German Renewable Energy Federation

BEE Statement

on the draft revision of the Renewable Energy Directive (EU) 2018/2001 - RED III

Berlin, 18th November 2021

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Preface

The European Union's commitment to meeting the Paris climate targets and achieving climate neutrality by 2050 will have to lead to major policy adjustments in the next years. In line with the revision of other key framework legislation in the so-called Fit for 55 Package, the revision of the Renewable Energy Directive (RED III) is of key importance for our common ambition. To reach the climate targets EU member states need to significantly accelerate and increase the volume of all available renewable energies and realise a truly integrated energy system that helps to reduce greenhouse gas emissions in all end-use sectors. BEE therefore welcomes the Commissions initiative to propose an update of the RED and appreciates the opportunity to provide feedback.

Renewable energy deployment must be at the heart of this energy transition and requires serious on-going, flexible, smart, and effective strategic support. must not be limited or focussed on to the electricity, but it must also be significantly intensified in the other sectors. The building and transport sector in particular have enormous potential in that regard and should be strengthened in EU legislation. Companies all over Europe urgently need planning security over 10 years. This must be taken into account in all adjustments. Changes every two years, as is the case today, or the uncertainty that changes might be imminent, prevent investments and developments. For this reason, an ambitious target for the share of renewable energies should be set now and complemented with strengthened rules for removal of administrative barriers and mitigating investment. Generally, we still think that low carbon fuels of fossil origin do not fit in a Renewable Energy Directive and should be removed.

Article 3 Paragraph 1

The BEE welcomes the increase of the target for the share of renewable energy sources in gross final energy consumption from 32 to 40 % in 2030. This is an absolutely necessary step from a climate protection perspective. However, the share of renewable energies must be set in such a way that it supports the reduction of greenhouse gas emissions in an economically efficient way. Numerous studies show that earlier and more ambitious greenhouse gas reductions are more effective and less costly.[1] The year 2030 is a critical milestone on Europe's path towards climate neutrality. Europe needs the right level of renewable energy ambition that drives investment decisions in renewables in the 2030s and 2040s and that puts the continent firmly on track to deliver climate neutrality by 2050 at the very latest. For growing the EU's competitiveness and thus wealth creation for citizens and businesses backloading renewables deployment would mean that Europe fails to deliver on its Green Deal strategy. In consequence this means to lose the economic benefits, jobs, supply chain development and global technology leadership in renewables technology.

From our point of view for the year 2030, the new reduction target means an EU-wide share of at least 45 percent of renewable energies in gross final energy consumption to follow an economically efficient path. This requires binding buildout targets for renewable energies at the national level as well. In view of the long-term goal of the EU climate law to achieve greenhouse gas neutrality by at the very latest 2050, the early definition of further expansion targets beyond 2030 is also necessary to provide sufficient investment security for the planning of new investments. But overall and most important: Raising the EU 2030 renewable energy target is academic If we do not address the bottlenecks to the buildout of all renewable energy technologies in Europe.

Article 3 Paragraph 3

BEE supports the cascade-principle and acknowledges the waste hierarchy of the Directive 2008/98/EC. Nevertheless, BEE criticises that member states should apply measures to minimise distorting effects on commodity markets and negative effects on biodiversity through bioenergy production. From our view, such a requirement could lead to a de facto reduction in bioenergy use and thus also jeopardise the renewable targets set out in paragraph 1 for no reason.

Article 4

The RED II established a pioneering enabling framework for self-consumption installations below 30 kW. However, it does not tackle the need to remove barriers and facilitate mid-sized self-consumption installations between 30 kW and 2 MW in size, which are typically covering consumer-driven Commercial and Industrial (C&I) projects segment. Specifically, the new RED should allow that aid can be granted without prior auctioning for installations up to a capacity of

[1] https://go.nature.com/2Y91UXm

2 MW. PV-Installations in the building sector should generally be exempt from the mandatory auctioning. Member states should not be allowed to forbid self-consumption in tenders.

Article 15, paragraph 8

We welcome that Member States are from now on to assess and remove obstacles to long-term non-subsidized green energy contracts (PPAs). The explicitly mentioned possibility for member states to provide loan guarantees to reduce the financial risks associated with these contracts could become an important instrument for the financing of renewable energies in the future. In this context in particular leveraging potential investment from small and medium sized companies or Energy Communities should be considered as well. Furthermore, we urge the Commission to adjust the general framework for the financing of non-subsidized green PPAs. The implementation of a carbon price floor in the European Emission Trading Scheme (ETS) is from our point of view a crucial driver for more investment in non-subsidized green PPAs since it guarantees long-term planning security.

Article 15a

The obligation of the Member States to set an indicative target for the minimum share of renewable energy in buildings in 2030, which is consistent with the EU-wide indicative target of 49 %, is welcomed in principle. The clarification that this target is to be included in the update of the integrated national energy and climate plans pursuant to Regulation (EU) 2018/1999 by 30 June 2024 is also welcomed. However, the BEE does not understand why only a guideline value and no binding target is introduced.

In the building sector, greenhouse gas reductions of around 43 % have already been achieved in Germany since 1990. However, the sector still emits around 120 million tonnes of CO2 and has already missed the sector target set in the Federal Climate Protection Act (KSG) by 2020. The targets of the Effort Sharing Regulation were only achieved due to the special effects of the Corona pandemic. In order to achieve the further greenhouse gas reduction targets, ambitious EU targets for the expansion of renewable energies are helpful. Renewable Energies is often the only climate-friendly alternative to fossil fuels, especially in existing buildings. Replacing fossil fuels with renewable electricity is the most cost-effective and energy efficient way of reducing CO2 emissions in this sector. To reach the EU's climate and energy targets BEE strongly suggest introducing binding targets for the renewables share in the MS' building sectors. Taking national, regional and local circumstances into account, such targets should be set in agreement among the European Commission and the MS' competent authorities, with the MS informing in their NECPs how they plan to achieve these.

Article 16

Especially when it comes to Wind Onshore the problem for buildout in Germany is not technology, finance or costs. It is permitting. However, the deadlines for permits in Germany are almost never met and are extended several times. Reasons are rarely given. Germany is simply not permitting enough new wind farms to meet its renewable energy targets.

Article 16 of the Renewable Energy Directive requires Member States to permit new renewable energy installations within 3 years and repowered ones within 2 years. And the Governance Regulation requires Member States to outline concrete measures they will take to ease permitting. But Germany has not yet identified concrete measures to simplify permitting in its National Energy and Climate Plan. From our point of view this is also because neither the Renewable Energy Directive nor the Governance Regulation guide Member States on how they should simplify permitting. With the current revision of the Renewable Energy Directive the EU can already today support the further implementation of simpler and faster permitting rules and procedures with a Guidance setting out good practices on permitting. We think that such guidance should cover good permitting practices in the following areas:

- Effective single contact points (staff growth as well as professional trainings)
- Court proceedings
- Military and civil aviation constraints
- Civil resolution and mediation
- Factoring technology development in the permitting process
- Spatial planning

In addition, a properly designed regulation on species protection at European level could be helpful in speeding up permitting procedures in Germany.

Article 19

The system for guarantees of origin (GOs) should be further developed in order to make it an effective instrument for accelerating the energy transition and climate protection.

We are critical of the Commission's proposal to completely remove the possibility for member states to restrict the issuance of GOs for subsidised electricity, partly because of the risk of a reduction in the value of unsubsidised green electricity and thus its economic viability. However, we see the proposed amendment as an impulse to further develop the GO-system. In order to make it an effective instrument for acceleration and climate protection, it is necessary to establish a suitable framework at European and national level, which prevents a sudden massive expansion of supply and which at the same time creates framework conditions for the differentiation and use of GOs from subsidised and unsubsidised plants, so that its qualities become clearly visible for private and commercial end customers.

In the BEE's view, the following criteria for the use and differentiation of GOs would be useful:

a) Within the electricity labelling, end customers must be able to see whether the green electricity comes from subsidised or unsubsidised plants.

b) There must continue to be no double counting of green MWh across Europe. For German electricity labelling this means, for example, that subsidised electricity allocated to certain consumers cannot also be included in the EEG slice of the electricity labelling pie.

c) If, in future, companies are allowed to meet their renewable quotas by means of HKNs, they may not use only subsidised HKNs for this purpose but need a certain percentage of unsubsidised HKNs.

We expect the new German government to engage in a constructive discussion with the BEE and its members on the future design of the European GO system and its national implementation (including in electricity labelling).

Article 22a

From our point of view in general it is positive that a benchmark for the average annual minimum increase in the use of renewable energies of 1.1 percentage points will also be introduced for the industrial sector and that the member states must include measures in the integrated national energy and climate plans to achieve the target. As is the case for the building sector, it is not clear why only a guideline value and not a binding target for the expansion of renewable energies is specified for the industrial sector. In order to reach the EU's climate and energy targets BEE strongly suggest introducing binding targets for the renewables share in the MS' industry sectors. Taking national, regional and local circumstances into account, such targets should be set in agreement among the European Commission and the MS' competent authorities, with the MS informing in their NECPs how they plan to achieve these.

As part of the amendment in article 22a, the proposed RED III foresees the promotion of hydrogen production based on renewable energies. Consequently, 50 percent of hydrogen is to be produced using renewable energy sources (in other words, green hydrogen) by 2030. But the draft of the new RED does not define green hydrogen precisely and does, therefore, not explicitly exclude the indirect use of fossil energy sources. Without stringent criteria for hydrogen production, the use of electrolyzers and their electricity supply could lead to the perpetuation and promotion of electricity generated from fossil fuels. Therefore, BEE demands that only green hydrogen that meets stringent criteria and that has verifiably been produced from renewable energies should be accepted for industrial use. Here, guarantees of origin are not adequate proof. Guarantees of origin serve only to trade green credentials and aren't adequate proof of the actual source of the electricity used. The promotion of hydrogen in all EU Member States should focus exclusively on green hydrogen. Blue hydrogen, on the other hand, perpetuates the use of fossil fuel technologies and hinders investment in renewable technologies.

We propose a standard and strict definition for green (renewable) hydrogen and consistent criteria to be applied to the exclusive promotion of green hydrogen. Only with such a definition and precise criteria can the European Union ensure that hydrogen contributes significantly to the reduction of CO2 emissions. To produce green hydrogen, the required amount of electricity from renewable energy sources must also be available geographically and whenever needed. This must be reflected in the criteria for the promotion and labelling of green hydrogen. Presently, the circumstances under which hydrogen is produced are more important than its fields of application. The current availability of renewable energies in the German and European electricity mix limits hydrogen production to small quantities and specific times; production of larger quantities would foster electricity generated from fossil fuel sources. Support, therefore, must focus initially on production that benefits the system and is in line with the energy transition. That is why it should also be possible for renewable plants for which funding has already ended

to produce green hydrogen. Plants that are no longer eligible for subsidies face the challenge of developing new business models and marketing opportunities they can rely on. The production of hydrogen has this potential, so that old plants can continue to operate and do not have to be decommissioned. That, of course, applies only to plants that cannot be repowered.

Moreover, precisely formulated, and practical requirements for renewable hydrogen can bolster the development of a European hydrogen market and avoid unnecessary lock-in effects caused by fossil fuel gases and inflexible and rigid production methods. The market roll-out of hydrogen must not be an end in itself; it should serve to achieve the climate targets and the decarbonisation of all sectors. The development of the hydrogen infrastructure should also focus on the availability (demand-based) and long-term and exclusive use of green hydrogen only. Sites with a high potential for the production of green hydrogen should be connected to areas where demand is high. Accordingly, progress in the expansion of renewable energies must be aligned with the development of a green hydrogen economy and infrastructure. In addition, hydrogen from biogeneous sources should also be supported and included in the definition.

The European Union should therefore with the reworked RED introduce the right regulatory framework. Instead of the risky use of expensive nuclear power or the lengthy development of a nationwide infrastructure for „low-carbon“ hydrogen, which is associated with the risk of locking in the use of fossil fuels, renewable hydrogen should be developed and implement without detours. By setting the right incentives, a rapid market ramp-up for renewable hydrogen in the industry sector offers a cost-effective and less risky alternative for decarbonizing industrial applications.

Article 23

The binding annual increase in the share of renewable energies in the heating and cooling sector for each Member State by at least 1.1 percentage points is welcomed by the BEE. The addition that in the case of waste heat the annual increase should be 1.5 percentage points and could be up to 40 % of the increase should be supplemented to the effect that only waste heat from renewable energies should be creditable, but not from fossil energy. A crediting of waste heat from fossil energy plants to the target for the expansion of renewable energy should be avoided. The consequence would be deadweight effects, which would reduce the target and, with a maximum creditability of 40 %, only an increase in the share of renewable energies of 0.9 instead of 1.1 percentage points would remain.

Article 24

BEE welcomes the increase of the target for the share of renewable energies in district heating from 1 to 2.1 percentage points per year. Nevertheless, BEE criticises that the member states are only supposed to make efforts to achieve the increase. A more binding target would be more effective in achieving the climate and energy goals. In addition, BEE strongly suggests that waste heat from fossil fuels cannot be counted towards the target to avoid false incentives that result in lock-in effects for fossil fuels in the heating infrastructure.

Article 25

The improvement and climate-friendly transformation of the transport sector is only possible on a broad scale through a combination of reducing the use of fossil fuels, switching to new propulsion technologies, increasing the use of renewable electricity and biofuels and building the necessary infrastructure. The coupling of the transport and energy sectors is essential for achieving the European climate targets. In the mobility sector, the direct electrification of vehicles (higher efficiency of the electric motor) is the prerequisite for efficiency successes. Replacing fossil fuels with renewable electricity is the most cost-effective and energy efficient way of reducing CO2 emissions. However, this must be combined with the climate-friendly transformation of existing transport (decarbonisation of fuels) and offer solutions for transport that is difficult to electrify (air, sea and heavy goods transport). This means that the use of sustainable biofuels is also a key element in reducing emission from existing transport.

In view of the EU's climate protection target, the planned increase in the greenhouse gas reduction target to at least 13 % in 2030 should be significantly increased and be binding for all member states. The target in Germany for the year 2030 is 25 % greenhouse gas reduction including multi counting, which according to BEE estimates corresponds to about 16 % real GHG reduction. It is also advisable to increase the target annually in equal steps so that consumers and economic operators can adjust to the gradual increase.

Article 26

In view of the time pressure on climate protection and the need for rapid reduction of emissions in the transport sector, BEE questions the retention of the cap on the counting of sustainable biofuels from cultivated biomass. In BEE's view, successful climate protection requires that all sustainably available options for greenhouse gas reductions are quickly used in order to achieve a significant contribution to climate protection in the vehicle fleet. Sustainable biofuels from agricultural biomass are immediately available, can be used in the existing filling station infrastructure, and are cost-efficient in terms of their climate protection contribution compared to liquid energy sources from renewable electricity.

Article 28, paragraph 6

In Art. 28 (6) it is written “The Commission is empowered to adopt delegated acts in accordance with Article 35 to amend the list of feedstocks set out in Parts A and B of Annex IX by adding, but not removing, feedstock. Feedstock that can be processed only with advanced technologies shall be added to Part A of Annex IX. Feedstock that can be processed into biofuels, or biogas for transport, with mature technologies shall be added to Part B of Annex IX.” We think that the red-marked part should be removed from the text.

The background is that the RED II itself specifies after the above-mentioned recital “*Such delegated acts shall be* ***based on an analysis of the potential of the raw material as feedstock*** *for the production of biofuels and biogas for transport, taking into account all of the following*”. The decisive point whether a feedstock is listed in ANNEX IX, part A, is therefore the potential of a raw material as feedstock. This means the feedstock must be classified as residues or

waste or have any other significant advantage for the environment (permanent soil cover, biodiversity promotion, humus formation etc). Important is that the usage of that feedstock is beneficial and will thus be promoted in a special way. As it is now, should new feedstocks be added, for example melliferous plants for biogas use and processed with mature technology, would they be added to part B of ANNEX IX and thus be limited at 1.7 %. However, this does not make any sense since the progressivity of the newly added feedstock has nothing to do with the technology which is used to process the feedstock. It does not matter at all whether it is handled by mature or "advanced" technology. On the worse, it is not even defined within RED II what classifies as "advanced" and "mature" technology. Thus, we do not see any sense in this stipulation and ask for a deletion as follows:

"28 (6) The Commission is empowered to adopt delegated acts in accordance with Article 35 to amend the list of feedstocks set out in Parts A and B of Annex IX by adding, but not removing, feedstock. ~~Feedstock that can be processed only with advanced technologies shall be added to Part A of Annex IX. Feedstock that can be processed into biofuels, or biogas for transport, with mature technologies shall be added to Part B of Annex IX.~~"

Article 29, paragraph 1

BEE opposes the lowering of the threshold for the sustainability criteria from 20 to 5 MW total rated thermal input. For a large number of decentralized electricity and heat suppliers, this would introduce additional barriers, with the consequence of increasing direct and indirect costs due to certification and related bureaucracy and administration. This would be offset by only a small amount of biomass that would fall under the sustainability criteria in addition to the current limit of 20 MW of total rated thermal input, so the disadvantages outweigh the advantages: While plants above 20 MW use 75 % of the biomass used but represent less than 15 % (456 plants) of all European wood energy plants, plants in the 5-20 MW range use only about 18 % of the total biomass, but, with more than 1060 plants, represent around one-third of all plants. Lowering the threshold would therefore entail a disproportionate cost and administrative burden to the sector and would contradict efficient and proportionate legislation as well as renewable energy expansion.

However, a positive aspect in this context is the provision in paragraph 6 for the member states to provide for simplified verification of sustainability and greenhouse gas reduction for plants with a total rated thermal input between 5 and 10 MW. In case that the threshold for the sustainability requirements is lowered, the possibility of simplified verification must be extended to all newly affected plants up to 20 MW.

With the introduction of a flow rate of more than 200 m3/h methane equivalent to the threshold in the biogas sector in subparagraph 4, b), BEE asks for the elimination of the total rated thermal input of 2 MW: The total rated thermal input is not suitable to properly reflect flexible power generation from biogas plants. In recent years, the German government has encouraged a flexibilization of biogas plants via the Renewable Energy Sources Act (EEG). In recent years, biogas plant operators have installed additional electricity generation capacities in the form of additional combined heat and power plants. The total rated thermal capacity has been increased accordingly without increasing the fuel input.

Article 29, paragraph 3-5

BEE considers the general introduction of prohibitions on the use of forest biomass from primary forests (paragraph 3), wetlands (paragraph 4) or drained peat soils (paragraph 5) to be not expedient, as is the restriction on use in highly biodiverse forests and protected areas (paragraph 3). The aforementioned land categories were defined as no-go areas for agricultural raw materials in order to exclude land conversions for biofuel production. An extension to forest biomass would not only contradict the intention of the initial regulation but would deeply interfere with (national) forest laws and protected area policies through European energy law. EU law, for example, includes directives specifically created for nature conservation, e.g., the Habitats Directive (Directive 92/43/EEC), while the task of the RED is to promote renewable energy and not to interfere with conservation purposes. In addition, the listed land categories are already effectively protected by national laws in Germany, so there is no general need for EU action here. Instead, the introduction of usage bans and restrictions in energy law threatens new bureaucratic proof and control obligations as well as legal uncertainties, without any recognizable added value. BBE asks for exempting member states that already effectively provide protection for the affected land categories from the requirements. In addition, the introduction of the restrictions on energy use would also negatively affect the material use of wood: Harvesting wood for material purposes results in wood assortments that cannot be used for other purposes, which are therefore utilized for energy and would thus no longer be usable as residual and by-products of material utilization.

Article 29, paragraph 10

BEE rejects the retroactive introduction for greenhouse gas reduction obligations regardless of the date of operation start. The commission’s proposal would mean that existing biomass plants would retroactively fall within the scope of greenhouse gas reduction criteria. This violates the protection of legitimate expectations and calls into question the reliability of policy. This would not only question the investment security for future bioenergy plants, but also (especially in the biogas sector) lead to the closure of existing plants in cases where the retroactively introduced greenhouse gas reduction requirements cannot be met. This would threaten an important pillar of the decentralized decarbonization of energy and heat in rural areas. Instead, BBE demands that the GHG reduction requirements must be limited to new plants, as only in this case can plant manufacturers and operators meet the requirements in the course of technical progress. In addition, BBE criticizes that for many important biogas substrates (e.g., grain silage, flowering plants), but also for solid biomass fuels, no default values are included in Annex VI, Part A. This means that the complex and time-consuming greenhouse gas calculations has to be carried out by the plant operators themselves. This is already a problem in view of the greenhouse gas calculation required in RED II for plants commissioned as of 1.1.2021. BBE therefore calls for the addition of further standard values for the greenhouse gas calculation to Annex VI Part A.

Article 31

BBE criticizes that with the deletion of paragraph 2, the use of NUTS 2 values for the greenhouse gas calculation is taken. The use of NUTS 2 values for the cultivation of biomass leads

to a significantly better and more realistic representation of the greenhouse gas balance compared to the use of default values at European level. It is therefore not clear why the already given level of detail of the greenhouse gas calculation should be abandoned at the expense of a more inaccurate procedure. BBE demands that a region-specific greenhouse gas calculation by using disaggregated standard values for biomass cultivation, on the basis of NUTS 2 regions, must continue to be possible.

As German umbrella association for the renewable energy sector, the German Renewable Energy Federation (BEE) bundles the interests of 45 specialised associations and companies. We connect the wind, bio, solar, geothermal and hydropower sector. We represent 30,000 individual members, among them more than 5,000 companies, 316,000 jobs and more than 3 million power plant operators.

Our goal: 100 percent renewable energy in electricity, heating and transport.

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