely to be appropriate for the scheme in question.
- (80) The Commission acknowledges the commitments made by Sweden that the evaluation will be conducted according to the notified evaluation plan by an independent expert body (see recital (40)). Moreover, the proposed modalities for the publication of the evaluation results are adequate to ensure transparency.
- (81) The Commission notes the commitment made by Sweden to submit the final evaluation report by 15 January 2020.

### *3.3.13. Conclusion*

- (82) In light of the above, the Commission considers that the notified measure is compatible with the internal market in accordance with Article 107(3)(c) TFEU.

#### **4. CONCLUSION**

The Commission has accordingly decided not to raise objections to the notified aid 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  
Member of the Commission