POSITION PAPER

June 2022

Cefic Statement on the Delegated Act Art. 28 (5) RED II

The chemical industry is a frontrunner in the EU hydrogen economy, and low-carbon and renewable hydrogen represent a critical pathway to reducing GHG emissions in our sector. As a matter of fact, Cefic is the facilitating organisation of the Roundtable on Clean Hydrogen in Industrial Applications of the European Clean Hydrogen Alliance. In this body, the chemical industry has already presented a significant number of projects aimed at producing renewable and low-carbon hydrogen and deploying its potential for GHG reduction in our industry.

The present delegated act sets important framework conditions for the production of renewable hydrogen that will notably affect their future supply. In that, the delegated act will directly impact also the achievability of renewable fuel of non-biological origin (RFNBO) sub-targets as they have been proposed for industry and transport in the RED III recast put forth by the EU Commission.

While the definition of RFNBOs has been expanded in the EU Commission's RED III recast proposal from transport specific to covering all sectors, the associated production criteria remain unchanged. Meanwhile, there is a huge difference in consumption patterns between industry and transport sector, as well as differences in the exposure to international competition. These differences will need to be considered in the design of the respective production criteria.

Against this background and as one of the largest producers & consumers of industrial hydrogen, Cefic wants to ensure that the framework condition in the present delegated act are fit-for-purpose, provide investors with much needed regulatory predictability, and facilitate the scale-up of RFNBOs, rather than artificially constraining their supply.

To that end, we would like to make the following recommendation:

1. **The certification of RFNBOs & RCFs requires a cohesive GHG accounting regime**
    - Avoid the double-counting of GHG emissions reductions through a cohesive carbon accounting regime that is consistent with existing legislation under the EU ETS & legislation on carbon removals.
    - Include GOs as eligible instruments to certify the GHG emissions reductions of a given carbon molecule, and make those traceable throughout the value chain.
2. **Ensure Equity between Domestic Production & Imports**
    - Consider how to establish reliable monitoring, reporting & verification systems for GHG savings in third countries, which may operate in vastly different regulatory environments.
    - Consider in the GHG savings methodology also the emissions associated with the transport & compression of hydrogen, to ensure a level-playing field between domestic production & imported volumes.
3. **Enhance Regulatory Certainty for Industrial Emissions Abatement**
    - We recommend deleting the proposed phase-out date of 2035 for utilising carbon captured in an ETS installation for utilisation in RFNBO or RCF production.

The scale-up of Renewable Fuels of Biological Origin (RFNBOs) & Recycled Carbon Fuels (RCFs) should facilitate the EU climate ambition.

- We understand the idea that RFNBOs & RCFs should facilitate the EU climate ambition and hence fulfil clear greenhouse gas (GHG) savings criteria as part of their certification process. This certification should take place in a way that allows for the accurate tracing of carbon emissions throughout the value chain and avoids the double-counting of GHG emissions reductions through a cohesive & transparent accounting regime.

- In this regard we caution against combining life-cycle assessment (LCA) approaches with the clearer methodological frameworks of, for instance, the EU ETS which already accurately account for GHG emissions at the point of release and generate credits for captured CO2.

- The present production criteria will also critically determine the achievability of the ambitious targets proposed in the REPowerEU communication, or the renewable hydrogen targets proposed under the RED III. Here, we regret that the proposed delegated acts have not been accompanied by an impact assessments to ascertain possible knock-on effects.

- We welcome the consideration of imports to achieve the renewable hydrogen targets, provided a sufficiently robust certification system is put in place. Here, we invite the European Commission to consider how to establish reliable monitoring, reporting & verification systems for GHG savings in third countries, which may operate in vastly different regulatory environments.

- In this regard, we appreciate the intention of the European Commission to allocate the benefit of the GHG reduction through the capture of carbon to the eventual user of the RFNBO/ RCF. This system rightly maintains the need for surrendering ETS allowances for that same carbon molecule at the original point of emission.

- Moreover, investments in renewable hydrogen require a stable regulatory environment. In this respect, many provisions require the ex-post evaluation of renewable electricity production volumes and electricity market dynamics. This provides little investment certainty to industrial hydrogen consumers, as such requirements are not in their control and are subject to sudden variations overtime.

- We appreciate that the eventual regulatory regime needs to be sufficiently robust to avoid the double counting of renewable electricity or emitted carbon

Achieving the renewable hydrogen ambitions of the RED III and REPowerEU necessitates the scale-up of the nascent renewable hydrogen market through an enabling regulatory framework that avoids imposing undue administrative burdens. To that end, we would also like to put forward the following specific recommendations:

1. **The certification of RFNBOs & RCFs requires a cohesive GHG accounting regime**

- We invite the European Commission to consider how to ensure consistency in the accounting of the GHG emissions, in particular when existing legislative accounting regimes such as the EU ETS or legislation on carbon removals are used in parallel or in conjunction with grid average emissions factors.

  - In this regard, we welcome for instance the inclusion of the term 'existing use or fate' as a credit option for the avoided emissions.
  - However, we believe a special provision aligned with the methodology in the Innovation Fund Methodology (p. 14), should be included for the inputs whose 'existing use or fate' is landfilling in order to avoid penalizing the use of this type of waste. Here, the associated emissions shall be assumed equal to those for incineration without energy recovery, because although landfill sequesters part of the carbon, encouraging landfills is not desirable for environmental reasons.
- Working with residual grid factors, rather than average grid factors, could be considered to provide certainty that no double-counting is taking place.
- When determining the GHG emissions in a fuel mix, we caution that assigning one emission intensity to all fuels that are part of the mix stands conflicts with the precise accounting rules of the EU ETS. Instead, we invite the European Commission to consider the emissions intensity of the components of the fuel mix, as is already proposed for processes that yield co-products.
- In addition, we are concerned with the use of 'economic value' for the allocation of GHG emissions in processes that yield multiple co-products. Economic prices may be subject strong fluctuations over the years. In other cases, there may not exist an easily determinable market. This is particularly the case in products that are used as intermediates and rarely sold on the market (e.g. chlorine). Hence, we suggest employing alternative allocation methodologies that do not incorporate economic values in their calculation.

Cefic recommendation:

- **Avoid the double-counting of GHG emissions reductions through a cohesive carbon accounting regime that is consistent with existing legislation under the EU ETS & legislation on carbon removals.**
- **Avoid combining LCA approaches with the clearer methodological frameworks of, for instance, the EU ETS, which already accurately account for GHG emissions at the point of release and generate credits for captured CO2. These emissions are in fact avoided and need to remain recognised when calculating GHG savings also under the RED.**

2. Ensure Equity between Domestic Production & Imports

- To ensure equity between domestic production & imported volumes (as well as between different imported volumes), we recommend considering also the emissions associated with the compression and transport of the respective fuel in the underlying GHG savings methodology.
- This measure would not only level the competitive playing field, but also be more reflective of the overall emissions footprint of a given fuel, as required by Art. 28 of the RED II that this delegated act is based on.

Cefic recommendation:

- **Consider in the GHG savings methodology also the emissions associated with the transport & compression of hydrogen, to ensure a level-playing field between domestic production & imported volumes, as well as between different import sources.**

3. Enhance Regulatory Certainty for Industrial Emissions Abatement

- We welcome the inclusion of captured carbon from industrial point sources in the methodology of the present delegated act to incentivise greater carbon circularity. These projects have an important role to play in the transition to climate-neutrality.
- However, with an investment horizon of 15-20 years, industrial carbon capture & sequestration requires long-term regulatory predictability. The present provisions on carbon sourcing in the delegated act fail to provide that predictability, as it is unclear why ETS installations become ineligible to provide captured carbon for fuel production beyond 2035.
- If it is deemed necessary to introduce a phase-out date for utilising carbon captured in an ETS installation for utilisation in RFNBO or RCF production, we recommend that phase-out date be anticipated by a cost-benefit analysis on carbon capture from different sources and the availability of necessary supply infrastructure.

Cefic recommendation:

- **We recommend deleting the proposed phase-out date of 2035 for utilising carbon captured in an ETS installation for utilisation in RFNBO or RCF production.**

For more information please contact:
Nicola Rega, Energy Director, Cefic,
+32485403412, nre@cefic.be

Nicolai Romanowski, Energy Manager, Cefic
+32496266052, nro@cefic.be

About Cefic
Cefic, the European Chemical Industry Council, founded
in 1972, is the voice of large, medium and small chemical companies across Europe, which provide 1.2 million jobs and account for 15% of world chemicals production.