



Hydrogen  
Europe

# Hydrogen Europe Position Paper

Recommendations to the EU and its Member States on the transposition of the RED III industry target for RFNBO consumption

June 2024

## **Executive Summary:**

The Renewable Energy directive (REDIII) aims to promote energy from renewable sources by creating a favourable regulatory and investment framework that helps accelerate emissions reduction and reduce reliance on fossil fuels. It specifically mandates the use of renewable fuels of non-biological origin (RFNBO) in transport and industry. For industrial uses, it sets ambitious targets, requiring at least 42% RFNBO usage by 2030 and 60% by 2035.

Considering how challenging it will be for Member States (and hence industry) to meet such ambitious targets in record time, the REDIII provides flexibility mechanisms for Member States to decrease the level of the industry target based on a) their renewable energy progress, b) hydrogen production from non-fossil fuels and c) plans for retrofitting existing installations with CCS. Reductions of up to 20% of the target is permitted under certain conditions. The directive also raises questions about imports potentially impacting target achievement.

Member States have until 21 May 2025, to transpose the directive into national law and decide how the RFNBO target in industry should be achieved. Member States might decide to impose certain obligations on hydrogen users themselves, in a proportional manner or differentiating among sectors. They may decide to keep the obligation at national level and introduce mechanisms to incentivise investments across all hydrogen using sectors. Each option presents advantages and disadvantages, such as investment attractiveness, industry competitiveness, market development, and regulatory complexity. This paper presents a summary of the main transposition options, and more importantly, it identifies and describes what the enabling conditions are to ensure a successful uptake of RFNBO in industry and to support the achievement of the renewable energy targets.

Whichever strategy Member States adopt, there are certain enabling conditions which are essential for the successful RFNBO roll-out, including a predictable regulatory framework, a robust infrastructure development, adequate funding support, a transparent and compatible certification framework, and initiatives for renewable product labelling. Hydrogen Europe supports the speedy transposition of REDIII into national legal frameworks, working hand in hand with industry on establishing the enabling conditions and gradually moving the obligations at company level, increasing investment opportunities, and accelerating the creation of a liquid market for clean hydrogen. However, there are two pre-requisites for imposing obligations onto the industry. Firstly, the Member State has to develop a clear and predictable strategy on how to build a corresponding infrastructure that allows the delivery of RFNBO to off-takers. Secondly, the Member State must have in place a hydrogen-specific derisking scheme clearly targeting off-takers via a transitional instrument allowing for an impactful reduction of the financial burden, e.g. via equity, an energy transition fund or a contract for difference. Hydrogen Europe also recommends to the European Commission to assess as soon as possible the impact of applying the same RFNBO quota obligations to imported hydrogen derivatives, ensuring fairness and uniformity in the market.

In summary, the successful implementation of REDIII targets requires a coordinated effort between Member States, industry stakeholders, and regulatory bodies and dedicated attention to the enabling conditions that make the industry thrive, promoting sustainability and competitiveness within the European Union.

## Introduction

On 20 November 2023, Directive 2023/2413 as regards to the promotion of energy from renewable sources (REDIII) entered into force, thereby amending the previous Directive 2018/2001 (REDII). The new directive aims to reduce the dependence on fossil fuels in the industry sector, as well as to decarbonise industrial emissions (recitals 59-61). Thus, it introduces notable changes by mandating the sector to increase the contribution of renewable fuels of non-biological origin (RNFBO).

More specifically, under art. 22a(1), para. 5, an obligation is placed on Member States to ensure that by 2030, RNFBO make up at least 42% of hydrogen used for final energy and non-energy purposes in industry, rising to 60% by 2035. The Directive also provides several flexibility mechanisms in calculating these targets, both in the articles, as well as in the recitals. Nonetheless, the decision of how to transpose the target into national law is left to Member States and they have until 21 May 2025 to do so.

In transposing the target, Member States have a menu of options. Considering the significance of these targets for the hydrogen sector, through this paper, Hydrogen Europe aims to support both industry and Member States in ensuring the rapid and adequate transposition process. The national implementation of the obligation should not only facilitate the deployment of hydrogen technologies in Europe but also enhance European competitiveness. To achieve this objective, this paper will:

1. Provide an overview of the target and flexibility mechanisms available to Member States in the transposition phase;
2. Given the above, offer an overview of the options available to Member States;
3. Identify the conditions necessary for the uptake of RNFBO to occur successfully;
4. Recommend the most appropriate course of action, considering the diverse interests of stakeholders involved in the process.

## 1 – Target and flexibilities in setting national targets

The target covers industrial undertakings in the sectors B, C, F, and J (36) of the statistical classification of economic activities (NACE REV.2).<sup>1</sup> This corresponds to the sectors of Mining & Quarrying, Manufacturing, Construction, and Information Service Activities.

Art. 22a, fifth subparagraph, sets out that Member States must ensure that the RNFBO in final energy and non-energy purposes shall make up at least 42% of the hydrogen used for final energy and non-energy purposes in industry by 2030, and 60% by 2035.

When calculating the **denominator**, three streams of hydrogen use **should not be included**.

1. Hydrogen used as an intermediate for the production of fuels, as it is covered by the transport target;
2. Hydrogen produced through decarbonisation of industrial residual gas, which is subsequently reintegrated into the process from which it is derived;
3. Hydrogen produced as by-product.

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<sup>1</sup> As defined in Regulation (EC) No Regulation (EC) No 1893/2006 of the European Parliament and of the Council, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02006R1893-20190726>

Similarly, RFNBO used as an intermediate for production of fuels is not to be counted in the numerator.

#### FLEXIBILITY MECHANISMS WHEN DEFINING THE TARGET

The text of the directive and the way that the target is formulated provides two ways, through which the target can be reduced when set at the national level.

##### 1) *Article 22b – Reduction of target by 20%*

As outlined in art. 22b, a reduction of the RFNBO target by 20% in 2030 is permissible under two conditions:

- a. the Member State is on track to meet its renewable energy sources (RES) target by 2030, and
- b. the share of hydrogen, or its derivatives, produced from fossil fuels consumed within that Member State does not exceed 23% by 2030.

It should be noted that there is no clear definition provided regarding what constitutes hydrogen produced from fossil fuels.

##### 2) *Exemption of CCS projects & retrofitted facilities*

Although, not explicitly stated in the binding text of the legislation, in Recital 62 of the preamble, the legislators provided that *“hydrogen produced in retrofitted production facilities based on steam methane reforming technology for which a Commission decision with a view to the award of a grant under the Innovation Fund has been published before the entry into force of this Directive and that achieve an average greenhouse gas reduction of 70% on an annual basis, should not be taken into account.”* If such cases are present in any given Member State, this effectively reduces the amount of RFNBO required, through the reduction of the absolute amount of hydrogen to be considered in the denominator for calculating compliance with the target.

Additionally, Recital 63 acknowledges the specific challenges for integrated ammonia production facilities when replacing hydrogen derived from steam methane reforming. A declaration from the Commission associated with the recitals has indicated, that *“on a case-by-case basis, when duly justified, will not take into account these existing plants, while considering whether they have been fully amortised and when the final investment decision for retrofitting them has been taken.”*<sup>2</sup> Thus, the recital and declaration in effect open the possibility to lower the target to be met, however, there is uncertainty as to the exact impact due to non-binding character of both recital and declaration and the fact that Member States are to decide on how to implement the obligations to meet the target.

#### QUESTION OF IMPORTS

As published in the Official Journal of the European Union, the text of the directive leaves an omission through which the target can be reduced or bypassed through the imports of fossil-based hydrogen products from outside of the EU (i.e. methanol, ammonia, e-NG, fertilisers, etc) that replace domestic hydrogen consumption. Since the denominator for each national target accounts only for hydrogen used for final energy and non-energy purposes, any final product produced outside of the EU and

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<sup>2</sup> <https://www.euractiv.de/wp-content/uploads/sites/3/2023/06/Declaration-on-behalf-of-the-Commission-on-Article-22a-and-Article-22b-of-RED-3.pdf>

imported, that replaces hydrogen use in the EU Member State, effectively reduces the denominator and subsequently the amount of RFNBO required.

To ensure that the ambition of the directive is upheld, the European Commission must ensure that any hydrogen and derivatives imported into the EU adhere to the same RFNBO quota obligations as domestically produced ones, ensuring fairness and uniformity in the market.

## 2 – Menu of options available to Member States in transposition

The Directive leaves to national authorities the choice of the exact form and methods on how to achieve the target, which is binding on them. This section of the paper aims to consider what are primary options available to national authorities, while also weighing on their respective advantages and disadvantages. It is to be noted that national authorities can also develop hybrid options, which combine different elements of the options presented below. The overview present is based on the experience with the transposition of previous EU targets such as the general RES target (20% RES in 2020) under the REDI and RES in transport sector target under REDII.

### OPTION 1: KEEPING THE TARGET ON MEMBER-STATE LEVEL

The first option available is to maintain the obligation at the Member-State level, without explicit obligations on industry, thereby aiming to achieve the target through positive incentives such as tax reductions or subsidies, similarly to the Feed-in-Tariffs used to support the uptake of RES across Europe in the past.

#### Advantages

- **Limited risk to industry:** The risk for non-compliance with the target is borne by national authorities.
- **Minimised risk of carbon leakage:** Risk of carbon-leakage and production relocation is minimised (because of the previous point).
- **Large potential market for hydrogen producers:** Assuming that enough public support is available, with competitive RFNBO prices stemming from that public support, hydrogen producers may have a large potential market.

#### Disadvantages

- **Significant amounts of state support:** This approach would need significant subsidies for RFNBO production or consumption, not only to cover the additional cost of RFNBO over conventional alternatives, but sufficient to incentivise commercial stakeholders to develop projects and carry them out until operation.
- **Resource limitations & lack of political will:** The significant amounts of state resources required will not be universally available except to a limited number of Member States (e.g. France & Germany). This is likely to create a two-speed Europe, with a fragmented European hydrogen market.
- **Reduced incentives for commercial stakeholders:** With an obligation imposed on the national authorities and no penalties at company level, the incentive for commercial actors, both project developers and industrial offtakers, to develop projects and accelerate Final Investment Decisions (FIDs) will be significantly reduced. It will also further slow the development of the nascent European hydrogen market, while projects await subsidy schemes and decisions.

- **Lack of market development trajectory:** Any large enough support scheme to support project developers would lack the certainty of availability of financial resources in the medium- and long-term.

## OPTION 2: PASSING THE OBLIGATION ONTO INDUSTRY AS A WHOLE

A second option would be to place the obligation to reach the RFNBO target on individual companies, possibly at corporate group-level, in a uniform manner to all sectors in which hydrogen is consumed. This could range from a ‘copy-paste’ approach in transposing the target, where no differentiation would be made regarding the hydrogen-value chain and its complexities (price/competition exposure of different sectors), to a gradual implementation that facilitates achievement. Possible ways to ensure compliance range from simple monitoring, verification, and reporting systems to ‘book and claim’ systems with tradeable credits or tax-based systems with penalties for non-compliance, like the HBE (Netherlands) or THG quota (Germany) or TIRUERT tax (France).<sup>3</sup>

### Advantages

- **Incentivising RFNBO production:** This approach provides a strong incentive for RFNBO production to replace current fossil fuel-based hydrogen consumption, which is likely to drive FIDs, leading to the deployment of green hydrogen technologies.
- **Limited direct costs for governments:** By shifting the responsibility to industry, governments incur fewer direct costs within their limited budgets, with the possibility to free more budget space for the development and/or upscaling of other parts of the hydrogen value chain which are very much needed for the industry to meet the obligations (e.g. infrastructure, or downstream stimulus for the uptake of RFNBOs such as green steel in buildings or renewable ammonia in fertilisers).
- **Mobilisation of private capital:** An obligation on industry will provide certainty that projects will have to be designed and implemented by industrial stakeholders to meet their targets, thereby ensuring the mobilisation of private capital for these projects.
- **Certainty on investments:** With a ‘book and claim’ system with tradeable credits, companies will have a very clear view on how much they need to invest to meet the target, which will accelerate project development.
- **Positive incentives for additional RFNBO production:** With a ‘book and claim’ system with tradeable credits, companies that over invest into RFNBO production can be rewarded by the sale of credits to other companies that do not have the right conditions to invest on their own.

### Disadvantages

- **Lack of differentiation between sectors:** A general target does not differentiate between different end-use sectors for RFNBOs, failing to take into consideration key factors such as timelines of industrial processes, their investment cycles, their exposure to international competitive pressures and different levels of risk of carbon-leakage.
- **Industrial competitiveness & carbon-leakage risk:** A ‘copy-paste’ approach with a high-ambition target can lead to decreased industrial competitiveness as the additional costs of RFNBO cannot be passed down to customers in all industrial sectors in the same way due to

<sup>3</sup> More information on Dutch HBE can be found here <https://www.emissionsauthority.nl/topics/general---energy-for-transport/renewable-energy-units>, while more information on German THG quota can be found here <https://www.bmv.de/presse/fragen-und-antworten-fag/fragen-und-antworten-zur-anrechnung-von-strom-in-elektrofahrzeugen-im-rahmen-der-thg-quote#:~:text=Laut%20der%20vom%20Bundestag%20im,25%20Prozent%20im%20Jahr%202030> More information on TIRUERT can be found here <https://www.ecologie.gouv.fr/fiscalite-des-energies>

differing cost structures and markets. This can lead to ‘carbon-leakage’ where industries can decide to leave the EU market for much less restrictive geographies.

- **Risk to newcomers:** New industrial consumers looking to switch to hydrogen to decarbonise industrial processes will have to comply with the obligations from the outset.

### OPTION 3: PASSING THE OBLIGATION ON INDUSTRY WITH SECTORAL DIFFERENTIATION

A third option is to pass the obligation to reach the RFNBO target on individual companies, in industries in which hydrogen is consumed, with a differentiation in the level of ambition for RFNBO consumed depending on the sector in which the company operates. Under this option, national authorities can adapt the target depending on their industrial sector structure and take into consideration the different factors mentioned above, such as exposure to international competitiveness, their decarbonisation alternatives and investment cycles as well as carbon-leakage risks. As in the previous option, the achievement of the target can be facilitated through ‘book and claim’ systems e.g. HBE (Netherlands) and THG quota (Germany), thereby facilitating RFNBO production and integration where it first benefits most from economic efficiency and high willingness-to-pay.

#### Advantages

- **Differentiation between sectors:** By considering various factors affecting competitiveness, this approach differentiates between the economic structures of different end-use sectors of RFNBOs, ensuring a more tailored approach to target ambitions.
- **Incentivising RFNBO production & economies of scale:** Strong stimulus for RFNBO production to replace current fossil fuel-based hydrogen consumption, driving FIDs in RFNBO projects, leading to scale-up of green hydrogen technologies. Deployment will be first directed towards where it is most economically efficient, that is towards those industries which are able to pass on the additional costs easily and which are also able to receive a return on their investment through trade of credits, providing a smoother pathway towards economies of scale.
- **Limited direct costs for governments:** Similarly to the previous option, by shifting the obligation to industry, governments incur fewer direct costs within their limited budgets, with the possibility to free more resources for the development and/or upscaling of other parts of the hydrogen value chain. With a better understanding of the value chain, the impact of any targeted support can be increased.
- **Mobilisation of private capital:** Similarly to the previous option, as industry stakeholders have a duty to meet their sector-specific targets and to invest accordingly, the mobilisation of private capital to project development is ensured.

#### Disadvantages

- **Risk of discriminatory allocation between sectors:** Improper allocation of burden may lead to uneven and unproportional contributions towards the targets between sectors, going beyond differentiation among sectors. This has the potential to undermine the effectiveness of the scheme and distort market dynamics. This might also undermine the overall adherence to the scheme and hence compliance.
- **Added regulatory complexity & delay in setting up schemes:** Due to the need to consider various factors, such as carbon leakage and other risks, price levels, and demand levels, a significant regulatory complexity to the compliance scheme can be added. Additionally, the gathering of all inputs from national regulatory authorities will delay the establishment of schemes across Europe.
- **Increased market distortion:** With the definition of targets across different sectors, Member States with larger industrial bases have more options across which to distribute their efforts

to achieve the target across different industries, while Member States with smaller industrial bases will have to place the target on a smaller pool of stakeholders. Within the same industry, RFNBO consumers located in Member States with more lenient sectoral targets can benefit from reduced obligations. While the lack of a European approach towards the target will mean some degree of market fragmentation, this option increases the risk of fragmentation.

### 3 – Enabling conditions for meeting the RED III targets

**Regardless of the method chosen by a Member State to transpose the target in its national framework, Hydrogen Europe has identified certain conditions applicable to all Member States, without which achieving the national targets will be extremely challenging.**

Firstly, national authorities should work on **providing predictability** on how the target will be structured as soon as possible, preferably in the National Energy and Climate Plans, or at least by the end of 2024. In the nascent market of hydrogen, this predictability is paramount, while ensuring timely transposition is essential. Achieving the targets should proactively support the industry early on by offering clear guidance and certainty regarding the target's framework and requirements.

**Infrastructure:** Considering the quantities of RFNBO necessary for different industrial processes, ensuring the development of robust hydrogen transport and storage infrastructure is critical, in parallel to transposition and supply scale-up. It is imperative that Member States prioritise infrastructure development to enable the link between hydrogen consumption with hydrogen production. Reaching the ambitious industry target will require moving towards a liquid market for hydrogen, which can only happen with advanced H<sub>2</sub> infrastructure deployment. Therefore, Member States should establish a regulatory framework for infrastructure, designate a hydrogen network operator as soon as possible and facilitate funding to ensure the timely development of suitable infrastructure.

**Funding:** In order to encourage RFNBO consumption in industry and stimulate the production of downstream products with lower GHG emissions, direct funding support at the national level is crucial. This support should address the cost difference between RFNBO consumption and conventional hydrogen or other fossil-fuel-based alternatives across different industrial sectors. At the EU level, the launch of the Hydrogen Bank's segment for domestic production and its inaugural auction signifies a significant initial stride towards bolstering the overall EU hydrogen market. However, it's vital for this instrument to evolve, allowing for the accumulation of assistance and combining production support with dedicated aid for off-takers. The Hydrogen Bank or Member states should also provide state guarantees to mitigate the long-term risks associated with off-takers committing to extended purchase contracts, thereby reducing financial requirements. This support should be accompanied by a substantial budget and a predefined auction schedule to enhance predictability. However, it's predominantly at the national level where Member States must provide their industries with the financial resources and supportive incentives to meet the target. To ensure fair competition, Member States should participate in the Auction-as-a-Service mechanism established under the Hydrogen Bank. Additionally, Carbon Contracts for Difference (CCfDs) and revenue floor-based mechanisms serve as fundamental, cost-effective tools in the arsenal of national authorities to bridge the gap between unabated fossil-based hydrogen and RFNBO production.



**Penalties:** Whether applied at the national or company level, the consequences for not reaching the target require clarity and transparency from the European Commission. If Member States opt for national obligations, the Commission must explicitly outline the severity of these penalties to deter non-compliance. Ambiguity should be avoided, and clear conditions for penalty application must be established instead of leaving room for potential infringement procedures. Alternatively, if penalties are imposed at the company level, the EC should streamline the process to ensure uniformity across Member States. Divergent policy signals would otherwise expose off-taker companies to varying regulatory environments, further increasing the risk of fragmentation of the EU single market.

**Certification:** Another obstacle hindering the adoption of RFNBOs is the absence of a well-defined certification framework. A robust RFNBO certification system is vital for projects to progress with Final Investment Decisions (FIDs). Such certification will ensure credibility, transparency, regulatory compliance, and market access for RFNBO. Moreover, it bolsters the trustworthiness of RFNBO products, offering assurance to consumers, investors, and regulatory bodies regarding their sustainability and environmental attributes. This transparency and reliability are pivotal for garnering market acceptance and consumer trust, thereby stimulating demand for RFNBO-based products. The timely implementation of the industry target heavily depends on the prompt endorsement of the certification schemes by the Commission, which should ideally occur no later than June 2024. In turn, Member States should pledge to adopt or acknowledge the certification schemes endorsed by the Commission. Additionally, there is an urgent need for clarity on the treatment of RFNBOs within the Union Database (UDB) to ensure they can be imported and properly accounted for when it comes to end-use quotas and Member State obligations.

**Crediting (Book & Claim):** Leveraging RFNBO certification, companies ought to have the opportunity to accrue credits that can be subsequently transferred to other companies seeking to demonstrate their utilization of RFNBO through 'book and claim' systems. This transferability can be motivated either by a company-level obligation or by their willingness to disclose their hydrogen procurement strategy to shareholders or customers. 'Book and claim' systems, present a cost-efficient, market-based mechanism that will facilitate the business case for projects across Europe.

**Product Labelling:** The European Union ought to establish a standardised and compulsory labelling system for industrial goods, aimed at disclosing the proportion of renewable energy and feedstock used in the manufacturing process. Such a system would facilitate the emergence of leading markets for environmentally friendly products, which could command a premium due to their green credentials. To ensure consistency and reliability, efforts to label products should be consolidated into a unified, transparent system, with Member States playing a pivotal role in ensuring compliance and advocating for its implementation. Priority should be accorded to disclosing key elements such as carbon intensity and the use of renewable energy. The EC has the capability to facilitate the introduction of such mechanisms, as per Article 22a, paragraph 2.

**Public procurement and green products:** Another crucial factor for establishing a hydrogen ecosystem in the EU is the boost of downstream demand for greener products. To accomplish this, governments and public authorities at all levels must take proactive steps to stimulate demand for environmentally friendly products. Public authorities should spearhead initiatives to integrate ambitious product requirements or environmental performance standards into national public procurement schemes. These schemes should prioritise the procurement of products like green steel, cement, aluminium, or glass for public infrastructures. Furthermore, providing carbon intensity information on procured goods should become a standardised practice.

**Protection against carbon leakage:** Lastly, Hydrogen Europe acknowledges the challenges of decarbonisation faced by industries and the consequent risks of carbon leakage. It is essential to safeguard European jobs and innovation potential within Europe, therefore it is imperative for Member States to closely collaborate with the EU to formulate and execute coordinated policies that bolster European decarbonised industry and enhance its competitiveness globally. While the Carbon Border Adjustment Mechanism (CBAM) represents a positive stride, as highlighted by Hydrogen Europe, it requires further elaboration and expansion to ensure its efficacy and an equitable level-playing field.<sup>4</sup> Further impact assessment is required to understand the transposition of the target across different Member States and the risks of carbon-leakage.

## 4 – Hydrogen Europe’s recommendations

**Considering all of the above, Hydrogen Europe urges national authorities responsible for implementing the REDIII RFNBO target in industry to initiate discussions with industrial stakeholders promptly, with the objective of establishing national targets and develop pathways necessary to achieve them before the end of 2024.**

Taking into account the differences between Member States, a one-size-fits-all approach to setting the national target is unlikely to work across Europe. Different Member States have different industry structures and various types of offtakers, different RFNBO production potential and different connections to import routes. Therefore, Hydrogen Europe calls for national authorities tasked with the transposition of the target to exercise the balance between the different interests at stake. Hydrogen Europe is ready to support these authorities through its work with national hydrogen associations.

Regardless of the scenario chosen, leveraging existing, and developing new, suitable infrastructure to transport and store the necessary amounts of hydrogen to decarbonise industry will be key. Moreover, this infrastructure needs to be operational as soon as possible, especially considering the necessity of imports to contribute the achievement of national targets across Europe. Given that imports may originate from within or outside the EU, it is crucial to prioritise the development of both pipeline and port infrastructure to facilitate their transport.

Relating to imports, the current omission of hydrogen imports in the scope of the target risks undermining the entirety of the target. It is therefore very important that the Commission addresses the issue, firstly, by assessing the impact of including derivatives into the obligations (assessing the volume, possible consequences, etc.); this impact assessment should be done as soon as possible. If the assessment is favourable, The Commission should guide Member states in guaranteeing that any hydrogen and derivatives imported into the EU are subject to the same RFNBO obligations as domestically produced ones. Without such action, the development of the European hydrogen market is placed at risk.

Most importantly, to support the technological deployment across Europe, Member States must assist offtakers of RFNBO and early movers, focusing on support to bridge the gap between the cost of RFNBO and currently unabated fossil-based processes. Additionally, Hydrogen Europe calls for Member States to join the Auction-as-a-Service of the European Hydrogen Bank and to develop

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<sup>4</sup> For more information about CBAM can be found here: [https://hydrogeneurope.eu/wp-content/uploads/2022/10/EU-ETS-and-CBAM-implications-for-the-hydrogen-sector\\_final.pdf](https://hydrogeneurope.eu/wp-content/uploads/2022/10/EU-ETS-and-CBAM-implications-for-the-hydrogen-sector_final.pdf) and <https://hydrogeneurope.eu/cbam-regulation-contradictions-regarding-h2-imports/>

national support schemes to incentivise other forms of hydrogen production that aid in attaining the flexibilities under Article 22b.

**Considering all the points raised above, Hydrogen Europe supports the transposition of the target into national legal frameworks, favouring a coordinated system that imposes obligations on individual companies that consume hydrogen once the enabling conditions are met, such as the gradual development of infrastructure and the derisking schemes guaranteed by the Member States. The transposition should happen in a gradual way, ensuring that the enabling conditions and support (see section 3) are provided in order for the obligation to be achievable by 2030 and 2035, in a manner that retains the competitiveness of the European industry.** By gradually introducing company obligations and establishing a book and claim system, risks will be effectively distributed to stakeholders best positioned to act and equipped with the necessary means, while also receiving support through subsidy schemes to fulfil obligations. This approach ensures flexibility in achieving targets without risking European de-industrialisation. In developing these systems, national authorities should adopt a holistic approach to the regulatory framework, seeking to maximize synergies with existing regulatory regimes.

#### Target Transposition in the Netherlands: Ongoing Discussions

An example of gradual and flexible transposition of the target is being developed in the Netherlands. In the Netherlands, a new example of gradual and flexible target transposition is being developed. National authorities are working on a proposal for a national system that divides the target into two parts. Individual companies will be assigned an annual, incremental target, aiming for 24% by 2030. The remaining 18% will be met through a specific government support scheme designed for joint projects between industrial consumers and project developers. Although the system is still under development, this method exemplifies a cost-effective allocation of responsibilities to achieve the overall target.

Furthermore, in fulfilling their obligations under the directive, Member States must take into account the integrity of the European internal market. While some market fragmentation is inevitable due to the discretion permitted by the directive, national authorities, with guidance from the European Commission, should aim for harmonised legal frameworks across Europe. Additionally, the creation of these frameworks should avoid "gold-plating," meaning they should not introduce additional requirements or administrative burdens beyond those mandated by REDIII.

To prevent delays in investments caused by a vague and prolonged process, the European Commission should signal clear penalties for Member States failing to comply with regulations. Additionally, it should streamline the transposition process by providing comprehensive guidelines on available flexibilities and necessary conditions. Moreover, the Commission must address the oversight concerning imports of final products and hydrogen derivatives concerning target compliance. It's crucial that any hydrogen derivatives imported into the EU adhere to the same RFNBO quota obligations as domestically produced ones, ensuring fairness and uniformity in the market.

Considering all of the above, Hydrogen Europe calls for the following specific recommendations in relation to the upcoming implementation guidelines from the Commission:

- **Imports & risk of carbon-leakage:** Potentially amend the formula's denominator to include imported final RFNBOs, preventing the risk of industry relocation (after an impact assessment).
- **Ensure comprehensive coverage:** Facilitate the creation of a list indicating all sectors and users covered by the target to avoid excluding potential future users.
- **Define penalties for non-compliance:** Define clear and strong penalties for Member States in case of non-compliance in transposing or meeting the target, specifying activation circumstances.
- **Enhance product attractiveness:** Support the development of strong labelling mechanisms for green products to increase visibility and consumer demand.
- **Accelerate certification process:** Accelerate the adoption of the RFNBO certification process by accrediting voluntary schemes and establishing transparent registries based on country indicators.

In relation to the national transposition of the RFNBO industry target, Member States need to:

- **Urgently clarify implementation routes:** Address transposition by clarifying implementation routes into national law and incorporate major design features within the final NECPs by June 2024.
- **Identify affected sectors:** Clearly identify sectors impacted by transposition, being as inclusive as possible and avoiding discrimination among sectors.
- **Allocate budget for deployment:** Dedicate a substantial budget for supporting hydrogen deployment and participation in the Auctions-as-Service mechanism under the Hydrogen Bank, considering complementary schemes.
- **Off-taker support scheme:** Put in place a hydrogen-specific derisking scheme clearly targeting the off-takers via a transitional instrument allowing for an impactful reduction of the financial burden, e.g. via equity, an energy transition fund, or a contract-for-difference approach.
- **Establish regulatory framework for infrastructure:** Designate a hydrogen network operator and establish a regulatory framework and funding for hydrogen infrastructure to facilitate timely consumer and off-taker connections.
- **Develop book and claim system:** If the obligation is passed into the industry, develop a functional crediting system to maximise cost-efficiency in reaching RFNBO targets.

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