

Revision of the Biofuels Directive

Public consultation (April – June 2007)

Position of the Federal Government of Germany

Question 1: How should a biofuel sustainability system be designed?

Question 1.1:

Do you think the "possible way forward" described above is feasible?

Answer:

The Commission's approach basically takes the right direction. However, there are the following concerns regarding the individual points under "possible way forward":

re a)

This respondent does not support the restriction to three criteria. Good practice as laid down in the relevant provisions for the agricultural, forestry, and fisheries sectors as well as the obligations under Council Regulation (EC) No. 1782/2003 of 29 September 2003 (OJ L270 of 21.10.2003 p.1) must also be considered.

re Sustainability Criterion 1: In order to reduce greenhouse gases, the avoidance of a negative balance is not sufficient for justifying the provision of support. The value should be set significantly higher. Consideration should be given to making support conditional upon the individual reduction rate on a sliding scale, instead of using a fixed value. Values for the reduction of greenhouse gases to be achieved still need to be discussed. Regarding 'default values', other appropriate studies should be considered in addition to the study cited.

re Sustainability Criterion 2: A number of different approaches are being discussed at present regarding the inclusion of emissions from indirect land use changes into greenhouse gas balancing. As indirect land use changes can be the most significant cause of rainforest destruction, these should be considered.

re Sustainability Criterion 3: Here too the challenge will be to include indirect land use changes even though solutions at the level of individual holdings are not yet available; this issue should not be excluded from the outset.

re b)

Biofuels can only be credited if the biomass used in their production demonstrably fulfils certain requirements in terms of the sustainable management of agricultural lands or certain requirements regarding the protection of natural habitats or if biofuels have a certain CO₂ reduction potential.

re c)

The methodology used to calculate greenhouse gas emissions should include the entire life cycle, limited to relevant impacts. It should be harmonized at EU level and on this basis the accreditation of corresponding evaluation systems used by other countries should be possible.

This respondent supports the inclusion of international certification systems and the elaborations on international agreements. However, stringent requirements regarding the credibility, competence, independence etc. of the systems are called for.

It should also be noted that certification should be applied to the entire biomass for which support is provided in the energy sector (i.e. including electricity and heat). This is to ensure that biomass produced under conditions not acceptable to the EU is not merely pushed into other sectors.

Question 1.2

What do you think the administrative burden of an approach like the "possible way forward" would be? (If possible, please quantify your answer.)

Answer:

The inclusion of private certification systems gives the opportunity to significantly reduce administrative costs. Further relief can be achieved by an appropriate design of the certification requirements (e.g. group certification).

Question 1.3

Please give your general comments on the "possible way forward", and on how it could be implemented. Does it give an adequate level of assurance that biofuels will be sustainably produced?

If you think the problem should be tackled in a different way, please say how, giving details of the procedures that would be used.

Answer:

For the Federal Government of Germany the conditionality of support for biofuels upon compliance with sustainability standards is an urgent concern. The Federal Government is preparing its own regulations on the basis of relevant research projects and is very much interested in swiftly forthcoming results at EU level in order to integrate these into its own activities.

The Federal Government supports the basic approach taken by the Commission. However, based on this approach, an adequate level of protection can only be achieved if requirements go beyond greenhouse gas balances and high conservation value sites, if the issue of "indirect land use changes" is given consideration, and if certification systems meet clear and demanding requirements (see the answer to Question 1.1).

Question 1.4

Carbon stock differences between land uses would be taken into account under criterion 2. Should they also be taken into account under criterion 1? If so, what method should be used to

determine how the land in question would have been used if it had not been used to produce raw material for biofuels?

Answer:

Yes. The methodology to be used is currently under debate in the academic community. However, there is no doubt that changes in carbon stocks of both (above-ground) biomass and of soils must be considered. Moreover, both the previous as well as the subsequent land use must be considered. The time period for discounting changes in carbon stocks should, in the case of plantations, be based on the foreseeable duration of the production of the crop in question. Periods of 10 to 20 years are being discussed.

Question 1.5

As described in the "possible way forward", criterion 3 focuses on land uses associated with exceptional biodiversity. Should the criterion be extended to apply to land that is adjacent to land uses associated with exceptional biodiversity? If so, why? How could this land be defined?

The inclusion of adjacent areas would be desirable. A 5 km radius is being discussed.

Question 1.6

How could the term "exceptional biodiversity" (in criterion 3) be defined in a way that is scientifically based, transparent and non-discriminatory?

For the purposes of international certification systems woodlands of high conservation value are defined as woodlands which are rare ecosystems of special conservation value or which host particularly rare species of flora and fauna. This definition can aid in developing a similar definition for agricultural areas of high conservation value. However, the dissimilar nature of land use for agricultural production must be taken into account.

Question 2: How should overall effects on land use be monitored?

Question 2.1

Please give your comments on the "possible way forward" described above. If you think the problem should be tackled in a different way, please say how.

As outlined above, the issue of indirect land use changes is of great practical relevance. A reporting requirement on the part of the Commission is useful but not sufficient. The sustainability requirements should include incentives for biofuel production on lands which are not of high conservation value and which are not being used for other types of agricultural production. This would avoid 'carbon leakage' effects. Such sites are available in great quantities. Incentives could be given by considering such requirements in the greenhouse gas balancing methodology, by way of direct requirement, or through instruments at the macro-economic level. Such incentives are currently being developed as part of the greenhouse gas balancing methodology and should be used. Specific requirements to be introduced at the level of individual companies could commence with disclosure requirements on the part of the company on relevant developments in the country of production. At the

Commission level it would be desirable if, apart from the reporting requirement, the issue was brought up in bilateral and international talks and agreements.

Question 2.2

Do you think it is possible to link indirect land use effects to individual consignments of biofuel? If so, please say how.

see answer to Question 2.1.

Question 3: How should the use of second-generation biofuels be encouraged?

Question 3.1:

How should second-generation biofuels be defined? Should the definition be based on:

- a) the type of raw materials from which biofuels are made (for example, "biofuel from cellulosic material")?
- b) the type of technology used to produce the biofuel (for example, "biofuels produced using a production technique that is capable of handling cellulosic material")?
- c) other criteria (please give details)?

Answer:

The recognition of biofuels as second-generation biofuels depends on the following criteria: A much wider range of raw materials (e.g. wood residue, straw, whole plants) can be used than in the first generation. In addition, their carbon balance must be considerably better than that of first-generation biofuels (a CO₂ reduction of at least 85% compared to fossil fuels can be considered a reference value).

Question 3.2

Please give your comments on the "possible way forward" described above. If you think the problem should be tackled in a different way, please say how.

Answer:

Member States should have the opportunity to differentially credit biofuels in accordance with their greenhouse gas balance for the purposes of complying with the energy supply shares. Furthermore, it should be possible to continue to provide tax incentives for second-generation biofuels (also in the context of quota systems) in order to compensate for additional costs arising in the initial phase as compared to first-generation biofuels.

Question 3.3

Should second-generation biofuels only be able to benefit from these advantages if they also achieve a defined level of greenhouse gas savings?

Answer:

Yes. There should be a CO₂ reduction of at least 85% compared to fossil fuels.

Question 4: What further action is needed to make it possible to achieve a 10% biofuel share?

Question 4.1

Should the legislation include measures to ensure that diesel containing 10% biodiesel (by volume) can be placed on the market, and is in fact placed on the market?

Answer:

Yes. This respondent is in favour of a binding regime. Compliance with national targets for 2009 and European targets for 2010 alone urgently requires that the limits for blending of biodiesel and bioethanol in ordinary fuel are raised to 10 % (by volume) as quickly as possible. Given the internal market and the uniformity of the car market, a concerted EU approach within the context of the Fuel Quality Directive is desirable.

Question 4.2

Should the legislation include measures to encourage the use of ethanol and biodiesel in high blends? If so, what?

Answer:

Yes. There should be no requirement to label fossil fuels with a biodiesel or bioethanol content of up to 10 % by volume. This should already be changed in the context of the pending amendment of the Fuel Quality Directive.

Question 4.3

Should the legislation include measures to encourage the use of biomethane, methanol and DME in transport? If so, what?

Answer:

The market should decide which of the biofuels gains acceptance in a given context.

Question 4.4

Missing in the document.

Question 4.5

Should the legislation ask the Commission to review, by a given date, whether it is possible to be confident that the 10% target can be achieved through:

- a) rules that allow 10% blending by volume of ethanol in ordinary petrol, plus
- b) rules that allow 10% blending by volume of biodiesel in ordinary diesel, plus
- c) the four options listed under 'other options for solving the problem';

If so, what should the date be?

If the review were to conclude that the target is unlikely to be met, what action should the Commission take?

Answer:

No. The blending limits should swiftly be raised in the context of the pending amendment of the Fuel Quality Directive.

Question 4.6

More generally, what role should taxation play in the promotion of biofuels (considering different situations such as low blends, high blends and second-generation biofuels)?

Answer:

The main instruments for Member States to reach their national targets should be mandatory measures without tax exemptions. Nevertheless, time-limited tax incentives should in future be possible if there are special reasons (e.g. support for the market entry of second-generation biofuels).

As the experience in Germany has shown, long-term tax incentives can cause an investment boom resulting in the establishment of enormous production capacities with insufficient output markets in the absence of further subsidies. Additionally there is the danger of reinforcing a subsidization mentality resulting in a situation where necessary adjustments are not made and individual initiative to surmount structural adjustment problems declines.