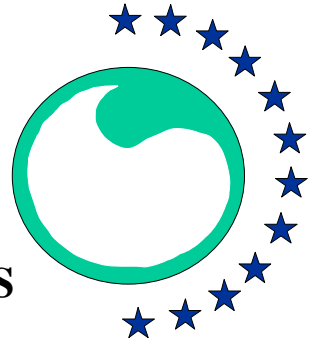


U. E. P. A.



## EUROPEAN UNION OF ETHANOL PRODUCERS

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### Biofuels issues in the new legislation on the promotion of renewable energy Public consultations

#### How should a biofuel sustainability system be designed ?

*A possible way forward*

*One option for the initial design of the scheme (before it is reviewed and steps are taken to make it more sophisticated) would be as follows:*

*a) The legislation would list the "sustainability criteria" to be fulfilled by the biofuels that are used to fulfill the biofuels target.*

*There could be three of these criteria (see box 1).*

*b) Biofuels that failed to meet one of these criteria would not count towards national biofuel targets. They would not count towards national "biofuel obligations". They would not be eligible for tax reductions and similar types of financial support.*

*c) Member States would be responsible for ensuring that the criteria were respected. The legislation would set out some procedural requirements (for example on reporting, verification and monitoring). The legislation would define types of evidence that Member States would have to accept as evidence that the sustainability criteria were fulfilled (see box 2).*

#### **Question 1.1:**

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

In theory, the 'possible way forward' covers all the area that need to be covered but the practical viability of such system is compromised mainly because it will only work provided there is a simple and efficient tool to control its sound implementation. In short the more criteria there are the more important it is to have an **efficient control mechanism** to avoid distortion of competition and fraud.

Concretely, UEPA would suggest that the list of criteria be short and easy to control at first and then extended to further criteria as the system proves to be functioning well.

On the criteria listed in Box 1:

- UEPA disagree with the study of reference (JRC Concawe Eucar) which we do not consider to be a neutral study and which penalizes the transformation of by-products into animal feed. UEPA warns that such methodology could push ethanol producers to burn the by-products of ethanol making which could disrupt the animal feed market.

- Minimum social criteria should also be taken into account to fully implement the principle of sustainability.

### **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.)**

The administrative burden has to be quite significant if a company is to ensure that the biofuel purchased is produced according to the criteria. Again, the more criteria the heavier the administrative burden.

However, there could be an **International Agency** that could do the work and check the sustainability of biofuels production. This would avoid unnecessary and costly duplication of work and give an international legal status to the biofuel environmental compliance (international 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?**

What is essential is to have one **single set of sustainability criteria in the EU**. Ideally, this system should be endorsed by all trading partners as the cost related burden will not be insignificant and therefore the compliance to the criteria could mean a lot in terms of competitiveness. Also, different systems in the EU would lead to further fragmentation of the EU market hence impede the economic benefits of the single market.

Sustainable production of raw materials should not just apply for biofuels production but for all productions, including foodstuffs. In fact, we should talk about the sustainable exploitation of natural resources and sustainable production at large. Biofuels have to be produced in a sustainable manner as any other product. Oil is not a sustainable energy source and biofuels can replace it.

Overall, there should be a **central body** to either identify sustainable production and assess the compliance of domestically produced and imported biofuels. Leaving this to the hands of the MS would lead to duplication of work and unnecessary costs.

**Using bilateral trade agreements** to expand the sustainability criteria to third parties is sound and efficient but controls must take place to ensure the full compliance with the criteria. In the absence of an internationally recognized set of criteria, it will be difficult to build a sustainable biofuels industry. And if the EU strongly wishes to do so, trade measures will be needed to avoid trade distortion leading to the collapse of EU's efforts to promote sustainable biofuels production.

The question of the **impact of land use change** is a more complex criterion to assess. How far shall we/can we go when assessing the impact of land use change ? If a land is cultivated (whilst it was previously not cultivated) by people who might see their livelihood improve as a result of increased income, what do we compare the environmental impact of such cultivation with? With that land not being cultivated at all? Or with what these farmers were previously doing in order to feed their families or with what they might be doing next ? In other words, banning the cultivation of certain

lands because we consider it a damaging activity does not necessarily mean we are protecting the environment.

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

The system is far too complex to ensure its smooth launch. It is difficult to envisage that other non EU countries will endorse our system. It is equally difficult to see how this system will be monitored and controlled: inside the EU is perhaps much easier than in non EU countries.

If the EU develops a complex and costly system without the full endorsement of non EU partners (such as Brazil, USA, China, Japan and India), it is unlikely it will survive.

### **How should overall effects on land use be monitored ?**

In theory, the possible way forward is acceptable but it comes back to the questions of controls and how to avoid discriminatory treatment at global level. The effects of agriculture should be looked after in general and not just because of biofuels. The EU should co-operate with the USDA and FAPRI (USA) who have developed analytical models on this matter.

### **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)?**

The interest of second generation biofuels is that they considerably extend the mix of raw materials used for biofuels production and they significantly improve the environmental balance of which the CO<sub>2</sub> balance is an important element. In that perspective the type of raw materials used defines which biofuels are second generation and which are not. However, other CO<sub>2</sub> reducing improvements in the production process could also be considered as steps towards "next generation" biofuels if they lead to a significant improvement of the CO<sub>2</sub> balance and better use of feedstocks. This is of particular relevance in the concept of biorefineries. If advantages (such as fiscal incentives and state aids) are given to second generation biofuels, substantial improvements of this kind need to be valued in the right way as well.

*Possible way forward :*

*The legislation could require Member States to give an advantage to second-generation biofuels in their support systems.*

*For example,*

- *Under national biofuel obligations, second-generation biofuels would count extra (for example, double) – this would mean that an obligation to achieve a 2% share of first generation biofuels could be fulfilled, instead, with a 1% share of second-generation.*
- *The legislation would confirm that second-generation biofuels may receive higher subsidies than first-generation biofuels (subject to Community state aid rules and applicable Community tax legislation).*

### **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.**

The first way to promote second generation biofuels is by ensuring that the first generation is really penetrates the fuel market. Considerable investments are needed to make second generation biofuels an economically viable option? Also, in the absence of a market, there will be no incentive to invest and the only viable option now is first generation biofuels.

The proposed way forward is acceptable but so far, second generation fuel ethanol does not exist so this way forward may only work provided a) first generation fuel ethanol is launched and b) very long-term perspective is given to investors. Then such incentives will have a meaningful impact on the promotion of second generation fuel ethanol.

### **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?**

Second generation biofuels should mean higher CO<sub>2</sub> reduction by either improving normal yields of conventional raw materials or of biomass materials. By improving the quantity of biofuels produced with fewer raw materials or by exploiting biomass waste, biofuels improve their CO<sub>2</sub> balance and hence should be promoted by fiscal incentives.

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

#### *The current situation*

*As a first step, the Commission has proposed amending the fuel quality directive to increase the maximum blending of ethanol in petrol to 10% by volume (6.8% by energy content). This proposal is under consideration by the Council and the European Parliament. The Commission has given the European Committee on Standardisation (CEN) a mandate to amend the diesel standard to allow a 10% biodiesel blend (8.8% by energy content). This process may take a long time – perhaps 4 years – and may not lead to widespread availability of fuel containing 10% biodiesel.*

#### *Other options for solving the problem*

*Even if the changes described in the last section come to fruition, they will not be enough for the 10% target to be met – if it is to be met mainly by direct blending of ethanol and biodiesel.*

*The target could be met through other means than the direct blending of ethanol and biodiesel:*

*1. More ethanol can be added to petrol in the form of the fuel additive ETBE. However, limits on ETBE blending in the fuel quality directive mean that even with maximum use of ETBE, the 10% target will not be reached.*

2. Ethanol and biodiesel can be used in high blends – 85% or 95% ethanol, 100% biodiesel, for example – outside the scope of the fuel quality directive and the diesel standard. However, unlike low blends, these fuels need specialised vehicles and distribution systems.

3. Other biofuels that can be used are biomethane (made from biogas), methanol (made from biomass-based synthesis gas) and dimethyl ether (DME). However, these fuels also need specialised vehicles and distribution systems.

4. New types of biofuel or ways of using them could avoid the blending constraints in the fuel quality directive and the diesel standard. An example is the second-generation biofuel "BTL" ("Biomass-to-liquid" or Fischer-Tropsch diesel). However, it is not certain when or if these fuels and technologies will come onto the market on a wide scale.

#### **Question 4.2:**

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

Yes. Strongly promoting the use of higher blends of ethanol (such as E-85) is the way forward to create a market, **make significant contribution** to reducing CO<sub>2</sub> emissions and curb the EU's energy dependency. It is also essential to achieve the objective of 10% agreed by the European Council in March.

Also important, by promoting high blends, the EU would give a **strong signal to car manufacturers** to place adapted vehicles on the market. Promoting biofuels has no real limit meaning why stop at E-5 when we can have E-100? This is purely logical as biofuels objectives are to reduce emissions and energy dependency.

A set of coherent measures aimed at promoting biofuels would necessarily lead to boosting higher blends so as to drive the car manufacturers in the right direction. Why place car which can run with E-10 blends when we know that this rate of incorporation will be increased? It is much more logical to encourage FFVs which can run on either 100% gasoline or ethanol or any mixture of these two fuels.

#### *Possible way forward*

*If none of these methods can be relied on to ensure that the target will be met, it will be necessary to allow a further increase in the share of ethanol that can be blended in ordinary petrol – up to 20%, for example – and perhaps also to allow a further increase in the share of biodiesel that can be blended in ordinary diesel – up to 15%, for example. For manufacturers to take these requirements into account in designing the vehicles that will be on the roads in 2020, a decision should be made soon.*

*Question 4.4 is missing.*

#### **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';**

For the reasons explained above, it is essential that long-term signals be given to car manufacturers, fuel distributor and consumers so that the decisions taken now are coherent with the EU's long term objectives. A consumer should rather purchase an FFV car now (should the price be the same as

existing cars) that offers fuel flexibility rather than a car that can run on E-10 and then change for an E-20 etc. Both the Fuel Quality Directive and the future Promotion Directive should clearly express that the process is on-going and will not stop so as to bring market confidence and encourage appropriate investments.

The Commission should, by all means, monitor the implementation of the future legislation and take action whenever an obstacle or something negative occurs. Ideally, there should be an observatory body carrying out this task.

The legislation should establish intermediate targets that should be achieved (5.75 % by 2010 – 7% by 2015). The Commission should formally review progress by these dates.

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

First identify why the target is not met and then take the appropriate action. Difficult to say as the answer depends on the reasons why the target is not met.

#### **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)?**

Taxation plays a key role in promoting biofuels because this is the incentive that consumer will be given to make purchasing choices. Taxation is a tool that is usually used by governments to impulse consumer choices and change their behavior. Consequently, if biofuels are more expensive at the pump than petrol or diesel, all efforts made are doomed to fail.

The issue here is that the attraction of biofuels is directly connected with the highly volatile oil prices and it is very difficult to undertake a long-term strategy of biofuels consumption when these are sometimes just not attractive to the consumer.

Another issue is the fact that fuels are highly taxed in the EU hence governments have problems to establish a long-term de-taxation program of biofuels. Budget neutrality is by far the preferred option for governments.

It is therefore essential to disconnect the price of biofuels from the oil prices and one of the possible option is **to tax fossil CO<sub>2</sub>** so that petrol will always be more expensive than fuel ethanol.

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