



# REPLIES OF THE EUROPEAN COMMISSION

## TO THE EUROPEAN COURT OF AUDITORS' SPECIAL REPORT

The EU's support for sustainable biofuels in  
transport  
An unclear route ahead

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This document presents the replies of the European Commission to observations of a Special Report of the European Court of Auditors, in line with Article 259 of the [Financial Regulation](#) and to be published together with the Special Report.

# I. THE COMMISSION REPLIES IN BRIEF

Biofuel policy has to be seen in the context of the broader strategy for the implementation of the [European Green Deal](#). As set out in the [Energy System Integration Strategy](#), the main role of biofuels among other renewable and low carbon fuels is to replace fossil fuels in hard-to-decarbonise sectors, where electrification is not feasible such as heavy transport and industry.

The Commission constantly strengthens the sustainability framework for biofuels. The Commission adopted the [Renewable Energy Directive \(RED\) in 2009](#) to deliver a minimum 20 % share of renewable energy sources (RES) in the European Union (EU) final energy consumption by 2020. [The RED was revised in 2018](#) to deliver the EU objective of a minimum 32 % share of RES in final energy consumption by 2030. On 9 October 2023, the Council, as the last stage of the legislative procedure, voted on the revised Renewables Energy Directive, increasing the share of RES by 2030 to 42.5%, with an additional aspirational target of 2.5%.<sup>1</sup>

When it comes to ensuring the traceability of consignments of raw materials and renewable fuels, the Commission in 2023 has designed and delivered the Union database, covering the whole global values chains from first gathering point of the raw material (in an EU Member State or in a 3rd country) until the point of consumption of the renewable fuels in one of the EU Member States. This tool will also be used by the Member States to report relevant data under the Governance Regulation.

## II. COMMISSION REPLIES TO MAIN ECA OBSERVATIONS

### 1. EU Biofuels policy

Providing a long-term perspective for the promotion of renewable fuels including sustainable biofuels is essential and one of the key objectives of the [Fit for 55 package](#). The negotiations on the legislative measures included in the package are finalised. This concerns in particular the review of the Renewable Energy Directive, Alternative Fuels Infrastructure Regulation, the ReFuelEU Aviation and the FuelEU Maritime Regulations. The measures will provide the long-term perspective required for the development of the decarbonisation solutions in all transport modes. Sustainable biofuels will play a role in this context together with other options like green hydrogen. Against this background the co-legislator decided to set targets which can be met by various forms of renewable fuels and not only by biofuels. Further, no target was set for the road sector as electrification is considered to be likely the most efficient way to decarbonise this sector.<sup>2</sup>

The Commission will continue to monitor the progress of the EU as regards the implementation of the European Green Deal and will take new measures where appropriate. The next assessment will be conducted in the context of the preparation of the Union-wide climate target for 2040. The Union-wide climate target for 2040 is to be proposed by the Commission at the latest within six months of

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<sup>1</sup> The publication of the new RED in the Official Journal will take place in November 2023.

<sup>2</sup> ECA observations 19-21

the first global stocktake carried out under the Paris Agreement, in accordance with Regulation (EU) 2021/1119 of the European Parliament and of the Council.<sup>3</sup>

The Commission notes that ReFuelEU Aviation and FuelEU Maritime Regulations are supported by various complementary measures, that provide a comprehensive approach and long-term market certainty for sustainable aviation and maritime fuels production, supply and uptake. Those measures include fostering: (i) cross-sectoral cooperation in Renewable and Low-Carbon Fuels Value Chain Industrial Alliance and at IMO and ICAO, including the EU capacity building finance in third countries; (ii) production through R&D financing (Horizon Europe, Innovation Fund, InvestEU) and accelerating certification of new technologies and plants (EU SAF Clearing House, inclusion in the Net Zero Industry Act proposal); (iii) uptake through SAF allowances and carbon pricing under EU ETS and increased transparency (inclusion in the EU taxonomy and flight environmental label).<sup>4</sup>

## **2. Biofuels sustainability, biomass availability and cost**

The sustainability framework for biofuels was gradually strengthened reflecting increased understanding of sustainability issues. RED I introduced a first set of sustainability criteria, which set minimum thresholds for greenhouse gas emissions savings of biofuels and criteria addressing risks associated with direct land use change. These criteria were complemented by the ILUC Directive and RED II, which addressed the issue of indirect land use change (ILUC) by limiting the amount of biofuels produced from food and feed crops and by gradually phasing out biofuels with high indirect land-use change risk<sup>5</sup>. Given that the level of ILUC emissions depends on a variety of factors and cannot be measured precisely, such ILUC emissions are not considered when calculating the greenhouse gas emission savings of biofuels. RED II also expanded the sustainability framework to biomass from forest land and included an assessment framework for adding new biofuels feedstock to Annex IX of the Directive.<sup>6</sup>

The Commission considers that the contribution of biofuels from food and feed crops for decarbonisation is limited and their use for energy production – whether produced in the EU or imported – should be minimised. It is noteworthy that as regards decoupled support under the EU's common agricultural policy (CAP), financed by the European Agricultural Guarantee Fund, there is no link between the direct support provided and the crops produced nor their use. Accordingly, the revised RED focusses on the promotion of advanced biofuels and other sustainable waste-based biofuels. These priorities are also reflected in the use of EU funds.

## **3. Deployment of advanced biofuels and data reporting**

Under RED II the EU introduced for the first time a dedicated binding target for advanced biofuels. The objective was to create an offtake market for such fuels to ensure viability of commercial production. The level of the targets was enhanced under RED III and it was broadened to include also renewable fuels of non-biological origin. Since these measures were taken relatively recently, advanced biofuels are still at an early stage of development. RED II also introduced an enhanced framework for defining which biofuels should be considered as advanced. For this purpose, a positive list of feedstock was included in the Annex to the Directive which can be used to produce advanced biofuels. The Commission provided additional guidance on the categorisation of feedstocks in Annex

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<sup>3</sup> ECA observations 22-27

<sup>4</sup> ECA observations 28-33

<sup>5</sup> The limits and the phase out affect the amount of biofuels that can be counted towards the overall share of renewables and the share of renewables in transport.

<sup>6</sup> ECA observations 37-49

IV of Commission Implementing Regulation (EU) 2022/996. RED II further empowered the Commission to set out a Union Database, which will not only greatly improve transparency and robustness of the biofuel supply chain but also establish a harmonised framework for data collection. The Commission will continue to work on the implementation of these measures.<sup>7</sup>

### III. COMMISSION REPLIES TO THE CONCLUSIONS AND RECOMMENDATIONS OF THE ECA

#### Recommendation 1 – Prepare a long-term strategic approach

**The Commission should:**

**(a) develop a strategic pathway towards decarbonisation beyond 2030 to increase biofuels policy stability, safeguard sustainable production of biofuels and facilitate the energy transition of the main transport sectors;**

**Target implementation date: 2024**

**(b) when preparing the post-2030 framework, address the efficient use of biomass as a key source for sustainable biofuels, by considering the challenges related to, for example, biomass availability and needs, viable supply chains, sustainability, and use prioritisation.**

**Target implementation date: 2027**

The Commission **accepts** Recommendation 1(a).

The Commission will continue to assess the role of different policy and technology options to achieve carbon neutrality. The pathway towards 2040 will be assessed in the 2040 strategy, which is scheduled for adoption in 2024. Such assessment will also cover the role of renewable and low carbon fuels including biofuels. In-depth assessments including projections for the long-term use of biofuels and renewable fuels will be conducted in the context of the preparation of a potential review of legislative instruments that concern biofuel policy. Such instruments include the Renewable Energy Directive as well as ReFuelEU Aviation and FuelEU Maritime.

The Commission **accepts** Recommendation 1(b).

The Commission will address in the context of preparing the post-2030 framework also the efficient use of biomass and other sustainability aspects of biomass use. The focus of such assessment is an intrinsic element of the assessment itself that depends on the identified drivers as well as political priorities of the next Commission.

#### Recommendation 2 – Improve guidance on advanced biofuels categorisation and assess capping of feedstock

**The Commission should:**

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<sup>7</sup> ECA observations 54-82

- (a) improve the guidance for member state authorities on categorisation of feedstock for advanced biofuels to avoid inconsistencies between member states, helping to provide a level playing field and more stability and security for the biofuels sector;**

**Target implementation date: 2025**

- (b) when preparing the post 2030 framework, assess whether and how to use capping to address the high fraud risk and the limited availability of some feedstock, irrespective of the technology level.**

**Target implementation date: 2027**

The Commission **accepts** Recommendation 2(a).

The Commission will finalise the review of Annex IX to RED and, where appropriate, add new feedstocks. The Commission will keep updating the Commission Implementing Regulation (EU) 2022/996 providing more guidance on the categorisation of feedstocks in Annex IV where appropriate.

The Commission **accepts** Recommendation 2(b).

The Commission will continue to monitor the legislative framework relevant for the implementation of the European Green Deal, including the Renewable Energy Directive. The question of the nature of the limit for the contribution of biofuels produced from feedstock listed in Part B of Annex IX seems relevant in this context. However, although the Commission cannot commit to a potential future review of the Renewables Directive at this stage, it will assess in the case of a future review of the relevant legislation whether a capping should be applied and if so how this could be done.

## **Recommendation 3 – Improve data and transparency**

**The Commission should:**

- (a) while implementing the Union Database for Biofuels, improve the relevance of the data that is used for policy design, monitoring and evaluation (e.g. by collecting information on country of origin of feedstock and fuels);**

- (b) take measures to address inconsistencies between different datasets on biofuels (Fuel Quality Directive, Short Assessment of Renewable Energy Sources (SHARES) and the new Union Database for Biofuels) to improve data quality for users;**

- (c) improve transparency about the impact of multipliers on the reporting of targets.**

**Target implementation date: 2026**

The Commission **accepts** Recommendation 3(a).

The Commission will finalise the implementation of the Union Data Base, which will allow tracing of biofuels over the entire supply chain as required under RED II. In line with the design of the Union database, the traceability of the liquid fuels supply chains will start at the 1<sup>st</sup> collecting points of the raw material until the produced fuel is put on the market in one of the EU Member States.

The Commission **accepts** Recommendation 3(b).

The Commission will finalise the implementation of the Union Database, which will serve as the primary source for data on biofuel production facilitating the reporting of the Commission as well as

of the Member States on a harmonized basis, and where appropriate check for and address inconsistencies between different datasets on biofuels. The Commission will also implement the changes agreed for the reporting under the Fuel Quality Directive.

The Commission **accepts** Recommendation 3(c).

The Commission will include references to the accounting methodology set out in the Renewable Energy Directive, including the use of multipliers, when reporting on the share of renewable energy in transport under the Governance Regulation.