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External legal questions on the recognizability of norwegian origin certificates (HKN)

Recognition of Norwegian HKN for import into Germany HKNR

1) Note

a) Occasion and purpose

which, according to its own statements, is Austria's leading electricity company and one of the largest producers of electricity from hydropower in Europe, informed V 1.7 of a legal opinion which "questions the recognizability of Norwegian HKNs". The note serves to inform FBL V and Dept. V1 and to coordinate further action.

b) Sachstand

The Register of Guarantees of Origin recognizes foreign HKNs that comply with the requirements of Article 15 of Directive 2009/28/EC, or after the end of the conversion period on 01.07.2021 of Article 19 of Directive 2018/2001/EU. V 1.7 checks the recognition of foreign HKN in individual cases.

In the legal opinion, double counting of renewables is considered possible, since Norwegian companies do not draft HKNs for their electricity consumption in the context of corporate reporting, but instead use the electricity production mix for Norway in emissions accounting under the Greenhouse Gas Protocol (GHG Protocol) due to the so-called location-based approach. However, the GHG Protocol leaves this leeway with the possibility to choose between two accounting approaches (market-based verification with HKN and location-based assumption of the production mix).

Another violation of Article 19 of Directive 2018/2001/EU is discussed, as the market value of HKN was not sufficiently taken into account in the support level of renewable energy. This might not guarantee a safe and reliable system for HKN and the double subsidy could look like a

double expulsion of the EE. The recognizability norweyisc he HKÜ is thus called into question.

The basis of the HCNR's decision on recognizability is a legal opinion from 2014, in which research contractors for UBA ruled out reasonable doubt about the existence of the requirements in principle. If there were reasonable doubts, Norwegian HKNs should not be recognized. The supply of HKNs in Germany would then be significantly, approx. 40%, short. The demand for Austrian HKNs would then increase accordingly.

V 1.7 will have its own expert opinion prepared (for Norway and 14 other member states) as part of the RU Plan 2020, in which this recognizability will be assessed in accordance with the legal status of Directive 2018/2001/EU. The corresponding tender is available for review at Z 1.5.

After discussion of the submitted expert opinion within V1.7, the findings do not seem to be such that the eligibility of Norwegian HCNs would be excluded. Rather, in our view, the methodology for accounting for renewable energy in the GHG Protocol and comparable accounting guides needs to be adjusted so that such double counting is no longer possible. As far as the findings actually concern the Norwegian legislation on HKN, V1.7 plans to address this bilaterally with the Norwegian bodies first and possibly also with the AIB.

The authors of the report have already prepared the 2014, 2016, as well as 2020 reports on the recognizability of HKNs from 25 states for V1.7 and may also be awarded the contract to prepare our new report as part of the RU plan.





c) Vote

Acknowledgement of the legal opinion and approval of the proposed course of action.

Attachments

- 1) Expert opinion on recognizability of HKN from Norway including its annexes

2) E-mails from about the procedure with the expert opinion

FBL V	AbtL V.1	FGL V1.7	Bear b.
<p>The <u>infragestellu</u> <u>nq should</u> <u>also be at</u> <u>the AIB</u> <u>be</u> <u>addressed.</u></p> 	<p>The non- recognition of Norwegian HKNs would lead to massive market changes. The UBA should point out the risk to NO in and request clarification, including by when Norwegian accounting guidelines can be adapted.</p> 		

2)

3) z. d. A.

