

UFOP position paper on

2nd Act on the Further Development of the GHG Quota (Art. 3 Annexes 1 and 4)

Here: Certification requirements and documentation obligations

Reason for the legislative proposal:

National implementation of Delegated Directive 2024/1405 of the European Commission amending Annex IX to Directive EU 2018/2001 of the European Parliament and of the Council with regard to the inclusion of raw materials for the production of biofuels and biogas

1. Definition of so-called "advanced" biofuels and raw material certification:

The Delegated Directive specifies that classification as an "advanced" biofuel depends on the technological innovation of the production process in question, not on the waste or residual material to be processed. In doing so, the EU Commission not only closes a regulatory gap that has existed for years in accordance with Article 28(6) of Directive (EU) 2018/2001, but also ends the incentive for fraud resulting from the double counting of these biofuels (Annex IX Part A) towards national quota obligations.

In future, the focus will be on promoting technology with the aim of exploiting the sustainably available biomass potential of waste and residual materials. This is because the physical demand for biofuels is increasing as a result of the inclusion of air and maritime transport. These additional biofuel quantities can only be counted if they have been produced from residues or waste materials, from catch crops or crops from degraded land. Biofuels from waste and residues in accordance with Annex IX Part A of RED II were and are the cause and driver of the biofuel quantities suspected of fraud, which are putting the German biofuel market under sustained pressure. At the same time, the protection of legitimate expectations after the so-called last interface has "legalised" the fraud.

UFOP therefore welcomes the fact that the Delegated Directive implements long-standing requirements and applies them to "additional biomass raw materials" in order to ultimately promote technological development. The problem is that the EU Commission, referring to a technical regulation, does not carry out an impact assessment to review the requirements regarding a concrete definition of innovative technologies.

In Annex IX, Parts A and B, catch crops are additionally included as an additional cultivation option, but not as a crop-specific option (positive list). This also applies to the cultivation of crops on degraded land. The requirements for land area and proof of origin are not specified in the Delegated Directive as a prerequisite for concrete geodetic location determination. Not least for the purpose of fraud prevention, the requirements for sustainability certification are listed below. UFOP assumes that, in the case of crops such as rapeseed, soybeans, sunflowers or even cereals, the vegetation period between these crops (crop rotation) is not sufficient for corresponding production in accordance with the requirements of the Delegated Directive (Annex IX Part A (t) or Part B (f)). The cultivation of food or feed crops on degraded land is excluded.

There is a need for action and regulation to specify these requirements for goods accompanying controls, which begin on the production farm in the case of catch crops or degraded land. The certification systems approved by the EU Commission must supplement their system principles accordingly.

In the interests of soil protection and sustainability, the principle must be observed that the carbon content is "protected" in the soil when "residual materials" such as straw are removed from the cultivated area, and this must also be taken into account in monitoring by the competent authorities (see 2018/2001, here: Recital 100, or Art. 29(2)). This also applies to the authorisation of catch crop cultivation and cultivation on degraded land. From an agronomic point of view, catch crop cultivation primarily serves to conserve carbon (humus preservation/accumulation, CO₂ storage), conserve nutrients (green manure) and promote biodiversity. The importance of catch crop cultivation for agricultural practice in Germany country can be seen, among other things, in the funding of the "HumusKlimaNetz" project <https://humus-klima-netz.de/ueber-das-humusklimanetz/> and in the development of cultivated areas (see below). Intercropping is a decisive factor in the development of resilient crop rotation systems with greater crop diversity.

UFOP therefore calls for:

1. **mandatory registration of production facilities for the manufacture of "advanced" biofuels in the Union Database (UDB);** the basis for this is proof of the suitability of the process technology in comparison with a technology already on the market;
2. **qualified on-site certification as the basis** for assessing the innovation of the technology used;

3. **Proof of the qualifications of the certification body's certification personnel** as a prerequisite for approval;
4. **the inclusion of the test results for the technological innovation** in the sustainability certificate. This innovation must be reassessed over time and classified as a "mature" technology, so that the preferential promotion of the biofuel quantity produced ends (state of the art).

In order to prevent fraud, the competent body of the European Commission is obliged to report annually on the status of technological innovation and the recognition of plants. The certification systems also support the European Commission in determining the "degree of maturity" of technological progress, e.g. using the criterion of the number of plants with the same technology.

2. Article 1 Annex IX – Intercropping / cultivation on degraded land

Annex IX is supplemented under t) with raw materials that can be cultivated as catch crops or cover crops.

At the same time, the conditions for corresponding eligibility **are** specified in the annex to the Delegated Directive. These must be added to the certification principles of the certification systems (see above example of proof of carbon conservation). These additions must be reviewed and approved by the EU Commission as part of the approval process. Approval requires appropriate operational checks and controls by the competent authorities of the EU Commission or the Member States (witness audits). The task of agricultural trading companies is to enter the relevant data on origin, yield, type of harvest, etc.. Into the Union database. In order to prevent fraud, the data stored in the Union database must be checked for plausibility. If fraud (e.g. non-verifiable GHG of the specific crop cultivation) reduction is suspected, it must be possible to block the sustainability certificate. The Delegated Directive specifies the following criteria:

- Area requirement: cultivation is restricted to regions where the production of food and feed crops is limited **to one harvest** due to a short growing season;
- the use of these raw materials **does not** create **demand** for additional cultivation areas;
- cultivation on the specific area **does not** involve **the degradation** of inorganic soil carbon.

UFOP therefore requires that farming operations meet the above and the following certification requirements:

Evidence for documentation:

- Crop rotation plan and designation of the cultivation area(s); Check for "approval" (registration procedure);
- Cultivation area-specific test results based on soil samples to determine the organic carbon content before cultivation begins and subsequently to determine the development of the carbon content;
- area-specific harvest yield;
- Calculation of the GHG value according to production input, use of emission factor (IPCC) for nitrous oxide (1.1% of the N amount through removal **even if no nitrogen** fertiliser was used).

Annex IX Part A u) and B f): Cultivation on **severely** degraded land:

- Precise determination/registration of the degraded area using geodata (GPS/polygon drawing) and verification of the "site characteristics" (C content in the soil, total precipitation, etc.) through assessment/certification;
- **namely** calculation of the GHG value according to production input, use of emission factor (IPCC) for nitrous oxide (1.1% of the N amount through removal **even if no nitrogen** fertiliser was used).

Explanations/notes

Cultivation on degraded land:

Characteristics of degraded land include very low carbon content and multiple causes, including overuse: <https://www.welthungerhilfe.de/welternaehrung/rubriken/agrar-ernaehrungspolitik/degradierung-von-boeden-ausmass-und-klimarisiken>

The aim of approving cultivation for the purpose of counting towards quota obligations must therefore be to increase the carbon content and provide analytical proof of this, (see instructions from the North Rhine-Westphalia Chamber of Agriculture): <https://www.landwirtschaftskammer.de/lufa/probenahme/probenahme-boden.pdf>

Union database (UDB): Marketer / agricultural trade

- Responsible for entering the initial information: agricultural holdings, harvest quantities (ISR) into the Union database are the initial data providers or marketers;

Current status and agronomic objectives of intercropping in Germany:

Definition by the Bavarian State Institute for Agriculture: „Intercropping refers to the cultivation of crops between two main crops. Through stubble or undersowing, summer/winter intercrops and the wide variety of species and varieties of intercrops, intercropping can be easily integrated into the cultivation system“.

Cultivation development in Germany – 2023: 2,2 mio. ha:

<https://www.agrarheute.com/pflanze/zwischenfruechte/erfolgssstory-deutsche-landwirte-bauen-zwischendurch-diese-fruechte-629689>

2.5 per cent (53.000 ha) was used for **energy production** (biogas)

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The Union for the Promotion of Oil and Protein Crops e. V. (UFOP) represents the political interests of companies, associations and institutions involved in the production, processing and marketing of domestic oil and protein crops in national and international bodies. UFOP supports research to optimise agricultural production and for the development of new utilisation possibilities in the food, non-food and feed sectors. UFOP public relations aim to promote the marketing of domestic oil and protein crop end products.