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Hydrogen in Belgium: the beginning of the H2 revolution?

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Introduction

Since October 2021, the Belgian federal government and its minister of energy (the minister), Tinne Van der Straeten, expressed high expectancies and ambitions regarding the future of a hydrogen economy.

The federal hydrogen strategy was published as a white paper to provide the main guidelines for Belgian hydrogen gas (H₂) economy development in the coming years. The strategy insisted upon four cornerstones:

- positioning Belgium as a hub for the import of renewable molecules for Europe;
- consolidating Belgium's leadership in hydrogen technologies;
- organising a robust hydrogen market; and
- focusing on cooperation.

Networks for hydrogen flows

One of the major operations of organising a robust hydrogen market is to ensure sufficient capacity for networks to deal with future hydrogen flows. Capacity is essential for transporting molecules between different locations and countries. Realising this requires optimal planning to meet the interests of transport, production and consumption. Therefore, the strategy proposed the installation of a network between 100-160 kilometres long to facilitate the launching of a solid hydrogen economy, to the benefit of industrial clusters and the entire central west European region.⁽¹⁾

Criteria for subsidy

On 1 August 2022, the government took the next step in supporting the development of hydrogen transport infrastructure. In particular, it published the Royal Decree of 22 July 2022 (the Decree), establishing the criteria for granting a subsidy from the Climate, Transition and Recovery Fund for the construction of a hydrogen transport network. The decree allocates a €95 million grant (generated by the newly created Climate, Transition and Recovery Fund)⁽²⁾ to finance the construction of a hydrogen transport network. Most notably, the decree imposes that:

- only one operator established in Belgium will benefit from this subsidy, except in the case of a "competitive bidding of another operator" to be studied by the minister considering admissibility conditions. The subsidy will most likely be linked to the Important Projects of Common European Interest, launched in 2020;⁽³⁾
- the network crosses at least two Belgian regions (ie, Flanders, Brussels and/or Wallonia);
- the network is at least 150 kilometres long;
- the network provides for an open access regime (including tariffs) and non-discriminatory operation while refraining from causing environmental damage (following EU Regulation 2020/852);
- the completion of the network and its full operation occurs before 1 August 2026; and
- repurposing (ie, the reallocation of old networks) should be favoured if possible.

The decree contains a "standstill clause"⁽⁴⁾ to abide by the obligations of notification to the European Commission following article 107 and 108, section 3 of the Treaty on the Functioning of the European Union on state aid. This means that although the decree will enter into force on 11 August 2022, the subsidy will only be attributed after the state has notified this subsidy and received a final decision from the European Commission confirming compatibility with the EU internal market. This standstill clause was rightfully inserted to avoid discussions regarding indirect approval of the subsidy by the European Union through the European Council,⁽⁵⁾ given that the subsidy is directly and fully borne by EU funds subject to the Belgian recovery and resilience plan.

Challenges of proposals for EU Gas Directive and Regulation

While awaiting the European Commission's approval, the Belgian government potentially has other hydrogen-related regulatory matters to treat, as the proposals for the EU Gas Directive and Regulation⁽⁶⁾ will soon enter the arena.

These will bring novelties and challenges for member states' lawmakers, most notably:

- unbundling obligations for transmission system operators and network operators and the separation of the regulated asset base;
- third-party access except in case of a contrary decision from a member state (valid until 31 December 2030), a prerogative which does not seem to be contemplated by the Belgian federal government in light of the newly approved subsidy conditions; and

- potential rules on H2 blending (within natural gas networks).

Comment

Belgium has made its first step toward a hydrogen revolution that is appearing throughout the European Union but has a long road ahead to ensure a sound, safe and secure regulatory framework for the development of the hydrogen economy.

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Endnotes

(1) For a map showing the geographical distribution of hydrogen project in Belgium and the current and future infrastructure of hydrogen pipelines, see page 23 of the federal government's [hydrogen strategy](#), published on 29 October 2021.

(2) Article 91 of the Programme-law of 20 December 2020, MB, 30 December 2020, p 96068.

(3) Further information is available [here](#).

(4) Article 1, al2 of royal decree of 20 July 2022 laying down the criteria for granting a subsidy under the Climate, Transition and Recovery Fund for the construction of a hydrogen transport network, MB, 1 August 2022, p 60205.

(5) Council implementing decision 10161/21 of 6 July 2021 on the approval of the assessment of the recovery and resilience plan for Belgium.

(6) Proposal for a directive of 15 December 2021 on common rules for the internal markets in renewable and natural gases and in hydrogen; Proposal for a Regulation on the internal markets for renewable and natural gases and for hydrogen (recast).