

## 2023 Renewable Energy Directive fact sheet

# Biofuels

As the reliance on biofuels continues, it is vital that we tackle the most harmful ones

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T&E's factsheet discusses the main outcomes of the Renewable Energy Directive in relation to biofuels in transport. While there is more awareness of the need to tackle the biggest drivers of deforestation (e.g. palm and soy), a harmful status quo on crops remains, with a growing push for waste biofuels

### Food and feed biofuels

**The cap on crop biofuels remained at the 2020 member state levels**, with a maximum share of 7% and a flexibility of 1%<sup>1</sup>. However, since the volumes of fuels and electricity needed to reach the overall target for renewables in transport no longer refer to only road and rail but also to the shipping and the aviation sectors, this also implies an increase of the volumes of crop based biofuels needed to reach the current 2020 shares. As a consequence, with the overall increase of the renewables target, there is a big risk that the **use of intermediate crops** grown as cash crops in regions with multiple harvesting periods will grow in order to meet the higher ambition, as they are still not capped in the RED. According to the International Council for Clean Transportation (ICCT), this can lead to land-use change and the associated greenhouse gas impacts in the same way that business-as-usual food-based biofuels do<sup>2</sup>.

The good news is that **using crop based biofuels has remained optional**: member states can immediately or progressively reduce the support for food and feed crop-based biofuels and by doing so they can reduce the level of the target for renewables in transport (RES-T target) accordingly. Although there is still a long way to the necessary phase out of crop based biofuels at the EU level, it is essential that the member states show more ambition at the national level and some have already started that process.

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<sup>1</sup> The share, as defined in the [Renewable Energy Directive](#), can be up to 1% higher than the 2020 Member State share, with a maximum of 7% in energy terms

<sup>2</sup> Please see more information [here](#)

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## The RED paradox on biofuels

ReFuelEU and FuelEU Maritime, EU fuel regulations on the decarbonisation of the aviation and shipping sectors, have adopted decisions to exclude food and feed based biofuels from being eligible to count towards their targets, as per the European Commission's proposal. Yet, in the RED these feedstocks (although optional) can still contribute to the RES-T target. This is a paradox since RED is the reference in terms of sustainability criteria for both Fuel EU Maritime and Refuel EU. Moreover, Refuel EU is going even further to exclude palm and soy-derived materials, palm fatty acid distillate (PFAD), (non-Annex IX) intermediate crops and soap stock and its derivatives from the definition of sustainable aviation fuels (SAFs). In addition to that, all other biofuels that are not part of Annex IX are capped at 3% by 2030.

The biggest progress made in the new RED is on feedstocks categorised as having a risk of high ILUC (indirect land use change - land clearance to allow for the expansion of overall agricultural area to meet additional demand for land for energy). The RED III agreement included some additional language on the **next review of the Delegated Act on high-ILUC risk feedstocks that is foreseen for September this year**. Therefore, the Commission needs to decide whether to include new feedstocks like soy as high-ILUC risk on the basis of the latest data on deforestation and/or lower the 10% threshold<sup>3</sup> of when a feedstock should be considered as high-ILUC. **This is a major opportunity to ensure that soy based biofuels are phased out**. In addition to this, the Commission will assess the possibility of an accelerated phase out of support for high ILUC risk feedstocks (currently palm, soy if included) in the RED.

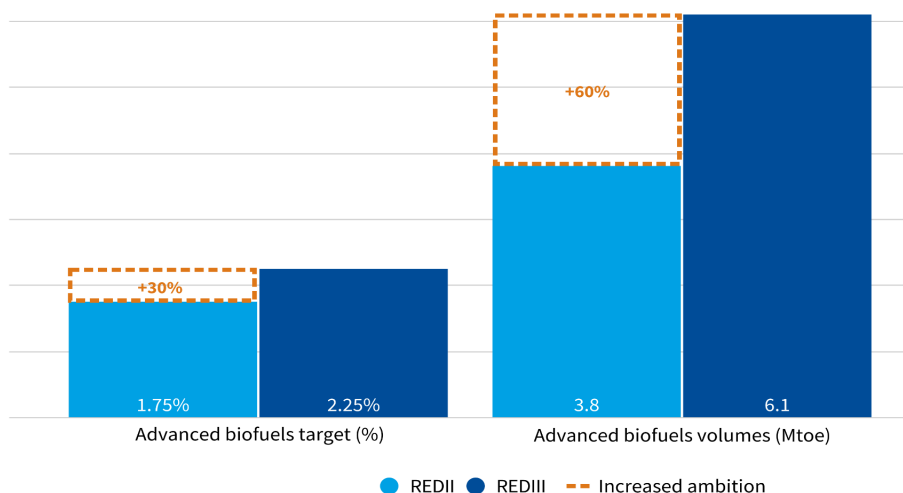
## Waste & residue biofuels in Annex IX

RED III trilogues brought about several changes to waste biofuels in Annex IX, both in part A (advanced biofuels) and part B (used cooking oil and animal fats category 1 and 2), aimed at an **increase of their uptake**. Given that these feedstocks are limited in sustainable quantities at EU level and in most cases have competing uses in other industries, **T&E strongly recommends more stringent rules at the member state level** guarding the limits set by the previous RED.

The negotiations on the RED III concluded with **a combined subtarget for green hydrogen and advanced biofuels** of 5.5% with double counting, of which at least 1% needs to be supplied by RFNBOs (e-fuels and green hydrogen). This results in a maximum share of advanced biofuels of 4.5% with double counting, equivalent to 2.25% in real energy terms. It is a small increase compared to the Commission's proposal (2.2% in energy terms) but it is important to note that the Commission already increased the target compared to the previous 3.5% with double counting (1.75% in real terms). Moreover, the volumes of renewables needed to reach the RES-T target increased, implying further uptake of advanced biofuels. On the contrary, the minimum target for RFNBOs (0.5% in real terms) is set too low.

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<sup>3</sup> The [Delegated Regulation from 2019 on high ILUC risk feedstocks](#) has set 10% as the threshold of expansion share of the global production area of a certain feedstock into land with high-carbon stock, above which a certain feedstock is considered to have a high ILUC risk



Source: Transport & Environment, based on in-house modelling

### Advanced biofuels target & volume change in real terms

For the **feedstocks listed in Part B of Annex IX**, a 1.7% cap stays in place for used cooking oil and animal fats category 1 and 2, to limit fraud and competing uses. The double counting that was erased in the original Commission’s proposal stayed in the final text, continuing the incentivizing of these feedstocks.

In addition to that, **the 1.7% cap can be increased by the European Commission on the basis of an assessment of the availability of feedstocks**. At the end of 2022 (in the middle of the negotiations on RED III), the Commission launched a public consultation<sup>4</sup> to update the list of sustainable biofuel feedstocks under Annex IX of the RED. A limited number (3) of feedstocks was added to the Part A list. A much larger number (14) of feedstocks was added to the Part B list, signalling a possible increase of the cap in the future. There are issues with several of the feedstocks added to the Annex IX list concerning sustainability safeguards, notably in relation to market distortion, land use and fraud.

Furthermore, member states still have the right to ask the Commission to increase the cap on Part B of Annex IX, based also on availability of feedstocks and with providing justification.

<sup>4</sup> Please see [here](#) T&E’s response to the public consultation.

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## Key recommendations

- 1** Phase out palm and soy immediately at the EU level

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  - 2** Progressively reduce the cap on crop biofuels at the national level & phase them out by 2030

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  - 3** At the national level, keep the target on advanced biofuels to 3.5% with double counting, as agreed in the 2018 RED, while increasing the minimum target for RFNBOs to 2% under the combined 5.5% subtarget.  
In addition to this, keep the limit on used cooking oil & animal fats at the 1.7% agreed in the 2018 RED
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