

BIOFUEL ISSUES IN THE NEW LEGISLATION ON THE PROMOTION OF RENEWABLE ENERGY

1. How should a biofuel sustainability system be designed?

1.1 Do you think the ‘possible way forward’ described above is feasible?

The principle described in the ‘possible way forward’ forms a solid structure to base a sustainability standard for biofuels in the EU. The main criteria required are covered. The approach of not banning fuels that do not reach the required standard but ensuring that they would not count towards national obligations or qualify for financial support is appropriate. Whilst we would agree that Member States should be ultimately responsible for ensuring the criteria are met with respect to meeting their national obligations we would stress the need for clear guidance and guarantee that criteria are consistently applied across all EU Member States. For this to be an accepted and workable system, standards must apply evenly across the EU.

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.)

Meeting the criteria and more importantly providing proof of meeting the criteria will carry increased administrative burden and cost for feedstock producers. The scheme that is proposed for the UK requires independent annual verification of the key criteria. Where this is not currently undertaken in arable crops, there will inevitably be a cost upon the industry. In order to keep the administration and cost burden to a minimum, it is important to use existing assurance schemes and standards where possible, and ensure coordination between production of crops for food and non-food use. The criteria need to make full use of existing legislation and cross compliance regulations. To develop this sufficiently across the EU will take time; this must be recognised and allow a suitable and practical system to develop.

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?

The sustainability criteria will need to be expanded to ensure that other important issues, mainly regarding feedstock production outside the EU, are covered, these include water management, pollution control, social & welfare standards. These issues will be covered through legislation in the EU, but need to be explicit in the required criteria to ensure that imports meet equivalent standards.

Developing sustainability assurance must be an evolutionary process. There will inevitably be a balance between desirable standards and what is acceptable in practice. Initial standards must be based on existing EU legislation and what is achievable in EU agriculture.

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

This is the most practical approach to a system of sustainability standards.

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?

Land use change effects should also be taken into account in criterion 1. Whilst the approach outlined in criterion 2 will be important in providing a clear line of acceptable and unacceptable land use change for biofuel feedstock production, the carbon released from

acceptable land use changes can also be a major factor impacting on carbon intensity of the fuel and should be included in GHG-saving calculations. Omitting this element from the calculations would distort the true GHG-savings and not give a fair reflection on all biofuels.

The calculation should not be based on an estimate of what the land would have been used for if it were not being used for biofuels. This is too subjective and would be hard to prove the case to any degree of certainty that would be required. The previous land use must have an agreed cut-off date (consistent with criterion 2) and use agreed standard figures for carbon losses incorporating key known factors (previous land use, crop type, soil type, climate etc.)

This element will become especially important if GHG-savings become the focus for incentives in future years and support mechanisms are based on GHG-savings.

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 criterion associated with exceptional biodiversity should be consistent with other EU legislation dealing with high conservation value land. There is no reason why feedstock production for biofuel should be subject to greater constraints than other EU crop production. If these areas require protection to be extended to cover adjacent land and this is consistent with all EU crop production then this must be included **but** where similar standards of biodiversity protection do not exist (outside the EU), equivalent criteria and proof of compliance must be sought.

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

Exceptional biodiversity must be defined consistently across the EU and all crop production to avoid discrimination in any markets. This must be based on existing EU legislation for high biodiversity value land. Equivalent criteria should be used for identifying high conservation value land outside the EU.

2. How should overall effects on land use be monitored?

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.

Land use change and the development of unsuitable land for biofuels or any other crops must be tackled in a holistic way. To merely link and monitor land use change resulting from biofuel production is short-sighted, unrealistic and discriminatory. Protection of high biodiversity and high carbon land will be better achieved through independent means - appropriate monitoring and protection systems need to be developed and enforced via international agreements.

Achieving EU standards for sustainable biofuel production will play a large part in tackling this problem by providing a framework for sustainable production standards.

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

This would be very difficult to link and even harder to prove anything. As outlined above this issue needs to be dealt with internationally and is not simply the result of, or at risk from biofuel production.

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

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

a) the type of raw material 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)?

The term second-generation biofuels can be misleading as it has never been adequately defined and infers that one technology is superior to another without requiring evidence to support such a view. When describing more efficient biofuels (in terms of either carbon savings, or land use) we would prefer the term ‘advanced biofuels’ to be used. This could then be qualified by the reason the biofuel is advanced.

A ‘second generation’ biofuel should not be treated preferentially from a ‘first generation’ biofuel merely because it uses a different feedstock or technology. We must resist supporting biofuels on perceived favourable technologies and ensure that support measures are in place to reward the most efficient and suitable biofuels based on carbon and land use efficiency. Advanced or second generation biofuels must be defined by efficiency not simply technology or feedstock.

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.

This possible way forward to give incentives to ‘second generation’ biofuels with no qualification on actual carbon or land use efficiency could prove to be disastrous. Incentives for advanced biofuels must be based on clear evidence that they are more efficient. The simplest solution is to base future obligations on the carbon-efficiency of the biofuel irrespective of technology. This will allow the most appropriate and carbon efficient fuels to come through to the market. This can only be implemented when agreed, proven and practical systems to assess GHG balance from biofuel production are in place.

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?

This question indicates the problems that could occur if incentives are solely based on technology or feedstock – actual benefits may not be achieved in practice. Incentives and assessment of second generation biofuels must be the same as those for first generation biofuels.

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

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?

Yes. The low blend market will be the most important in enabling Member States to reach their targets. Measures should be in place to ensure diesel containing 10% biodiesel can be placed on the market but this should not necessarily be mandatory. Member States and oil suppliers should be given freedom to choose the most appropriate way to meet biofuel targets.

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

Yes. High-blend biofuels such as B20, B30, B50, B100, E85, can be important markets, offering local marketing opportunities, spreading the supply of fuel and can provide an excellent means of consumers to show support to biofuels and engage in renewable fuels. The

NFU believes these markets can play an important role in the development of biofuels throughout the EU. The legislation must allow for individual Member States to use measures to develop high-blend biofuel infrastructure and address any economic imbalances between use of high-blend fuels and fossil-fuel equivalents. Users of high-blend biofuels should not be financially penalised by their decision to support such renewable fuels.

Legislation should allow National Governments to:

- Support development of infrastructure required to deliver high-blend biofuel to the consumer
- Develop a range of support mechanisms to provide stimulus for high-blend biofuels e.g. reduced vehicle excise duty, exemption from congestion charging etc.
- Ensure consumers of high-blend biofuels are not penalised economically through use of the fuel. A separate duty rebate structure could be developed to ensure the pump price of high-blends remains competitive with standard fuels on a cost per mile basis.

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

These biofuels will be of less importance in reaching EU targets overall but could be important renewable fuels in certain circumstances or regions. Legislation should exist to encourage such biofuels under similar mechanisms that provide support for high-blend biofuels.

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?

It would be sensible for the Commission to have an indication of the confidence through which the options above could contribute to meeting the 10% target. The evidence relating to a & b should be more straight forward and of most importance in meeting the bulk of the target. An assessment of the potential to make 10% would be useful information to have as soon as possible as it could help to identify which of the other options are the most suitable way forward and ensure further investment is directed at the most appropriate technologies.

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

The review should indicate any potential gaps likely in meeting the target. The Commission need to identify the options most suitable to EU conditions capable of expanding production and use of biofuels, in consultation with stakeholders. Investment should be targeted to these technologies.

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)?

Member States should be free to use a range of policy measures to achieve their national targets for biofuels. A combination of obligations and tax rebates are the most likely tools and will need to be implemented by each Member State. Taxation will certainly have a major role

to play in the high-blend market where economic differences in fossil fuels and biofuels are most apparent to the end consumer.

Long-term signals are important to gain investor confidence. Member States must be able to provide long term guarantees of support for biofuels.