

Response to MITECO Consultation on the Draft Royal Decree for the promotion of renewable and low carbon fuels

Energy Traders Europe welcome the opportunity to comment on the proposed Royal Decree on the promotion of renewable and low carbon fuels, and commends the ambition and direction of the initiative, which includes many positive elements. **We particularly value the choice to establish greenhouse gas (GHG) reduction targets as the basis for compliance**, as this approach is more efficient, rewards the most decarbonising solutions, and is fully aligned with the broader EU policy trend towards performance-based objectives. We also commend the authorities for specifying that only certified traders are granted access to a transport certificate account (Article 33.1.d), as this safeguards transparency, accountability, and the integrity of the system. Further constructive considerations are explained below.

Key messages

1. We praise the introduction of GHG reduction targets, which we see as the most technology-neutral approach to foster decarbonization.
2. We highlight the importance of providing regulatory certainty and target visibility beyond 2030.
3. Proofs of Sustainability (PoS) are the sole valid documents to certify compliance with RED sustainability and GHG reduction criteria.
4. RFNBO sub-targets go well beyond RED III ambition and seem unrealistic. These could also be discriminatory against both domestic producers and suppliers of natural gas in transport sector.
5. To maintain market integrity and price stability, we warn against the use of unlimited carry forward of tickets generated in a given compliance year in subsequent years.

Detailed comments

Targets post-2030

While we value the introduction of GHG reduction targets, we note that the proposal (Art. 4.3) provides that the 2030 modal GHG reduction targets for the transport sector will continue to apply in subsequent years until new targets are regulated. In this respect, we highlight the **importance of**

providing regulatory certainty and visibility beyond 2030 as soon as possible, in order to ensure the long-term viability of the investments made.

Moreover, the Government should consider **mechanisms that improve market stability and reduce price volatility for obligates parties and for producers to avoid destroying investment signals¹.**

On the additional RFNBO sub-target (Art. 10-12)

The proposal establishes an additional mandatory sub-target for the sale or consumption of RFNBOs, calculated in terms of energy content, equivalent to 2.5% of the total energy supplied to transport sector by 2030 (Art. 10), plus a sub-target for the intermediate use of RFNBOs (Art. 12), **exceeding in ambition the requirements defined under Directive (EU) 2023/2413².** We note that:

1. Today, hydrogen projects face high risks of delays in production, supply, and certification due to technological challenges, infrastructure development, permitting, electricity access, and commercial viability. Ambition levels are also influenced by participants' interest and outcomes in aid calls, though these do not always guarantee project execution³. Given the long implementation timelines (3-5 years), the realization of new projects within the designated period (2027–2030) seems challenging, potentially requiring resort to the flexibility option provided in paragraph 2(b) of Article 10 to allow alternative renewable fuels to be considered eligible.

We also note that the proposed flexibility mechanism allowing RFNBO consumption outside transport raises significant concerns. Since the draft Royal Decree has not transposed Article 22 bis of Directive 2018/2001 on RFNBO use in industry, certificates generated from industrial consumption could amount to a cross-subsidy financed by transport operators and risk breaching EU internal market rules. There are uncertainties over how renewable energy use will be monitored, accounted for, and allocated for the purposes of meeting renewable sub-targets across different sectors including industry, buildings, heating and cooling, or transport itself, considering that current accounting rules credit consumption to the sector where it occurs. In accordance with the calculation principles established in **Article 27.1 of the Directive, obligated parties would not be able to count renewable fuel certificates issued for RFNBO consumption in sectors other than transport towards the fulfilment of their GHG emissions reduction obligations in the transport sector**

¹ An example of this could be the German mechanism for managing the impact of EVs penetration exceeding registration expectations. This could be further developed into a new mechanism whereby, in any year that compliance surpasses the target, a fraction of the excess is added to the overall targets for subsequent years.

² [Directive \(EU\) 2023/2413, or revised Renewable Energy Directive \(RED III\)](#)

³ [Largest European hydrogen bank funding winner pulls out | Latest Market News](#)

(contrary to what is stated in Article 21(a)(i) of the Royal Decree). **In light of these considerations, we recommend aligning the RFNBO transport sub-target more closely with RED III, Article 25.1(b) (i.e., 1%).**

2. Furthermore, we note that the sub-target imposes the same requirement for all agents, although some of them could have very limited options to provide or use RFNBOs. For natural gas suppliers, RFNBOs are neither a viable decarbonization pathway nor part of their core business, so the requirement would merely force them to buy certificates at high cost without reducing their own emissions. Hydrogen blending into the gas grid is the only theoretical alternative, but it faces technical limits, is not mentioned in the legislation, and lacks clear rules for commercialization. **We therefore request that this additional RFNBO sub-target not be imposed on natural gas supplier that exclusively supply natural gas for transport use or at least it is set at a different level.**
3. Finally, we note that the draft Decree introduces a sub-target for RFNBO used as intermediates (Art. 12.2), which would exclusively affect domestic fuel producers, **exempting imports of fuels produced in other countries.** Being refineries large gas consumers, to avoid distorting competition in the fuel markets and ensure level-playing field, we encourage the authorities to consider requiring to demonstrate a similar RFNBO share for imported fuels, or to not introduce such requirement at all. We underline, however, the difficulty of determining the RFNBO quota applicable to the various types of fuels that may be refined and imported. More simply, **a single overall RFNBO target in transport could be defined, for which the use of RFNBOs as intermediates would be eligible for overall compliance.** This option is foreseen in the Directive and has been adopted by other EU countries. **In such a case, a specific sub-target would not be necessary.**

On the limits to the accounting of renewable energy (Article 13)

Article 13 sets a maximum percentage of 7% for biofuels produced from both food and feed crops and “intermediate crops” over the total energy content of fuels and electricity supplied to the transport sector. It also enables the approval by Ministerial Order of maximum percentages from food and feed crops over the total fuels sold or consumed for transport purposes.

However, intermediate crops are included in Annex I of the draft Royal Decree (both Part A and Part B), which transposes the new Annex IX of the Directive, and therefore should not be included in the calculation of this limit.

We also recommend a prompt publication of the Ministerial Order, including the applicable values for the period 2027–2030 with sufficient notice, to provide visibility and legal certainty to stakeholders.

Comments on the flexibility on the compliance with GHG reduction targets in transport sector (Art. 20)

Ideally, we believe that each transport mode should meet its own emission reduction obligations separately, using the renewable energy supplied within that segment, and we invite the authorities to consider mechanisms that would ensure this scenario – which would reduce discrimination between large integrated companies that are active in several segments and other smaller players. However, given the complexity of the transport sector – including multiple sub-sectors, diverse fuels, and variable logistics, as well as the difficulty of forecasting supply and demand – it appears reasonable to allow limited flexibility for partial compliance across sectors. If such flexibility is adopted, cross-sector transfers should be strictly limited to preserve the integrity of sector-specific targets.

Moreover, in order to maintain market integrity and stability, instrumental to upstream investment, it is important to avoid price slumps. **Unlimited carry of tickets generated in a given compliance year risks putting excessive pressure on prices jeopardising investment signals and limiting the decarbonisation potential in the long-term.** We recommend putting a limit to the number of tickets issued in a given compliance year in the subsequent compliance year (e.g. 10%).

On Reduction of greenhouse gas emissions for low-carbon fuels (Art. 29)

Article 29.1 states that the responsible entity for the Guarantees of Origin will require operators to demonstrate that they meet the 70% emission reduction threshold when using low-carbon fuels in transport. However, we understand that the verification of emission reductions can be demonstrated under a voluntary scheme recognized by the EU or under another national scheme accepted by the EU (as set out in Article 31.1), and that any certification under these systems should be recognized and accepted within the national sustainability verification system. We therefore request that the reference in Article 29.1 is amended to **avoid specifying one single national verification scheme**, as multiple certification schemes approved by the EC should also be recognised nationally.

On the annual publication of emission values to produce renewable fuels of non-biological origin and low-carbon fuels (Article 30)

Regarding the publication of GHG emission values for the bidding zone, in accordance with the methodology of Delegated Regulation (EU) 2023/1185, Article 30 stipulates that the average annual GHG value will be published each year. However, the abovementioned EU Regulation provides several options for calculating the GHG emissions of electricity taken from the grid, for which the publication of

additional values is also necessary. Implementing Regulation (EU) 2022/996 refers to the possibility of using these values, subject to prior notification by the Member States to the European Commission, as set out in its Article 20.

Therefore, **we request that the emission values of the bidding zones are communicated by the Spanish authorities annually under Article 20 of Regulation 2022/996**, and that both the hourly emissions of the electricity system and the marginal units by technology for each hourly period are published, or, at least made available to registered RFNBO producers.

On accreditation of sustainability and emission reduction criteria (Art. 39.4)

With regard to the different mechanisms available to accredit sustainability and emission reduction criteria, we make the following observations:

1. The proposal seeks to modify the content of the Guarantee of Origin (GO), which would need to include the information contained in the Proof of Sustainability (PoS), as per Article 39.4(g). Consistently, Ministerial Order TED/728/2024 on the promotion of biofuels required the GO to include sustainability and emission reduction information only until the UDB became fully operational and integrated into the national platform.
2. However, we point out that according to the EU legal framework, the recognised document for demonstrating compliance with sustainability and emission reduction criteria is the PoS, as defined in the revised Renewable Energy Directive.
3. Therefore, **we request confirmation that, even though the GO and PoS are linked (since the information from one is incorporated into the other), the PoS remains the only valid document to demonstrate compliance with sustainability and emission reduction criteria for volumes of renewable or low-carbon gas**, in line with the provisions of the revised Renewable Energy Directive. For avoidance of any doubt, this means that, if an operator is able to demonstrate that a GO was never issued for a given MWh or that such GO has been cancelled ex-domain, the GOs shall not be demanded under the compliance disclosure obligations in the transport sector.

In line with the above, **we suggest amending Chapter II, paragraph 2, sub-paragraph 2, in the economic assessment included in the explanatory memorandum accompanying the proposal (p. 23-24)⁴, to reflect the principle that it is always the PoS that certifies**

⁴ Trad. "The Guarantee of Origin, which will incorporate information on GHG emission reductions associated with each batch of fuel, becomes the fundamental document for fulfilling the obligations set not only in the revised Renewable Energy Directive, but also in the FuelEU Maritime Regulation and the Emissions Trading System (ETS1 and ETS2). The Guarantee of Origin will improve efficiency in transactions and reduce the administrative burden on operators"

compliance with sustainability and emission reduction criteria under the revised Renewable Energy Directive and its implementing rules – including when it comes to accounting on the Union Database. The GO, if issued, is transferred to the UDB only to avoid double counting of the same sustainable attribute.

In the **sole transitional provision**, it is established that until this Decree enters into force and until full interconnection between the UDB and SICBIOS (or its replacement platform) is ensured, economic operators must report their transactions in both platforms. This requirement would impose an excessive administrative burden on operators, as well as inherent risks of errors and/or omissions associated with duplicate reporting. For this reason, **we request that**, in order to avoid excessive administrative burdens for economic operators obliged to report under the UDB framework, **reporting be required in only one platform**.

Monitoring and Enforcement Framework (Art. 41)

Considering the extension to new sectors and obligated and eligible parties, the legislative proposal should reinforce control and traceability mechanisms beyond the quarterly reporting foreseen in Order TED 728/2024, by including specific measures that contribute to ensuring the integrity of the system and combating fraud across the various sectors.

We highlight that a **clearer framework of specific penalties should be defined and applied to obligated parties that fail to meet the established targets** – with a general penalty for non-compliance with the overall target, and potential additional penalties for specific sub-targets to be defined in the Royal Decree. We also note that a purely administrative fine based on a company's turnover may encourage fraudulent behaviour that incentivises the creation of shell companies and should therefore be avoided.

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