

## **Ensuring Fairness and Preventing Fraud in Sustainable Biofuel Verification: EcoCeres' Position on Recent Proposals for EU System Reform**

As a leading renewable fuel producer with a longstanding commitment to serving the EU market, as well as other international markets, EcoCeres Limited ("EcoCeres") **supports recent calls for reforms to enhance the EU system for verifying sustainable biofuels**. We emphasize the critical importance of ensuring that biofuel production and use align with stringent environmental standards to combat climate change effectively, and that fraud in the industry should be adequately addressed and prevented.

Recent experience suggests that biofuels with questionable sustainability records have been used in the EU market, supported by certificates that might not reflect reality. Current rules and mechanisms seem insufficient to prevent fraudulent practices in the EU's biofuel market, indicating a need for additional controls and requirements. These concerns about fraudulent practices are not limited to producers/operators outside the EU; there have been **reports of questionable practices by producers/operators both within and outside the EU**. Therefore, a comprehensive approach addressing potential fraud across all producers/operators, regardless of their geographical location or the feedstock used, is essential for maintaining the credibility and effectiveness of the biofuel verification system.

At the same time, it is important to avoid imposing overly burdensome requirements that could create significant challenges in maintaining a sufficient supply of biofuels, particularly in light of a shortage of certain products, such as sustainable aviation fuel ("SAF"). To contribute to a more sustainable world, it is not enough to have controls in place to ensure the sustainability of supplies that reach the EU market; there must also be a workable system that allows genuinely sustainable biofuels to reach EU users efficiently. Any discussions on reform should therefore keep in mind the **need to ensure the security of supply of biofuels**. This means balancing rigorous verification and anti-fraud measures with practical, efficient processes that do not hinder the availability of biofuels. Ensuring a steady and reliable supply of sustainable biofuels is essential for meeting environmental goals and supporting the broader transition to renewable energy sources. By fostering an environment that promotes both robust oversight and operational efficiency, a sustainable and secure biofuel market that benefits all stakeholders can be achieved.

EcoCeres appreciates the efforts by the European Biodiesel Board ("EBB") to initiate the discussion with certain proposals to improve the current system. We also welcome the recent contribution by the ISCC on how the RED certification system for biofuels can be strengthened. While we strongly support reforms addressing the aforementioned concerns, we cannot endorse any proposals resulting in a discriminatory approach, whether by directly targeting non-EU producers/operators or by focusing on feedstock primarily used by such producers/operators. It is crucial that **any proposed changes apply uniformly to both EU and non-EU producers/operators and to all types of feedstock** to prevent discrimination and ensure a level playing field.

This position paper outlines our general perspective on the key topics currently under discussion for reform. Our goal is to contribute to the creation of a **fair, effective, and fraud-resistant**

**verification system for sustainable biofuels.** EcoCeres stands ready to engage actively in the reform process and to delve into the specifics of the proposed changes. We are committed to providing valuable input and recommendations based on our extensive experience and expertise in the renewable fuels sector, driven by a strong desire to ensure a fair and sustainable ecosystem for biofuels.

## **1. Control and access reforms**

The EBB has proposed several measures to enhance controls performed by Member States and the European Commission, aiming to increase their access to producers/operators' data and facilitate on-site audits.

While EcoCeres does not at present take a position on individual proposed changes, we generally support the introduction of additional requirements to ensure effective verification of biofuel sustainability and to prevent fraudulent practices. However, we believe it is crucial that **any changes introduced are practical for producers/operators, implemented transparently, and include procedural guarantees.** These seem to be insufficiently addressed in the current proposals by EBB. It is important to gather input and perspectives from relevant stakeholders on how additional requirements can be best implemented to avoid unnecessary burdens and disruptions to supply chains.

EcoCeres also notes that some proposals in EBB's paper would significantly increase the role of Member States, such as by enhancing their supervision and powers to conduct on-site audits, including outside the EU. This shift could fundamentally alter the biofuel certification landscape, which has traditionally been managed primarily by voluntary schemes and their certification bodies, including in relation to Member States specific arrangements. The implications of these changes should be carefully evaluated, ensuring that **the longstanding role and expertise of certification bodies are not overlooked** in this process and with due regard for **jurisdictional challenges if Member States were to act outside their territories.**

EcoCeres also recognizes the critical role that voluntary schemes, such as the ISCC, can play in addressing fraud and ensuring robust biofuel sustainability verification. For instance, the ISCC has already implemented several proactive measures designed to bolster integrity and transparency across the supply chain and to address concerns that have been raised about potential fraudulent practices. Recent measures implemented include mandatory Point of Origin (PoO) certification, increasing the frequency of audits, and the introduction of advanced tools to identify potential non-conformities or misleading information. Efforts like these underscore the capacity of voluntary schemes to set high standards and respond swiftly to emerging risks, without unnecessarily burdening operators or disrupting supply chains.

Therefore, EcoCeres emphasizes **the importance of avoiding a shift away from existing schemes in a manner that risks duplicating efforts for both authorities and producers/operators.** The strength of the European Union lies in its single market, and this principle should be upheld in the framework for control and audit rights, ensuring EU-wide recognition. Reinforcing the individual competences and actions of Member States, rather than

pursuing a centralized EU approach, would likely lead to inefficiencies. A more effective solution could involve a centralized EU framework, potentially linked to the UDB, to streamline processes and maintain consistency across the Union.

## 2. Proof

EBB proposes significant reforms aimed at enhancing the verification and enforcement mechanisms for sustainable biofuels within the EU. EcoCeres understands and acknowledges the need for stronger enforcement to prevent fraudulent practices. However, it is crucial **to ensure fairness and proportionality in implementing such measures**. The retroactive invalidation of certificates, while an important tool to address non-compliance, carries the risk of causing severe disruptions across the broader supply chain that relies on the affected products. As such, any application of retroactive invalidation should be exercised with utmost caution and accompanied by appropriate procedural safeguards to minimize unintended consequences and ensure transparency.

For instance, the criteria for the suspension and withdrawal of certificates as currently proposed by EBB appear vague and not necessarily linked to the conduct of producers. This could unfairly penalize producers, leading to significant financial and reputational damage due to retroactive invalidation and harsh penalties. The proposed penalties, including a ban from joining another voluntary scheme and a two-year participation ban, appear excessively harsh and could disrupt business operations for administrative or unintentional non-compliance issues without fraudulent element. EcoCeres also echoes in this respect the position of ISCC, emphasizing that "collective liability without proving individual guilt should be prevented". Ensuring that any sanctions are evidence-based and directly linked to individual actions is crucial to maintaining fairness and encouraging compliance. Applying disproportionate penalties without clear justification risks not only undermining trust in the certification system but also destabilizing biofuel supply chains by placing undue burdens on operators who act in good faith.

EBB also proposes a new approval process for biofuels produced from raw materials listed in Annex IX of RED. As mentioned above, EcoCeres believes that the level of controls and enforcement should not depend on the type of feedstock used; any reforms should apply equally to all types of feedstock.

Furthermore, any shift away from the current system, which operates primarily through the certification bodies of voluntary schemes, should be carefully evaluated. EcoCeres strongly supports any constructive improvement measures to the existing system to counter fraudulent practices, but any suggestion to eliminate it and replace it with an entirely different set-up should be approached with caution. Any new, untested system risks leading to more, rather than less, fraud or a severe disruption of supply chains. If such a new system is to be introduced, there must be greater **clarity on the role, powers, and procedural guarantees for producers under this new system**, which EBB's proposal currently lacks in sufficient detail.

Additionally, the use of vague terms such as "substantial change," "traceability conditions no longer guaranteed," and "fraud is established or suspected," as grounds for withdrawing approval

lacks clear standards for economic operators. This could lead to arbitrary and inconsistent enforcement by authorities. Greater legal certainty in this regard will be essential for businesses to operate effectively, plan for the future and maintain integrity of the overall system.

For example, quota-based systems might have demonstrated certain drawbacks, including delays and increased administrative burdens, while offering limited oversight of quota utilization and there were still cases of unauthorized usage of quotas assigned to specific producers. While the introduction of a list of pre-approved producers could enhance the effectiveness of a control system, experience suggests that quantitative restrictions are fundamentally different in nature. Therefore, when evaluating potential reforms, EcoCeres believes that leveraging national experiences and actively collecting feedback from market players are essential for identifying practical and effective approaches to combating fraud. Notably, certain Member States have implemented systems that share similarities with the EBB's proposals, and these experiences should be carefully considered.

### 3. Union Database for Biofuels (UDB)

EBB has proposed changes to the Union Database for Biofuels (UDB) aimed at enhancing its functionality to support the new approval procedure for biofuels. EBB also encourages the European Commission to adopt the necessary legal acts to extend the scope of data in the UDB to cover the first gathering points for non-crop raw materials listed in Annex IX.

EcoCeres is supportive of introducing additional elements to be recorded in the UDB, provided that the new approval process functions effectively and aligns with our previously stated comments. We believe that these improvements to the UDB can significantly enhance the robustness and transparency of the biofuels verification system. However, we see no basis to limit such changes to specific feedstocks.

Therefore, EcoCeres actively supports enhancements to be made to the UDB, as long as these are introduced **on a non-discriminatory basis, their implementation is practical, and they do not impose undue complexity or operational challenges for operators**. The proposed changes should be carefully considered in this light. Ensuring that the UDB remains a user-friendly and efficient tool will strengthen the integrity and trustworthiness of the biofuels market.

As a general observation, while **EcoCeres strongly supports expanding the scope of information included in the UDB**, as outlined in the comments above, it also recognizes the importance of prioritizing objectives and allocating resources efficiently. In EcoCeres' view, although an ideal world would allow for unlimited resources, the key to creating a more effective system lies in strengthening verification capabilities and related mechanisms. This would ensure that any information incorporated into the UDB is not only comprehensive but also reliable and accurately reflects real-world conditions.

### 4. Mass balance systems

EBB has proposed reforms aimed at addressing "recurrent frauds" within the mass balance system without altering the system itself as reflected in the Implementing Regulation. This includes

additional checks to ensure correct implementation of mass balance systems and introducing a procedure for Member States' competent authorities to detect potential fraud related to the origin of fuels subject to anti-dumping or countervailing duties.

**In general, EcoCeres supports the introduction of additional requirements to check mass balance systems.** We reiterate our commitment to preventing fraud in the biofuels market and endorse measures that contribute to this goal. However, **it is equally important to ensure legal clarity and certainty for economic operators who genuinely adhere to established rules.** The producers/operators must be able to demonstrate their compliance without undue complications. Therefore, we advocate for the development of clear and comprehensive guidelines to assist producers/economic operators in meeting any additional requirements effectively.

EcoCeres also supports placing greater emphasis on cross-referencing existing documentation, such as certificates of origin. Utilizing existing information can help address concerns related to certain mass balancing practices employed by traders, while avoiding the introduction of additional administrative burdens or unnecessary red tape.

## **5. Mandatory testing**

EBB proposes imposing mandatory physical testing on imported biofuels to i) check their declared biogenic content (through a mandatory C14 testing); and ii) ascertain whether imported SAF is correctly declared as such (through a mandatory testing to confirm it meets kerosene quality standards).

EcoCeres supports the introduction of such requirements as significant steps toward ensuring transparency and quality in the biofuel sector. EcoCeres is supportive of mandatory C14 testing, even though it would not be sufficient to detect all instances of fraud.

We particularly **endorse the principle of preventing any possible misuse of SAF in road transport.** EcoCeres is not aware of this happening, but if any such practices were to take place, they would be inappropriate and contrary to well-established industry standards. Ensuring that SAF is used exclusively for its intended purposes is essential for maintaining the integrity and credibility of the industry.

However, it is striking that EBB's reforms appear to be exclusively targeting imported biofuels. To ensure fairness and avoid discriminatory practices, EcoCeres strongly believes that such measures should be **applied universally to both imported and domestic biofuels.**