# Position paper of the associations of the German biofuel industry: Key points for the amendment of the GHG quota law

## Mobilising climate protection potential sustainably and appropriately, using synergies, avoiding displacement effects

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The greenhouse gas reduction quota (GHG quota), which is regulated in the Federal Immission Control Act ("Bundes-Immissionsschutzgesetz" - BImSchG) and other sub-legal standards, obliges fuel distributors to reduce the $CO_2$ emissions of the fuels they sell. The GHG quota was created in 2015 and was most recently further developed in 2021. The GHG quota implements the European requirements of the Renewable Energy Directive (RED II) into national law, obliging EU member states to increase the share of renewable energies to at least 14 % by 2030. As part of the EU Green Deal, the regulations were changed as a result of the amendment to RED II [(EU) 2023/2413]. The indicative target for renewable energies in transport for 2030 was more than doubled to 29 %. It was also determined that the EU member states can, as practiced in Germany, set a greenhouse gas reduction target in transport of at least 14.5 % as an alternative to the renewable energy target. From the perspective of the associations, the GHG quota is a fundamentally groundbreaking law that makes it possible to create congruent and value-adding regulations for achieving the target through:

- **Promoting the greenhouse gas efficiency of $CO_2$-reduced fuels through competition,**
- **Focusing on a broader raw material base: cultivated biomass, waste and residues,**
- **Promoting biofuels without burdening the federal budget,**
- **Using and optimizing existing infrastructures,**
- **Incentive effect for innovation development and its ramp-up,**
- **Securing domestic value chains and jobs.**

In line with a holistic approach, the GHG quota should be further developed in a way that is open to technology and raw materials and takes into account existing experience, without displacing existing and established market compliance options. The following proposals are aimed at exploiting the potential of available renewable energies in the transport sector through market incentives and investment security.

### 1. Increase the greenhouse gas reduction commitment (GHG quota) to at least 37% by 2030 and continue on a linear basis until at least 2040

An ambitious GHG quota level is required for both existing and newly approved quota fulfillment options in order to fully exploit existing and future, i.e. foreseeable additional potential. Following the 2030 scenario of the biofuel associations and taking into account the current multipliers, e.g. for electricity or advanced biofuel volumes, an increase in the GHG quota to at least 37 % in 2030 ensures that the potential of all available quota compliance

options is exploited for the benefit of optimal $CO_2$ reduction in the transport sector and substitution effects are avoided.
If all multipliers are abolished, a GHG quota level of at least 20 % in 2030 will provide the necessary market incentives.

The proposals already take into account the provisions of the RED II amendment, according to which the efficiency gain of battery electric vehicles (BEV) will in future be accounted for with an increased fossil comparator (183 g CO2/MJ) instead of the adjustment factor of 0.4. To ensure the necessary investment security, the commitment period must extend beyond 2030. Updating the GHG quota after 2030 and switching from an exponential to a linear ramp-up are appropriate in order to create improved investment scenarios in renewable energies in the transport sector.

## 2. Increase in the GHG quota and the sub-quota for advanced biofuels as a result of the planned amendment to the 38th BImSchV from 2027

In recent years, it has become clear that significant quantities of advanced biofuels imported from third countries were allegedly misdeclared and in many cases do not meet the requirements for advanced biofuels as defined by the RED. Since November 2023, the biofuels industry has therefore been calling for a significant improvement in the certification of advanced biofuels, in particular the introduction of an official approval procedure with control options for their producers.

The questionable imports have led to a massive overfulfillment of the GHG quota and the sub-quota for advanced biofuels since 2022. This was associated with a drastic drop in the GHG quota price, which continues to this day. As a countermeasure, the German Federal Ministry for the Environment, Nature Conservation, Nuclear Safety and Consumer Protection (BMUV) is planning to suspend the transfer of the GHG quota to the years 2025 and 2026. Instead, quota surpluses can be transferred to 2027.

The foreseeable consequence would be a renewed, drastic drop in the quota price from 2027, when an enormous accumulation of GHG quota surpluses would come back onto the market. To prevent this, the GHG quota and sub-quota for advanced biofuels should be significantly increased in 2027. The calculation basis for this should be statistical data on quota fulfillment in 2022 and 2023 as well as a forecast for the quota year 2024. The biofuel associations assume that a significant increase in the GHG quota and sub-quota for advanced biofuels will be necessary from the commitment year 2027 at the latest in order to compensate for the overfulfilment accumulated by the end of 2024.

In order for Germany to actually meet the targets of the revised RED II for GHG reduction in the transport sector and the minimum share of advanced biofuels and electricity-based fuels (RFNBO) in 2030, the GHG quota in 2030 should - analogous to the regulation for the quota year 2020 - also have to be met exclusively physically, i.e. without taking into account quota carryovers from previous years.

### 3. Avoid crowding-out effects through automatic quota adjustments and a separate RFNBO sub-quota

In the event of an oversupply of quota fulfillment options, the GHG quota price is forfeited at the expense of all market players. § 37h BImSchG already protects against displacement effects by automatically adjusting the level of the GHG quota in the event of an unexpectedly strong ramp-up of e-mobility with corresponding electricity consumption in transport. This ensures that no climate protection potential remains unused. § 37h must therefore be retained and expanded when the GHG quota is revised.

Analogous to § 37h, the biofuel associations propose a structurally identical automatic quota adjustment mechanism for advanced biofuels and RFNBOs. Since fall 2022, German imports of advanced biodiesel have risen sharply and have displaced other compliance options due to their high GHG reduction performance and double counting. An automatic adjustment mechanism can cushion such an effect in the future.

To avoid crowding-out effects between renewable energy sources, the biofuel associations propose separating the combined sub-quota from the RED II amendment of at least 5.5 % for advanced biofuels and RFNBO at national level.

### 4. Appropriate design of the upper limit for the crediting of sustainable biofuels from cultivated biomass

The Renewable Energy Directive 2018/2001 (EU) provides for a cap on the inclusion of sustainable biofuels from cultivated biomass at a maximum of 7 % (energy related). However, this upper limit may not exceed the share of biofuels from cultivated biomass in the member states by more than one percentage point in 2020.

Due to the high availability of sustainable biomass raw materials from domestic and European agriculture and domestic processing, Germany should make greater use of this EU requirement for designing the upper limit. Domestic agricultural raw materials are “iLUC-free”, i.e. do not pose a risk of land use change. The cap can be raised accordingly from the current 4.4 % to 5.3 %. This enables improved compliance with both the quota obligations of the BImSchG and the EU Effort Sharing Regulation. Overall, this will also ensure a more ambitious GHG reduction in transport, together with the ramp-up of innovative alternative fuels and e-mobility. The greenhouse gas reduction efficiency and thus the costs of the biofuel in question determine its excellence on the market, as can be seen from the experience and evaluation reports of the Federal Office for Agriculture and Food (BLE).

### 5. Extension of the scope of the GHG quota to aviation and shipping

Following the RED II amendment, the GHG quota target should in future also apply to aviation and shipping fuels placed on the market in Germany so that emission reductions are achieved in all modes of transport.

In rail transport, the GHG quota currently only applies to fuels and not to the electricity consumed. This regulation should be retained, as 80% of rail transport in Germany is already electrified. Offsetting quotas and thus promoting traction current should be rejected due to the lack of additionality.

Current quotas and caps should therefore be applied to the total energy consumption in road, ship, air and rail transport (excluding rail electricity). This also applies to the cap on biomass-based biofuels: the RED II amendment has left the maximum permissible cap of 7 % (energy-related) unchanged for a population extended to include shipping and aviation. Germany should follow this requirement analogously.

The EU regulations FuelEU Maritime and ReFuelEU Aviation help to ensure that aviation and shipping, the most difficult modes of transport to defossilize technologically, make binding minimum contributions to climate protection. Separate or different GHG quotas for the individual modes of transport are therefore not appropriate or necessary at national level (BImSchG).

## 6. Annual report on the evaluation of the GHG Quota Act as a prerequisite for dynamic adjustment of the GHG quota

The legally required evaluation report of the GHG Quota Act (§ 37g, sentence 2 ff. BImSchG) has so far only informed the German Parliament every two years and not comprehensively enough about the complex interaction effects and consequences in the implementation of the GHG quota. It is therefore not suitable for the timely assessment of necessary adjustments for the further development of the GHG Quota Act. The report should therefore have to be submitted annually. The legislator must be able to assess more quickly whether the GHG quota regulation and, in particular, the sub-legislative regulations issued by the Federal Government by way of ordinance actually serve to meet the target and need to be dynamically adjusted (see above). In future, it should be mandatory to involve the affected economic sectors in the preparation of the report and the evaluation of the targets. In this sense, Germany would also set an example in the European Union.

The EU Commission has not yet produced such a report, and the German government should advocate a corresponding obligation at EU level. The “Experience and Evaluation Report” submitted annually by the BLE makes an important contribution to transparency in the assessment of raw material quantities and origins, albeit with a delay of more than a year. This reporting should also be reviewed and optimized with a view to informing the German Parliament and the public in a timely manner.

## 7. Allow biogenic hydrogen as a fulfillment option in all areas of application, not just in road transport

Renewable hydrogen is a key technology for the energy transition and for Germany as a future business location. Hydrogen from electrolysis is therefore an unrestricted compliance option for the GHG quota, both in road transport and as a feedstock in refineries (§ 37a, para. 5,

numbers 6 to 8 BImSchG). However, hydrogen from biomass is only permitted as a compliance option if it is used in road transport; in all other applications, e.g. in refineries, it is not a compliance option (§ 37b (8) No. 4 BImSchG; § 13 (1) 37. BImSchV). In view of the immense challenges in the transport sector, however, it is not justifiable for climate and economic policy reasons to exclude certain technology and usage paths.