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2014 - 2019

Committee on the Environment, Public Health and Food Safety

2012/0288(COD)

18.12.2014

*****II**

DRAFT RECOMMENDATION FOR SECOND READING

on the Council position at first reading with a view to the adoption of a directive of the European Parliament and of the Council amending Directive 98/70/EC relating to the quality of petrol and diesel fuels and amending Directive 2009/28/EC on the promotion of the use of energy from renewable sources
(10710/2/2014 – C8-0000/2014 – 2012/0288(COD))

Committee on the Environment, Public Health and Food Safety

Rapporteur: Nils Torvalds

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ■ symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

CONTENTS

	Page
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION	5
EXPLANATORY STATEMENT	63

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the Council position at first reading with a view to the adoption of a directive of the European Parliament and of the Council amending Directive 98/70/EC relating to the quality of petrol and diesel fuels and amending Directive 2009/28/EC on the promotion of the use of energy from renewable sources
(10710/2/2014 – C8-0000/2014 – 2012/0288(COD))**

(Ordinary legislative procedure: second reading)

The European Parliament,

- having regard to the Council position at first reading (10710/2/2014 – C8-0000/2014),
 - having regard to its position at first reading¹ on the Commission proposal to Parliament and the Council (COM(2012)0595),
 - having regard to Article 294(7) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 69 of its Rules of Procedure,
 - having regard to the recommendation for second reading of the Committee on the Environment, Public Health and Food Safety (A8-0000/2014),
1. Adopts its position at second reading hereinafter set out;
 2. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ OJ C xxx, 16.12.2014, p. xxx.

Amendment 1

Council position Recital 3 a (new)

Council position

Amendment

(3a) Although Directives 98/70/EC and 2009/28/EC refer to ‘biofuels and bioliquids’, their provisions, including the relevant sustainability criteria, apply to all renewable fuels defined therein.

Or. en

Amendment 2

Council position Recital 4

Council position

Amendment

(4) Where pasture or agricultural land previously destined for food **and** feed markets is diverted to biofuel production, the non fuel demand will still need to be satisfied either through intensification of current production or by bringing non agricultural land into production elsewhere. The latter case constitutes indirect land use change and when it involves the conversion of land with high carbon stock it can lead to significant greenhouse gas emissions. Directives 98/70/EC and 2009/28/EC should therefore be amended to include provisions to address indirect land use change given that current biofuels are mainly produced from crops grown on existing agricultural land.

(4) Where pasture or agricultural land previously destined for **the** food, feed **and fibre** markets is diverted to biofuel production, the non fuel demand will still need to be satisfied either through intensification of current production or by bringing non agricultural land into production elsewhere. The latter case constitutes indirect land use change and when it involves the conversion of land with high carbon stock it can lead to significant greenhouse gas emissions. Directives 98/70/EC and 2009/28/EC should therefore be amended to include provisions to address indirect land use change given that current biofuels are mainly produced from crops grown on existing agricultural land. ***The provisions to address the impact of indirect land-use change on greenhouse gas emissions should take due account of the need to***

protect investments already made.

Or. en

Amendment 3

Council position Recital 5

Council position

(5) Based on forecasts of biofuel demand provided by the Member States and estimates of indirect land use change emissions for different biofuel feedstocks, ***it is likely that*** greenhouse gas emissions linked to indirect land use change are significant, and could negate some or all of the greenhouse gas emission savings of individual biofuels. This is because almost the entire biofuel production in 2020 is expected to come from crops grown on land that could be used to satisfy food and feed markets. In order to reduce such emissions, it is appropriate to distinguish between crop groups such as oil crops, sugars and cereals and other starch rich crops accordingly.

Amendment

(5) Based on forecasts of biofuel demand provided by the Member States and estimates of indirect land use change emissions for different biofuel feedstocks, greenhouse gas emissions linked to indirect land use change are significant, and could negate some or all of the greenhouse gas emission savings of individual biofuels. This is because almost the entire biofuel production in 2020 is expected to come from crops grown on land that could be used to satisfy food and feed markets. In order to reduce such emissions, it is appropriate to distinguish between crop groups such as oil crops, sugars and cereals and other starch rich crops accordingly. ***Furthermore, it is necessary to encourage research and development in new advanced biofuels sectors that are not in competition with food crops and to further study the impact of different crop groups on both direct and indirect land-use change.***

Or. en

Amendment 4

Council position

Recital 7

Council position

(7) Liquid renewable fuels are likely to be required by the transport sector in order to reduce its greenhouse gas emissions. Advanced biofuels, such as those made from wastes and algae, provide high greenhouse gas emission savings, with low risk of causing indirect land use change, and do not compete directly for agricultural land for the food and feed markets. It is appropriate, therefore, to encourage greater production of such advanced biofuels as they are currently not commercially available in large quantities, in part due to competition for public subsidies with established food crop based biofuel technologies. Each Member State should promote the consumption of such advanced **biofuels**, through setting **non legally** binding sub targets at national level within the obligation of ensuring that the share of energy from renewable sources in all forms of transport in 2020 is at least 10 % of the final consumption of energy in transport in that Member State. It is also appropriate for Member States to report on their achievements towards **such** national sub **targets** in 2020, a synthesis report of which should be published, in order to assess the effectiveness of the measures introduced by this Directive in reducing the risk of indirect land use change greenhouse gas emissions through the promotion of advanced biofuels. Such advanced biofuels and their promotion are expected to continue to play an important role in the decarbonisation of transport and the development of low carbon transport technologies beyond that date.

Amendment

(7) Liquid renewable fuels are likely to be required by the transport sector in order to reduce its greenhouse gas emissions. Advanced biofuels, such as those made from wastes and algae, provide high greenhouse gas emission savings, with low risk of causing indirect land use change, and do not compete directly for agricultural land for the food and feed markets. It is appropriate, therefore, to encourage greater production of such advanced biofuels as they are currently not commercially available in large quantities, in part due to competition for public subsidies with established food crop based biofuel technologies. ***Further incentives should be provided through an increased weighting of advanced biofuels towards the 10% target for transport laid down in Directive 2009/28/EC compared to conventional biofuels.***

Each Member State should promote the consumption of such advanced **biofuel**, through setting **a** binding sub target at

national level within the obligation of ensuring that the share of energy from renewable sources in all forms of transport in 2020 is at least 10 % of the final consumption of energy in transport in that Member State. It is also appropriate for Member States to report on their achievements towards **the national sub target** in 2020, a synthesis report of which should be published, in order to assess the effectiveness of the measures introduced by this Directive in reducing the risk of indirect land use change greenhouse gas emissions through the promotion of advanced biofuels. Such advanced biofuels and their promotion are expected to continue to play an important role in the decarbonisation of transport and the development of low carbon transport technologies beyond that date. ***In this context, only advanced biofuels with low estimated indirect land-use change impacts and high overall greenhouse gas savings should be supported as part of the post-2020 renewable energy policy framework.***

Or. en

Amendment 5

Council position Recital 7 a (new)

Council position

Amendment

(7a) In its conclusions of 23 and 24 October 2014 the European Council has underlined the importance of reducing greenhouse gas emissions and risks related to fossil fuel dependency in the transport sector within the 2030 climate and energy framework, and has invited the Commission to examine instruments and measures for a comprehensive and technology-neutral approach for the

promotion of emissions reduction and energy efficiency in transport, for electric transportation and for renewable energy sources in transport also after 2020.

Or. en

Amendment 6

Council position
Recital 7 b (new)

Council position

Amendment

(7b) It is important that the Commission presents without delay a comprehensive proposal for a post-2020 policy in order to create a long-term perspective for investments in sustainable biofuels and other means of decarbonising the transport sector.

Or. en

Amendment 7

Council position
Recital 7 c (new)

Council position

Amendment

(7c) The European Parliament's resolution of 5 February 2014 on a 2030 framework for climate and energy policies^{1a} stressed that the Fuel Quality Directive can play an important role in promoting sustainable biofuels in a 2030 framework for climate and energy policies; as part of this framework, the Commission should therefore review the targets under the Fuel Quality Directive.

^{1a} *Texts adopted, P7_TA(2014)0094.*

Amendment 8

Council position Recital 7 d (new)

Council position

Amendment

(7d) While biofuels and bioliquids produced from waste and residues have the potential to achieve high greenhouse gas emission savings while causing low adverse environmental, social and economic impacts, further assessment of their availability, benefits and risks is appropriate, inter alia, to inform post-2020 policy. At the same time, further information is needed about the energy security benefits of both conventional and advanced biofuels, particularly insofar as fossil fuels are directly or indirectly used for their production. A mandate should be given to the Commission to submit a report and, if appropriate, make proposals to the European Parliament and the Council in relation to these matters.

Or. en

Amendment 9

Council position Recital 8

Council position

Amendment

(8) Distinctions in estimated indirect land use change emissions arise from the different data inputs and key assumptions on agricultural developments such as trends in agricultural yields and productivity, co product allocation and observed global land use change and deforestation rates, which are not under the

(8) Distinctions in estimated indirect land use change emissions arise from the different data inputs and key assumptions on agricultural developments such as trends in agricultural yields and productivity, co product allocation and observed global land use change and deforestation rates, which are not under the

control of biofuel producers. ***While most biofuel feedstocks are produced in the Union, the estimated indirect land use change emissions are mostly expected to take place outside the Union, in areas where the additional production is likely to be realised at the lowest cost. In particular, assumptions with regard to the conversion of tropical forests and peat land drainage outside the Union strongly influence the estimated indirect land use change emissions associated with biodiesel production from oil crops, and as such it is most important to ensure that such data and assumptions are reviewed in line with the latest available information on land conversion and deforestation, including capturing any progress made in those areas through ongoing international programmes.***

control of biofuel producers. ***It is most important to ensure that such data and assumptions are reviewed in line with the latest available scientific information on land conversion and deforestation, including capturing any progress made in those areas through ongoing international programmes. The Commission should therefore review the methodology for estimating land-use change emission factors included in Annexes V and VIII to Directives 98/70/EC and 2009/28/EC respectively in the light of adaptation to technical and scientific progress. To this end, and if warranted by the latest available scientific evidence, the Commission should consider the possibility of revising the proposed crop group indirect land-use change factors, as well as introducing factors at further levels of disaggregation and including additional values should new biofuel feedstocks come to market.***

Or. en

Amendment 10

Council position Recital 9 a (new)

Council position

Amendment

(9a) Coherence between Directive 98/70/EC, Directive 2009/28/EC and legislation in other areas of Union policy should be improved in order to exploit synergies and improve legal certainty.

Or. en

Amendment 11

Council position Recital 10

Council position

(10) A greater use of electricity from renewable sources is a means of addressing many of the challenges in the transport sector as well as in other energy sectors. It is therefore appropriate to provide additional incentives to stimulate the use of electricity from renewable sources in the transport sector, and to increase the multiplication factors for the calculation of the contribution from electricity from renewable sources consumed by electrified rail transport and electric road vehicles so as to enhance their deployment and market penetration.

Amendment

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Or. en

Amendment 12

Council position Recital 13

Council position

(13) To prepare for the transition towards advanced biofuels and minimise the overall indirect land use change impacts in the period to 2020, it is appropriate to limit the amount of biofuels and bioliquids obtained from food crops as set out in part A of Annex VIII to Directive 2009/28/EC and part A of Annex V to Directive 98/70/EC, that can be counted towards targets set out in Directive 2009/28/EC, without restricting the overall use of such biofuels and bioliquids.

Amendment

(13) To prepare for the transition towards advanced biofuels and minimise the overall indirect land use change impacts in the period to 2020 ***and onwards***, it is appropriate to limit the amount of biofuels and bioliquids obtained from food crops as set out in part A of Annex VIII to Directive 2009/28/EC and part A of Annex V to Directive 98/70/EC, that can be counted towards targets set out in Directive 2009/28/EC, without restricting the overall use of such biofuels and bioliquids.

Or. en

Amendment 13

Council position Recital 15

Council position

(15) The estimated indirect land use change emissions should be included in the reporting *by the Commission* of greenhouse gas emissions from biofuels under Directives 98/70/EC and 2009/28/EC. Biofuels made from feedstocks that do not lead to additional demand for land, such as those from waste feedstocks, should be assigned a zero emissions factor.

Amendment

(15) The estimated indirect land use change emissions should be ***counted towards the target in Article 7a(2) of Directive 98/70/EC in order to provide incentives for those biofuels with low indirect land-use change impacts and to ensure the accuracy and credibility of the reduction target for life cycle greenhouse gas emissions. It should also be*** included in the reporting of greenhouse gas emissions from biofuels under Directives 98/70/EC and 2009/28/EC. Biofuels made from feedstocks that do not lead to additional demand for land, such as those from waste feedstocks, should be assigned a zero emissions factor.

Or. en

Amendment 14

Council position Recital 15 a (new)

Council position

Amendment

(15a) The use of land for growing biofuel feedstocks should not result in the displacement of local and indigenous communities.

Or. en

Amendment 15

Council position Recital 15 b (new)

Council position

Amendment

(15b) Article 7d(8) of Directive 98/70/EC and Article 19(8) of Directive 2009/28/EC include provisions for encouraging the cultivation of biofuels in severely degraded and heavily contaminated land as an interim measure for mitigating against indirect land-use change. Those provisions are no longer adequate in their current form and need to be integrated in the approach laid down in this Directive to ensure that overall actions for minimising emissions from indirect land-use change remain coherent.

Or. en

Amendment 16

Council position Recital 16

Council position

Amendment

(16) Yield increases in agricultural sectors through intensified research, technological development and knowledge transfer beyond levels which would have prevailed in the absence of productivity promoting schemes for food and feed crop based biofuels, as well as the cultivation of a second annual crop on areas which were previously not used for growing a second annual crop, can contribute to mitigating indirect land use change. To the extent that the resulting indirect land use change mitigation effect at national or project level can be quantified, measures introduced by this Directive could reflect such productivity

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improvements both in terms of reduced estimated indirect land use change emission values and the contribution of food and feed crop based biofuels towards the share of energy from renewable sources in transport to be achieved in 2020.

Or. en

Amendment 17

Council position Recital 19

Council position

Amendment

(19) Although food and feed crop based biofuels are generally associated with indirect land use change risks, there are also exceptions. Member States and the Commission should encourage the development and use of schemes which can reliably prove that a given amount of biofuel feedstock produced in a given project did not displace production for other purposes. This may be the case, for example, where the biofuel production equals the amount of additional production achieved through investments in improved productivity above levels which would have otherwise been achieved, or where biofuel production takes place on land where direct land use change occurred without significant negative impacts on pre existing ecosystem services delivered by that land, including protection of carbon stocks and biodiversity.

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Or. en

Amendment 18

Council position Recital 23

Council position

(23) In order to permit adaptation to the technical and scientific progress of Directive 98/70/EC, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the addition of estimated typical and default values for biofuel pathways and the adaptation of the permitted analytical methods, relating to the fuel specifications, and of the vapour pressure waiver permitted for petrol containing bioethanol.

Amendment

(23) In order to permit adaptation to the technical and scientific progress of Directive 98/70/EC, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the ***mechanism to monitor and reduce greenhouse gas emissions, the methodological principles and values necessary for assessing whether sustainability criteria have been fulfilled in relation to biofuels, criteria and geographic ranges for determining highly diverse grassland, the methodology for the calculation and reporting of lifecycle greenhouse gas emissions, the methodology for the calculation of indirect land-use change emissions, the permitted level for metallic additives content in fuels, the*** addition of estimated typical and default values for biofuel pathways and the adaptation of the permitted analytical methods, relating to the fuel specifications, and of the vapour pressure waiver permitted for petrol containing bioethanol.

Or. en

Amendment 19

Council position Recital 24

Council position

(24) In order to permit adaptation to the technical and scientific progress of Directive 2009/28/EC, the power to adopt acts in accordance with Article 290 TFEU

Amendment

(24) In order to permit adaptation to the technical and scientific progress of Directive 2009/28/EC, the power to adopt acts in accordance with Article 290 TFEU

should be delegated to the Commission in respect of *possible additions to* the list of biofuel feedstocks *and fuels, the contribution of which* towards the targets in Article 3(4) *of that Directive should be considered to be twice their energy content, and also in respect of the addition of estimated typical and default values for biofuel and bioliquid pathways.*

should be delegated to the Commission in respect of the list of biofuel feedstocks *that are counted multiple times* towards the targets in Article 3(4), *the energy content of transport fuels, criteria and geographic ranges for determining highly biodiverse grassland, the methodology for the calculation of indirect land-use change emissions, and the methodological principles and values necessary for assessing whether sustainability criteria have been fulfilled in relation to biofuels and bioliquids.*

Or. en

Amendment 20

Council position Recital 26

Council position

(26) The Commission should review the effectiveness of the measures introduced by this Directive, based on the best and latest available scientific evidence, in limiting indirect land use change greenhouse gas emissions and addressing ways to further minimise that impact.

Amendment

(26) The Commission should review the effectiveness of the measures introduced by this Directive, based on the best and latest available scientific evidence, in limiting indirect land use change greenhouse gas emissions and addressing ways to further minimise that impact, *which could include the introduction of estimated indirect land-use change emission factors in the sustainability scheme as of 1 January 2021.*

Or. en

Amendment 21

Council position

Article 1 – point -1 (new)

Directive 98/70/EC

Article 2 – point 9 a (new)

Council position

Amendment

(-1) In Article 2, the following point is added:

'9a. "renewable liquid and gaseous fuels of non-biological origin" means gaseous or liquid fuels other than biofuels whose energy content comes from renewable energy sources other than biomass, which are used in transport and which achieve minimum greenhouse gas emissions savings and fulfil the quality specifications of this Directive.'

Or. en

Amendment 22

Council position

Article 1 – point 1

Directive 98/70/EC

Article 2 – point 11

Council position

Amendment

11. 'low indirect land use change risk biofuels' means biofuels, the feedstocks of which are not listed in Part A of Annex V, or are listed in Part A of Annex V, but were produced within schemes which reduce the displacement of production for purposes other than for making biofuels and which were produced in accordance with the sustainability criteria for biofuels laid down in Article 7b. Only the amount of feedstock which corresponds to the actual reduction in displacement achieved through the scheme may be considered. Such schemes may either operate as

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individual projects at a local level or as policy measures covering partly or entirely the territory of a Member State or a third country. Displacement of production for purposes other than for making biofuels can be reduced if the scheme achieves productivity increases within the area it covers beyond levels which would have prevailed in the absence of such productivity promoting schemes;

Or. en

Amendment 23

Council position

Article 1 – point 2 – point -a (new)

Directive 98/70/EC

Article 7a – paragraph 1 – subparagraph 1 a (new)

Council position

Amendment

(-a) in paragraph 1, the following subparagraph is added:

'In the case of suppliers of biofuels for use in aviation, Member States shall permit such suppliers to choose to become contributors to the reduction obligation laid down in paragraph 2 to the extent that the biofuels supplied satisfy the sustainability criteria set out in Article 7b.'

Or. en

Amendment 24

Council position

Article 1 – point 2 – point -aa (new)

Directive 98/70/EC

Article 7a – paragraph 2 – subparagraph 1 a (new)

Council position

Amendment

(-aa) in paragraph 2, the following subparagraph is added:

'Member States shall ensure that the maximum contribution of biofuels produced from cereal and other starch rich crops, sugars and oil crops or dedicated energy crops for the purpose of compliance with the target referred to in the first subparagraph does not exceed the maximum contribution established in Article 3(4)(d) of Directive 2009/28/EC.

Or. en

Amendment 25

Council position

Article 1 – point 2 – point a

Directive 98/70/EC

Article 7a – paragraph 5

Council position

Amendment

"5. In order to ensure the uniform implementation of this Article, the Commission shall adopt implementing acts in accordance with the examination procedure referred to in Article 11(3) to set out:

- (a) the methodology for the calculation of life cycle greenhouse gas emissions from fuels other than biofuels and from energy;
- (b) the methodology specifying, before 1 January 2011, the fuel baseline standard based on the life cycle greenhouse gas emissions per unit of energy from fossil fuels in 2010 for the purposes of paragraph 2 of this Article;
- (c) rules to ***ensure as uniform an approach as possible for Member States' implementation of*** paragraph 4 of this

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 10a concerning in particular:

- (a) the methodology for the calculation of life cycle greenhouse gas emissions from fuels other than biofuels and from energy;
- (b) the methodology specifying, before 1 January 2011, the fuel baseline standard based on the life cycle greenhouse gas emissions per unit of energy from fossil fuels in 2010 for the purposes of paragraph 2 of this Article;
- (c) ***any necessary*** rules to ***give effect to*** paragraph 4 of this Article;

Article;

(d) the methodology for the calculation of the contribution of electric road vehicles, which shall be compatible with Article 3(4) of Directive 2009/28/EC.";

(d) the methodology for the calculation of the contribution of electric road vehicles, which shall be compatible with Article 3(4) of Directive 2009/28/EC.

Or. en

Amendment 26

Council position

Article 1 – point 2 – point b

Directive 98/70/EC

Article 7a – paragraph 6

Council position

"6. As part of the reporting under paragraph 1, Member States shall ensure that fuel suppliers report annually to the authority designated by the Member State, on the biofuel production pathways, volumes of biofuels derived from the feedstocks as categorised in Part A of Annex V, and the life cycle greenhouse gas emissions per unit of energy. Member States shall report those data to the Commission."

Amendment

"6. As part of the reporting under paragraph 1, Member States shall ensure that fuel suppliers report annually to the authority designated by the Member State, on the biofuel production pathways, volumes of biofuels derived from the feedstocks as categorised in Part A of Annex V, and the life cycle greenhouse gas emissions per unit of energy, ***including the estimated indirect land-use change emissions***. Member States shall report those data to the Commission."

Or. en

Amendment 27

Council position

Article 1 – point 3 – point b

Directive 98/70/EC

Article 7b – paragraph 3 – subparagraph 2

Council position

"In order to ensure the uniform application of point (c) of the first subparagraph of this paragraph, the

Amendment

"The Commission shall be empowered to adopt delegated acts in accordance with Article 10a concerning the criteria and

Commission shall adopt *implementing* acts *establishing* the criteria and geographic ranges *for determining* which grassland is covered by *that* point. *Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11(3).*"

geographic ranges *for determining* which grassland *shall be* covered by point (c) of *the first subparagraph.*"

Or. en

Amendment 28

Council position

Article 1 – point 4 – point c

Directive 98/70/EC

Article 7c – paragraph 6

Council position

6. Decisions under paragraph 4 of this Article shall be adopted in accordance with the examination procedure referred to in Article 11(3). Such decisions shall be valid for a period of no more than five years.

The Commission shall require that each voluntary scheme, on which a decision has been adopted under paragraph 4, submit by ..., and annually thereafter by 30 April, a report to the Commission covering each of the points set out in the third subparagraph of this paragraph. Generally, the report shall cover the preceding calendar year. The first report shall cover at least six months from The requirement to submit a report shall apply only to voluntary schemes that have operated for at least 12 months.

By ... the Commission shall submit a report to the European Parliament and to the Council analysing the reports referred to in the second subparagraph of this paragraph, reviewing the operation of the agreements referred to in paragraph 4 or voluntary schemes in respect of which a

Amendment

6. Decisions under paragraph 4 of this Article shall be adopted in accordance with the examination procedure referred to in Article 11(3). Such decisions shall be valid for a period of no more than five years.

The Commission shall require that each voluntary scheme, on which a decision has been adopted under paragraph 4, submit by ..., and annually thereafter by 30 April, a report to the Commission covering each of the points set out in the third subparagraph of this paragraph. Generally, the report shall cover the preceding calendar year. The first report shall cover at least six months from The requirement to submit a report shall apply only to voluntary schemes that have operated for at least 12 months.

By ... the Commission shall submit a report to the European Parliament and to the Council analysing the reports referred to in the second subparagraph of this paragraph, reviewing the operation of the agreements referred to in paragraph 4 or voluntary schemes in respect of which a

decision has been adopted in accordance with this Article, and identifying best practices. The report shall be based on the best information available, including following consultations with stakeholders, and on practical experience in the application of the agreements or schemes concerned. The report shall analyse the following:

in general:

- (a) the independence, modality and frequency of audits, both in relation to what is stated on those aspects in the scheme documentation, at the time the scheme concerned was approved by the Commission, and in relation to industry best practice;
- (b) the availability of, and experience and transparency in the application of, methods for identifying and dealing with non-compliance, with particular regard to dealing with situations or allegations of serious wrongdoing on the part of members of the scheme;
- (c) transparency, particularly in relation to the accessibility of the scheme, the availability of translations in the applicable languages of the countries and regions from which raw materials originate, the accessibility of a list of certified operators and relevant certificates, and the accessibility of auditor reports;
- (d) stakeholder involvement, particularly as regards the consultation of indigenous and local communities prior to decision making during the drafting and reviewing of the scheme as well as during audits and the response given to their contributions;
- (e) the overall robustness of the scheme, particularly in light of rules on the accreditation, qualification and independence of auditors and relevant scheme bodies;
- (f) market updates of the scheme, the amount of feedstocks and biofuels

decision has been adopted in accordance with this Article, and identifying best practices. The report shall be based on the best information available, including following consultations with stakeholders, and on practical experience in the application of the agreements or schemes concerned. The report shall analyse the following:

in general:

- (a) the independence, modality and frequency of audits, both in relation to what is stated on those aspects in the scheme documentation, at the time the scheme concerned was approved by the Commission, and in relation to industry best practice;
- (b) the availability of, and experience and transparency in the application of, methods for identifying and dealing with non-compliance, with particular regard to dealing with situations or allegations of serious wrongdoing on the part of members of the scheme;
- (c) transparency, particularly in relation to the accessibility of the scheme, the availability of translations in the applicable languages of the countries and regions from which raw materials originate, the accessibility of a list of certified operators and relevant certificates, and the accessibility of auditor reports;
- (d) stakeholder involvement, particularly as regards the consultation of indigenous and local communities prior to decision making during the drafting and reviewing of the scheme as well as during audits and the response given to their contributions;
- (e) the overall robustness of the scheme, particularly in light of rules on the accreditation, qualification and independence of auditors and relevant scheme bodies;
- (f) market updates of the scheme, the amount of feedstocks and biofuels

certified, by country of origin and type, the number of participants;

(g) the ease and effectiveness of implementing a system that tracks the proofs of conformity with the sustainability criteria that the scheme gives to its member(s), such a system intended to serve as a means of preventing fraudulent activity with a view, in particular, to the detection, treatment and follow up of suspected fraud and other irregularities and where appropriate, number of cases of fraud or irregularities detected;

and in particular:

(h) options for entities to be authorised to recognise and monitor certification bodies;

(i) criteria for the recognition or accreditation of certification bodies;

(j) rules on how the monitoring of the certification bodies is to be conducted.

A Member State may notify its national scheme to the Commission. The Commission shall give priority to the assessment of such a scheme. A decision on the compliance of such a notified national scheme with the conditions set out in this Directive shall be adopted in accordance with the examination procedure referred to in Article 11(3), in order to facilitate mutual bilateral and multilateral recognition of schemes for verification of compliance with the sustainability criteria for biofuels. Where the decision is positive, schemes established in accordance with this Article shall not refuse mutual recognition with that Member State's scheme.";

certified, by country of origin and type, the number of participants;

(g) the ease and effectiveness of implementing a system that tracks the proofs of conformity with the sustainability criteria that the scheme gives to its member(s), such a system intended to serve as a means of preventing fraudulent activity with a view, in particular, to the detection, treatment and follow up of suspected fraud and other irregularities and where appropriate, number of cases of fraud or irregularities detected;

and in particular:

(h) options for entities to be authorised to recognise and monitor certification bodies;

(i) criteria for the recognition or accreditation of certification bodies;

(j) rules on how the monitoring of the certification bodies is to be conducted.

A Member State may notify its national scheme to the Commission. The Commission shall give priority to the assessment of such a scheme. A decision on the compliance of such a notified national scheme with the conditions set out in this Directive shall be adopted in accordance with the examination procedure referred to in Article 11(3), in order to facilitate mutual bilateral and multilateral recognition of schemes for verification of compliance with the sustainability criteria for biofuels. Where the decision is positive, schemes established in accordance with this Article shall not refuse mutual recognition with that Member State's scheme.

The Commission shall, if appropriate in light of the report referred to in the second subparagraph, submit a proposal to the European Parliament and the Council for amending the provisions of this Directive relating to voluntary schemes with a view to promoting best

practice.";

Or. en

Amendment 29

Council position

Article 1 – point 5 – point -a (new)

Directive 98/70/EC

Article 7d – paragraph 1 – subparagraph 1 a (new)

Council position

Amendment

(-a) in paragraph 1, the following subparagraph is added:

' For the purposes of Article 7a, from 2020 onwards the lifecycle greenhouse gas emissions from biofuels shall be calculated by adding the respective value in Annex V to the result obtained pursuant to the first subparagraph.'

Or. en

Amendment 30

Council position

Article 1 – point 5 – point -a a (new)

Directive 98/70/EC

Article 7d – paragraph 1 a (new)

Council position

Amendment

(-aa) the following paragraph is inserted:

'1a. The Commission shall be empowered to adopt delegated acts in accordance with Article 10a concerning the inclusion in Annex IV of a procedure for calculating greenhouse gas emissions from renewable liquid and gaseous fuels of non-biological origin for the purpose of verifying their compliance with Article 7b. Those

delegated acts shall be adopted by 30 June 2016.'

Or. en

Amendment 31

Council position

Article 1 – point 5 – point a

Directive 98/70/EC

Article 7d – paragraph 5

Council position

5. By 31 December 2012 at the latest and every two years thereafter, the Commission shall draw up a report on the estimated typical and default values in Parts B and E of Annex IV, paying special attention to greenhouse gas emissions from transport and processing.

In the event that the reports referred to in the first subparagraph indicate that the estimated typical and default values in Parts B and E of Annex IV might need to be adjusted on the basis of the latest scientific evidence, the Commission shall, *as appropriate, submit a legislative proposal to the European Parliament and to the Council.*";

Amendment

5. By 31 December 2012 at the latest and every two years thereafter, the Commission shall draw up *and publish* a report on the estimated typical and default values in Parts B and E of Annex IV, paying special attention to greenhouse gas emissions from transport and processing.

In the event that the reports referred to in the first subparagraph indicate that the estimated typical and default values in Parts B and E of Annex IV might need to be adjusted on the basis of the latest scientific evidence, the Commission shall, *be empowered to adopt delegated acts in accordance with Article 10a concerning the correction of those values.*";

Or. en

Amendment 32

Council position

Article 1 – point 5 – point b

Directive 98/70/EC

Article 7d – paragraph 6

Council position

(b) paragraph 6 is *deleted*;

Amendment

(b) paragraph 6 is *replaced by the*

following;

6. The Commission shall be empowered to adopt delegated acts in accordance with Article 10a concerning the adaptation to technical and scientific progress of Annex V, including by the revision of the proposed crop group indirect land-use change values. For the purpose of the evaluation of the economic models used to estimate such indirect land-use change values, the Commission, shall, in its review, include the latest available information with regard to key assumptions influencing modelling results, including measured trends in agricultural yields and productivity, co-product allocation and observed global land-use change and deforestation rates. The Commission shall ensure that stakeholders are involved in such a review process. The first such review shall be concluded no later than 30 June 2016.

The Commission shall, if appropriate, propose new indirect land-use change values at further levels of disaggregation; include additional values, as appropriate, should new biofuel feedstocks come to market ; review the categories of which biofuels are assigned zero indirect land-use change emissions; and develop factors for feedstocks from energy crops grown on land.'

Or. en

Amendment 33

Council position

Article 1 – point 5 – point c

Directive 98/70/EC

Article 7d – paragraph 7 – subparagraph 1

Council position

(c) in paragraph 7, the first, ***second and***

Amendment

(c) in paragraph 7, the first ***subparagraph***

third subparagraphs are replaced by the following:

"7. The Commission shall *keep Annex IV under review, with a view, where justified, to* the addition of values for further biofuel production pathways for the same or for other raw materials. *That review shall also consider the modification of* the methodology laid down in Part C *of Annex IV, particularly with regard to:*

– *the method of accounting for wastes and residues;*

– *the method of accounting for co products;*

– *the method of accounting for cogeneration; and*

– *the status given to agricultural crop residues as co products.*

The default values for waste vegetable or animal oil biodiesel shall be reviewed as soon as possible. In the event that the Commission's review concludes that additions to Annex IV should be made, the Commission shall be empowered to adopt delegated acts pursuant to Article 10a to add, but not to remove or amend, estimated typical and default values in Parts A, B, D and E of Annex IV for biofuel pathways for which specific values are not yet included in that Annex."

is replaced by the following:

"7. The Commission shall *be empowered to adopt delegated acts in accordance with Article 10a concerning the adaptation to technical and scientific progress of Annex IV, including by* the addition of values for further biofuel production pathways for the same or for other raw materials *and by modifying* the methodology laid down in Part C."

Or. en

Amendment 34

Council position

Article 1 – point 5 – point d

Directive 98/70/EC

Article 7d – paragraph 8

Council position

Amendment

(d) paragraph 8 is **replaced by the following:**

(d) paragraph 8 is **deleted.**

"8. Where necessary in order to ensure the uniform application of point 9 of Part C of Annex IV, the Commission may adopt implementing acts setting out detailed technical specifications and definitions. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11(3)."

Or. en

Amendment 35

Council position

Article 1 – point 8

Directive 98/70/EC

Article 8a – paragraph 3

Council position

Amendment

"3. In light of the assessment carried out using the test methodology referred to in paragraph 1, the European Parliament and the Council may revise the limit for the MMT content of fuel specified in paragraph 2, on the basis of a legislative proposal from the Commission."

'3. The Commission shall be empowered to adopt delegated acts in accordance with Article 10a concerning the revision of the limit for the MMT content of fuel specified in paragraph 2. This revision shall be done on the basis of the results of the assessment carried out using the test methodology referred to in paragraph 1. The limit may be reduced to zero where justified by the risk assessment. It shall not be increased unless justified by the risk assessment.'

Or. en

Amendment 36

Council position

Article 1 – point 9

Directive 98/70/EC

Article 9 – paragraph 1 – point k

Council position

"(k) the production pathways, volumes and the life cycle greenhouse gas emissions per unit of energy, including the **provisional mean values of the** estimated indirect land use change emissions **and the associated range derived from the sensitivity analysis** as per Annex V, of the biofuels consumed in the Union. The Commission shall make data on **provisional** estimated indirect land use change emissions **and the associated range derived from the sensitivity analysis** publicly available."

Amendment

‘(k) the production pathways, volumes and the life cycle greenhouse gas emissions per unit of energy, including the estimated indirect land-use change emissions as per Annex V, of the biofuels consumed in the Union. The Commission shall make data on estimated indirect land-use change emissions publicly available.’

Or. en

Amendment 37

Council position

Article 1 – point 9 a (new)

Directive 98/70/EC

Article 9 – paragraph 2 a (new)

Council position

Amendment

(9a) In Article 9, the following paragraph is added:

'2a. The Commission shall keep under review the performance of biofuels under all seasonal conditions experienced across the Union to ensure that the quality of biofuels used in vehicles does not result in a deterioration of pollutant emissions, CO₂ or overall vehicle performance.

The Commission shall be empowered to adopt delegated acts in accordance with Article 10a if necessary, concerning the

adaptation to technical and scientific progress of Annex I or II of this Directive to introduce specific parameters, test limits and test methods.'

Or. en

Amendment 38

Council position

Article 1 – point 11

Directive 98/70/EC

Article 10a – paragraph 2

Council position

2. The power to adopt delegated acts referred to in Articles 7d(7) and 10(1) shall be conferred on the Commission for a period of five years from

Amendment

2. The power to adopt delegated acts referred to in Articles **7a(5), the second subparagraph of Article 7b(3), Articles 7d(1a), 7d(5), 7d(6), 7d(7), 8a(3), 9(2a) and 10(1)** shall be conferred on the Commission for a period of five years from ***The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.***

Or. en

Amendment 39

Council position

Article 1 – point 11

Directive 98/70/EC

Article 10a – paragraph 3

Council position

3. The delegation of power referred to in Articles 7d(7) and 10(1) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

Amendment

3. The delegation of power referred to in Articles **7a(5), the second subparagraph of Article 7b(3), Articles 7d(1a), 7d(5), 7d(6), 7d(7), 8a(3), 9(2a)** and 10(1) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

Or. en

Amendment 40

Council position

Article 1 – point 11

Directive 98/70/EC

Article 10a – paragraph 5

Council position

5. A delegated act adopted pursuant to Articles 7d(7) and 10(1) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council."

Amendment

5. A delegated act adopted pursuant to Articles **7a(5), the second subparagraph of Article 7b(3), Articles 7d(1a), 7d(5), 7d(6), 7d(7), 8a(3), 9(2a)** and 10(1) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.'

Or. en

Amendment 41

Council position

Article 1 – point 12

Directive 98/70/EC

Article 11 – paragraph 3

Council position

3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Where the Committees deliver no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

Amendment

3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Or. en

Amendment 42

Council position

Article 2 – point 1

Directive 2009/28/EC

Article 2 – point t a (new)

Council position

Amendment

(ta) renewable liquid and gaseous fuels of non-biological origin" means gaseous or liquid fuels other than biofuels whose energy content comes from renewable energy sources other than biomass, which are used in transport and which reach minimum greenhouse gas emissions savings and fulfil the quality specifications of this Directive.

Or. en

Amendment 43

Council position

Article 2 – point 1

Directive 2009/28/EC

Article 2 – point v

Council position

Amendment

(v) 'low indirect land use change risk biofuels and bioliquids' means biofuels and bioliquids, the feedstocks of which are not listed in part A of Annex VIII, or are listed in part A of Annex VIII, but were produced within schemes which reduce the displacement of production for purposes other than for making biofuels and bioliquids and which were produced in accordance with the sustainability criteria for biofuels and bioliquids laid down in Article 17. Only the amount of feedstock which corresponds to the actual reduction in displacement achieved through the scheme may be considered. Such schemes may either operate as individual projects at a local level or as policy measures covering partly or entirely the territory of a Member State or a third country. Displacement of production for purposes other than for making biofuels and bioliquids can be reduced if the scheme achieves productivity increases within the area it covers beyond levels which would have prevailed in the absence of such productivity promoting schemes.

deleted

Or. en

Amendment 44

Council position

Article 2 – point 2 – point b – point iii

Directive 2009/28/EC

Article 3 – paragraph 4 –subparagraph 2 – point c

Council position

"(c) for the calculation of the contribution from electricity produced from renewable sources and consumed in all types of electric vehicles and for the production of renewable liquid and gaseous fuels of non biological origin for the purpose of points (a) and (b), Member States may choose to use either the average share of electricity from renewable energy sources in the Union or the share of electricity from renewable energy sources in their own country as measured two years before the year in question. Furthermore, for the calculation of the electricity from renewable energy sources consumed by *electrified rail transport, that consumption shall be considered to be 2,5 times the energy content of the input of electricity from renewable energy sources. For the calculation of the electricity from renewable energy sources consumed by electric road vehicles in point (b), that consumption shall be considered to be five times the energy content of the input of electricity from renewable energy sources.*"

Amendment

‘(c) for the calculation of the contribution from electricity produced from renewable sources and consumed in all types of electric vehicles and for the production of renewable liquid and gaseous fuels of non-biological origin for the purpose of points (a) and (b), Member States may choose to use either the average share of electricity from renewable energy sources in the Union or the share of electricity from renewable energy sources in their own country as measured two years before the year in question. Furthermore, for the calculation of the electricity from renewable energy sources consumed by electric road vehicles that consumption shall be considered to be **2,5 times** the energy content of the input of electricity from renewable energy sources.’

Or. en

Amendment 45

Council position

Article 2 – point 2 – point b – point iv

Directive 2009/28/EC

Article 3 – paragraph 4 –subparagraph 2 – point d

Council position

"(d) for the calculation of biofuels in the numerator, the share of energy from biofuels produced from cereal and other starch rich crops, sugars and oil crops shall be no more than 7 % of the final consumption of energy in transport in the

Amendment

‘(d) for the calculation of biofuels in the numerator, the share of energy from biofuels produced from cereal and other starch-rich crops, sugars and oil crops **and other energy crops grown on land** shall be no more than **6 %** of the final consumption

Member States in 2020;

of energy in transport in the Member States
in 2020;

Or. en

Amendment 46

Council position

Article 2 – point 2 – point b – point iv

Directive 2009/28/EC

Article 3 – paragraph 4 – subparagraph 2 – point e

Council position

(e) Member States shall *seek to* achieve *the objective of* a minimum proportion of biofuels produced from feedstocks and other fuels, listed in part A of Annex IX, being consumed on their territory. *To that effect, each Member State shall set a national target, which it shall endeavour to achieve. A reference value for this target is 0,5 percentage points in energy content of the share of energy from renewable sources in all forms of transport in 2020 referred to in the first subparagraph, to be met with biofuels produced from feedstocks and other fuels, listed in part A of Annex IX, and which shall be considered to be twice their energy content in accordance with point (f) of this subparagraph and part A of Annex IX.*

In addition, biofuels made from feedstocks not listed in Annex IX that were determined to be wastes, residues, non food cellulosic material or ligno cellulosic material by the competent national authorities and are used in existing installations prior to *the adoption of Directive 2014/.../EU of the European Parliament and of the Council**, may be counted towards the national target.

Member States may set a national target lower than the reference value of 0,5

Amendment

(e) Member States shall *ensure that they* achieve a minimum proportion of biofuels produced from feedstocks and other fuels, listed in part A of Annex IX, being consumed on their territory. *This target shall be 2,5 % of the final consumption of energy in transport in 2020.*

In addition, biofuels made from feedstocks not listed in Annex IX that were determined to be wastes, residues, non-food cellulosic material or lingo-cellulosic material by the competent national authorities and are used in existing installations prior to *31 December 2014* may be counted towards the national target *in order to take into account investments already made.*

percentage points, based on one or more of the following grounds:

(i) objective factors such as the limited potential for the sustainable production of biofuels produced from feedstocks and other fuels, listed in part A of Annex IX, or the limited availability of such biofuels at cost efficient prices on the market, taking into account the assessment contained in the Commission report referred to in Article 3(1) of Directive 2014/.../EU;

(ii) the specific technical or climatic characteristics of the national market for transport fuels, such as the composition and condition of the road vehicle fleet; or

(iii) national policies allocating commensurate financial resources to incentivising the use of electricity from renewable energy sources in transport.

The Commission shall publish:

– the national targets of the Member States and, where applicable, the grounds for differentiation of their national target as compared to the reference value, notified in accordance with Article 4(2) of Directive 2014/.../EU+;

– a synthesis report on Member States' achievements towards their national targets.;

Or. en

Amendment 47

Council position

Article 2 – point 2 – point d

Directive 2009/28/EC

Article 3 – paragraph 4 –subparagraph 5

Council position

"For the purpose of complying with the

Amendment

"For the purpose of complying with the

targets set out in *paragraphs 1 and 2 and* this paragraph, the contribution made by biofuels produced from feedstocks listed in part A of Annex IX shall be considered to be twice their energy content.";

targets set out in this paragraph, the contribution made by biofuels produced from feedstocks listed in part A of Annex IX shall be considered to be twice their energy content.";

Or. en

Amendment 48

Council position

Article 2 – point 2 – point e

Directive 2009/28/EC

Article 3 – paragraph 5 –subparagraph 2

Council position

The Commission shall be empowered to adopt delegated acts in accordance with Article 25a to amend the list of feedstocks in part A of Annex IX ***in order to add feedstocks, but not to remove them.*** The Commission shall adopt a separate delegated act in respect of each feedstock ***to be added to the list in part A of Annex IX.*** Each delegated act shall be based on an analysis of the latest scientific and technical progress, taking due account of the principles of the waste hierarchy, and supporting the conclusion that the feedstock in question does not create an additional demand for land or cause significant distortive effects on markets for (by)products, wastes or residues, that it delivers substantial greenhouse gas emission savings compared to fossil fuels, and that it does not risk creating negative impacts on the environment and biodiversity.

Amendment

The Commission shall be empowered to adopt delegated acts in accordance with Article 25a to amend the list of feedstocks in part A of Annex IX. The Commission shall adopt a separate delegated act in respect of each feedstock. Each delegated act shall be based on an analysis of the latest scientific and technical progress, taking due account of the principles of the waste hierarchy, and supporting the conclusion that the feedstock in question does not create an additional demand for land or cause significant distortive effects on markets for (by)products, wastes or residues, that it delivers substantial greenhouse gas emission savings compared to fossil fuels, and that it does not risk creating negative impacts on the environment and biodiversity.

Or. en

Amendment 49

Council position

Article 2 – point 3

Directive 2009/28/EC

Article 5 – paragraph 5

Council position

(3) In Article 5, paragraph 5 *is deleted*.

Amendment

In Article 5, paragraph 5, *the last sentence is replaced by the following:*

'The Commission shall be empowered to adopt delegated acts in accordance with Article 25a concerning the adaptation of the energy content of transport fuels as set out in Annex III to scientific and technical progress.'

Or. en

Amendment 50

Council position

Article 2 – point 5 – point -a (new)

Directive 2009/28/EC

Article 17 – paragraph 1 – introductory part

Present text

1. Irrespective of whether the raw materials were cultivated inside or outside the territory of the **Community**, energy from biofuels and bioliquids shall be taken into account for the purposes referred to in points (a), (b) and (c) only if they fulfil the sustainability criteria set out in paragraphs 2 to 6:

Amendment

(-a) in paragraph 1, the introductory part of the first subparagraph is replaced by the following:

'1. Irrespective of whether the raw materials were cultivated inside or outside the territory of the **Union**, energy from biofuels and bioliquids shall be taken into account for the purposes referred to in points (a), (b) and (c) only if they fulfil the sustainability criteria set out in paragraphs 2 to 6 *and do not exceed contributions set out in Article 3(4)(d):'*

Amendment 51

Council position

Article 2 – point 5 - point b

Directive 2009/28/EC

Article 17 – paragraph 3 – subparagraph 2

Council position

"In order to ensure the uniform application of point (c) of the first subparagraph of this paragraph, the Commission shall adopt *implementing* acts *establishing* the criteria and geographic ranges *for determining* which grassland is covered by *that* point. *Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 25(3).*".

Amendment

'The Commission shall *be empowered to* adopt *delegated* acts *in accordance with Article 25a to establish* the criteria and geographic ranges *to determine* which grassland *shall be* covered by point (c) of the first subparagraph.'

Amendment 52

Council position

Article 2 – point 6 – point e

Directive 2009/28/EC

Article 18 – paragraph 8

Council position

"8. At the request of a Member State or on its own initiative, the Commission shall examine the application of Article 17 in relation to a source of biofuel and, within six months of receipt of a request decide, in accordance with the examination procedure referred to in Article 25(3), whether the Member State concerned may take biofuel from that source into account for the purposes of Article 17(1)."

Amendment

‘8. At the request of a Member State or on its own initiative, the Commission shall examine the application of Article 17 in relation to a source of biofuel **or bioliquid** and, within six months of receipt of a request decide, in accordance with the examination procedure referred to in Article 25(3), whether the Member State concerned may take biofuel **or bioliquid** from that source into account for the purposes of Article 17(1).’.

Amendment 53

Council position

Article 2 – point 7 – point -a (new)

Directive 2009/28/EC

Article 19 – paragraph 1 a (new)

Council position

Amendment

(-a) the following paragraph is inserted:

'1a. The Commission shall be empowered to adopt delegated acts in accordance with Article 25a concerning the inclusion in Annex V of a procedure for calculating greenhouse gas emissions from renewable liquid and gaseous fuels of non-biological origin for the purpose of verifying their compliance with Article 17. Those delegated acts shall be adopted by 30 June 2016.'

Or. en

Amendment 54

Council position

Article 2 – point 7 – point a

Directive 2009/28/EC

Article 19 – paragraph 5

Council position

Amendment

5. By 31 December 2012 at the latest and every two years thereafter, the Commission shall draw up a report on the estimated typical and default values in parts B and E of Annex V, paying special attention to greenhouse gas emissions from transport and processing.

In the event that the reports referred to in the first subparagraph indicate that the estimated typical and default values in

5. By 31 December 2012 at the latest and every two years thereafter, the Commission shall draw up **and publish** a report on the estimated typical and default values in Parts B and E of Annex V, paying special attention to greenhouse gas emissions from transport and processing.

In the event that the reports referred to in the first subparagraph indicate that the estimated typical and default values in

parts B and E of Annex V might need to be adjusted on the basis of the latest scientific evidence, the Commission shall, *as appropriate, submit a legislative proposal to the European Parliament and to the Council.*";

Parts B and E of Annex V need to be adjusted on the basis of the latest scientific evidence, the Commission shall *be empowered to adopt delegated acts in accordance with Article 25a concerning the correction of those values.*';

Or. en

Amendment 55

Council position

Article 2 – point 7 – point b

Directive 2009/28/EC

Article 19 – paragraph 6

Council position

(b) paragraph 6 is *deleted*;

Amendment

(b) paragraph 6 is *replaced by the following*;

'6. The Commission shall be empowered to adopt delegated acts in accordance with Article 25a concerning the adaptation to technical and scientific progress of Annex VIII, including the revision of the proposed crop group indirect land-use change values.

For the purpose of the evaluation of the economic models used to estimate such indirect land-use change values, the Commission, shall, in its review, include the latest available information with regard to key assumptions influencing modelling results including measured trends in agricultural yields and productivity, co-product allocation and observed global land-use change and deforestation rates. The Commission shall ensure that stakeholders are involved in such review process. The first such review shall be concluded no later than 30 June 2016.

The Commission shall, if appropriate, propose new indirect land-use change values at further levels of disaggregation;

include greenhouse gas emissions resulting from the transport of raw materials; include additional values should new biofuel feedstocks come to market; and develop factors for feedstocks from energy crops grown on land.

Or. en

Amendment 56

Council position

Article 2 – point 7 – point c

Directive 2009/28/EC

Article 19 – paragraph 7

Council position

"7. The Commission shall **keep** Annex V **under review, with a view, where justified, to** the addition of values for further biofuel production pathways for the same or for other raw materials. **That review shall also consider the modification of** the methodology laid down in part C **of Annex V, particularly with regard to:**

- the method of accounting for wastes and residues;
- the method of accounting for co products;
- the method of accounting for cogeneration; and
- the status given to agricultural crop residues as co products.

The default values for waste vegetable or animal oil biodiesel shall be reviewed as soon as possible. ***In the event that the***

Amendment

'7. The Commission shall **be empowered to adopt delegated acts in accordance with Article 25a concerning the adaptation of Annex V to technical and scientific progress, including by** the addition of values for further biofuel production pathways for the same or for other raw materials **and by modifying** the methodology laid down in part C'.

Regarding the default values and methodology laid down in Annex V, particular consideration should be given to:

- the method of accounting for wastes and residues;
- the method of accounting for co products;
- the method of accounting for cogeneration; and
- the status given to agricultural crop residues as co products.

The default values for waste vegetable or animal oil biodiesel shall be reviewed as soon as possible.

Commission's review concludes that additions to Annex V should be made, the Commission shall be empowered to adopt delegated acts pursuant to Article 25a to add, but not to remove or amend, estimated typical and default values in parts A, B, D and E of Annex V for biofuel and bioliquid pathways for which specific values are not yet included in that Annex.!

Or. en

Amendment 57

Council position

Article 2 – point 7 – point d

Directive 2009/28/EC

Article 19 – paragraph 8

Council position

Amendment

(d) paragraph 8 is *replaced by the following:*

(d) paragraph 8 is *deleted*

"8. Where necessary in order to ensure the uniform application of point 9 of Part C of Annex V, the Commission may adopt implementing acts setting out detailed technical specifications and definitions. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 25(3)."

Or. en

Amendment 58

Council position

Article 2 – point 9 – point a

Directive 2009/28/EC

Article 22 – paragraph 1 – subparagraph 2 – point i

Council position

(i) the development and share of biofuels made from feedstocks listed in Annex IX including a resource assessment focusing on the sustainability aspects relating ***to the effect of the replacement of food and feed products for biofuel production, taking due account of the principles of the waste hierarchy established in Directive 2008/98/EC, the biomass cascading principle, the maintenance of the necessary carbon stock in the soil and the quality of the soil and the ecosystems;***

Amendment

(i) the development and share of biofuels made from feedstocks listed in Annex IX including a resource assessment focusing on the sustainability aspects ***of those biofuels;***

Or. en

Amendment 59

Council position

Article 2 – point 9 – point -a (new)

Directive 2009/28/EC

Article 22– paragraph 1 – subparagraph 1

Present text

1. Each Member State shall submit a report to the Commission on progress in the promotion and use of energy from renewable sources by 31 December 2011, and every two years thereafter. ***The sixth report, to be submitted by 31 December 2021, shall be the last report required.***

Amendment

(-a) in Article 22(1), the first subparagraph is replaced by the following:

'1. Each Member State shall submit a report to the Commission on progress in the promotion and use of energy from renewable sources by 31 December 2011, and every two years thereafter.';

Or. en

Amendment 60

Council position

Article 2 – point 9 a (new)

Directive 2009/28/EC

Article 22– paragraph 2

Present text

2. In estimating net greenhouse gas emission saving from the use of biofuels, the Member State may, for the purpose of the reports referred to in paragraph 1, use the typical values given in part A and part B of Annex V.

Amendment

(9a) In Article 22, paragraph 2 is replaced by the following:

'2. In estimating net greenhouse gas emission savings from the use of biofuels, the Member State may, for the purpose of the reports referred to in paragraph 1, use the typical values given in part A and part B of Annex V, ***and shall add the estimates for any indirect land-use change emissions to be set out in Annex VIII.***'

Or. en

Amendment 61

Council position

Article 2 – point 10 – point b

Directive 2009/28/EC

Article 23– paragraph 4

Council position

"4. In reporting on greenhouse gas emission savings from the use of biofuels and bioliquids, the Commission shall use the amounts reported by Member States in accordance with point (o) of Article 22(1), including ***the provisional mean values of the estimated indirect land use change emissions and the associated range derived from the sensitivity analysis referred to*** in Annex VIII. The Commission shall make data on ***provisional*** estimated indirect land use change emissions ***and the associated range derived from the sensitivity analysis*** publicly available. In addition, the

Amendment

"4. In reporting on greenhouse gas emission savings from the use of biofuels and bioliquids, the Commission shall use the amounts reported by Member States in accordance with point (o) of Article 22(1), including the estimated indirect land use change emissions ***as set out*** in Annex VIII. The Commission shall make data on estimated indirect land use change emissions publicly available. In addition, the Commission shall evaluate whether and how the estimate for direct emission savings would change if co products were accounted for using the substitution

Commission shall evaluate whether and how the estimate for direct emission savings would change if co products were accounted for using the substitution approach.";

approach.";

Or. en

Amendment 62

Council position

Article 2 – point 10 – point c

Directive 2009/28/EC

Article 23– paragraph 5 – points e and f

Council position

"(e) the availability and sustainability of biofuels made from feedstocks listed in Annex IX, including an assessment ***of the effect of the replacement of food and feed products for biofuel production, taking due account of the principles of the waste hierarchy established in Directive 2008/98/EC, the biomass cascading principle, the maintenance of the necessary carbon stock in the soil and the quality of soil and ecosystems; and***

(f) an assessment of whether the range of uncertainty identified in the analysis underlying the estimations of indirect land use change emissions can be narrowed and the possible impact of Union policies, such as environment, climate and agricultural policies, can be factored in.";

Amendment

"(e) the availability and sustainability of biofuels made from feedstocks listed in Annex IX, including an assessment ***focusing on the sustainability aspects of those fuels.***

(f) ***indirect land use changes in relation to all production pathways, including*** an assessment of whether the range of uncertainty identified in the analysis underlying the estimations of indirect land use change emissions can be narrowed and the possible impact of Union policies, such as environment, climate and agricultural policies, can be factored in.";

Or. en

Amendment 63

Council position

Article 2 – point 11

Directive 2009/28/EC

Article 25 – paragraph 3

Council position

3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Where the Committees deliver no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

Amendment

3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Or. en

Amendment 64

Council position

Article 2 – point 12

Directive 2009/28/EC

Article 25 a

Council position

"Article 25a

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Articles 3(5) and 19(7) shall be conferred on the Commission for a period of five years from ...□.

Amendment

"Article 25a

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Articles ***3(4)(e), 3(5), 5(5), 17(3), 19(1a), 19(5), 19(6)*** and 19(7) shall be conferred on the Commission for a period of five years from ...□. ***The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the***

European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Articles 3(5) and 19(7) may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Articles 3(5) and 19(7) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council."

3. The delegation of power referred to in Articles **3(4)(e), 3(5), 5(5), 17(3), 19(1a), 19(5), 19(6)** and 19(7) may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Articles **3(4)(e), 3(5), 5(5), 17(3), 19(1a), 19(5), 19(6)** and 19(7) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council."

Or. en

Amendment 65

Council position

Article 3 – paragraph 1

Council position

1. The Commission shall at the latest by ..., submit a report to the European Parliament and to the Council including an assessment of the availability of the necessary quantities of cost efficient biofuels on the Union market from non land using feedstocks and non food crops by 2020, including the need for additional criteria to ensure their sustainability, and of the best available scientific evidence on indirect land use change greenhouse gas emissions associated with the production of biofuels and bioliquids. The report shall, if appropriate, be accompanied by proposals for further measures, taking into account economic, social and environmental considerations. ***The report shall also set out criteria for the identification and certification of low indirect land use change risk biofuels and bioliquids, with a view to adjusting Annex V to Directive 98/70/EC and Annex VIII to Directive 2009/28/EC, if appropriate.***

Amendment

1. The Commission shall at the latest by ..., submit a report to the European Parliament and to the Council including an assessment of the availability of the necessary quantities of cost efficient biofuels on the Union market from non land using feedstocks and non food crops by 2020, including the need for additional criteria to ensure their sustainability, and of the best available scientific evidence on indirect land use change greenhouse gas emissions associated with the production of biofuels and bioliquids. The report shall, if appropriate, be accompanied by proposals for further measures, taking into account economic, social and environmental considerations.

Or. en

Amendment 66

Council position

Article 3 – paragraph 2

Council position

2. The Commission shall, by 31 December 2017, submit a report to the European Parliament and to the Council reviewing, on the basis of the best latest available scientific evidence, the effectiveness of the measures introduced by this Directive in limiting indirect land use change greenhouse gas emissions associated with the production of biofuel and bioliquids. In

Amendment

2. The Commission shall, by 31 December 2017, submit a report to the European Parliament and to the Council reviewing, on the basis of the best latest available scientific evidence, the effectiveness of the measures introduced by this Directive in limiting indirect land use change greenhouse gas emissions associated with the production of biofuel and bioliquids. In

this respect, the report shall also include the latest available information with regard to the key assumptions influencing the results from the modelling of the indirect land use change greenhouse gas emissions associated with the production of biofuels and bioliquids, including measured trends in agricultural yields and productivity, co product allocation and observed global land use change and deforestation rates, and the possible impact of Union policies, such as environment, climate and agricultural policies, involving stakeholders in such review process. ***The report shall also examine developments in relation to certification schemes for low indirect land use change risk biofuel and bioliquid feedstocks, listed in Annex V to Directive 98/70/EC and Annex VIII to Directive 2009/28/EC but produced under low risk of indirect land use change by way of project level mitigation measures, and their effectiveness.***

The report referred to in the first subparagraph shall, if appropriate, be accompanied by a legislative proposal, based on the best available scientific evidence, for introducing adjusted estimated indirect land use change emissions factors into the appropriate sustainability criteria ***and*** by a review of the effectiveness of the incentives provided for biofuels from non land using feedstocks and non food crops under Article 3(4) of Directive 2009/28/EC. As part of that report, the Commission shall, in light of Member States' reports pursuant to Article 3(5) of Directive 2009/28/EC, assess the effectiveness of measures taken to prevent and fight fraud, and shall, if appropriate, submit proposals for further measures, including on additional measures to be taken at Union level.

this respect, the report shall also include the latest available information with regard to the key assumptions influencing the results from the modelling of the indirect land use change greenhouse gas emissions associated with the production of biofuels and bioliquids, including measured trends in agricultural yields and productivity, co product allocation and observed global land use change and deforestation rates, and the possible impact of Union policies, such as environment, climate and agricultural policies, involving stakeholders in such review process.

The report referred to in the first subparagraph shall, if appropriate, be accompanied by a legislative proposal, based on the best available scientific evidence, for introducing adjusted estimated indirect land use change emissions factors into the appropriate sustainability criteria. ***It shall also be accompanied*** by a review of the effectiveness of the incentives provided for biofuels from non land using feedstocks and non food crops under Article 3(4) of Directive 2009/28/EC, ***and if appropriate, by a legislative proposal for promoting advanced biofuels after 2020.*** As part of that report, the Commission shall, in light of Member States' reports pursuant to Article 3(5) of Directive 2009/28/EC, assess the effectiveness of measures taken to prevent and fight fraud, and shall, if appropriate, submit proposals for further measures, including on additional measures to be taken at Union level.

Amendment 67

Council position

Article 4 – paragraph 1

Council position

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by ...+. They shall immediately inform the Commission thereof.

+ OJ: please insert the date: **24** months after the date of adoption of this Directive.

Amendment

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by ...+. They shall immediately inform the Commission thereof.

+ OJ: please insert the date: **12** months after the date of adoption of this Directive.

Amendment 68

Council position

Article 4 – paragraph 2 – subparagraph 2

Council position

In 2020, Member States shall report to the Commission on their respective achievements towards their national targets set in accordance with point (e) of Article 3(4) of Directive 2009/28/EC, ***specifying the reasons for any shortfall.***

Amendment

In 2020, Member States shall report to the Commission on their respective achievements towards their national targets set in accordance with point (e) of Article 3(4) of Directive 2009/28/EC.

Amendment 69

Council position

Annex I – point 1

Directive 98/70/EC

Annex IV – part C – point 7

Council position

(1) **Point 7 of Part C of Annex IV is replaced by the following:**

"7. Annualised emissions from carbon stock changes caused by **land use** change, e_1 , shall be calculated by dividing total emissions equally over 20 years. For the calculation of those emissions, the following rule shall be applied:

$$e_1 = (CS_R - CS_A) \times 3,664 \times 1/20 \times 1/P - e_B, *$$

where

e_1 = annualised greenhouse gas emissions from carbon stock change due to **land use** change (measured as mass (grams) of CO₂ equivalent per unit biofuel energy (megajoules)). **'Cropland'*** and 'perennial cropland'*** shall be regarded as one land use;**

CS_R = the carbon stock per unit area associated with the reference **land use** (measured as mass (tonnes) of carbon per unit area, including both soil and vegetation). The reference **land use** shall be the land use in January 2008 or 20 years before the raw material was obtained, whichever was the later;

CS_A = the carbon stock per unit area associated with the actual **land use** (measured as mass (tonnes) of carbon per unit area, including both soil and vegetation). In cases where the carbon stock accumulates over more than one year, the value attributed to CS_A shall be the estimated stock per unit area after 20 years or when the crop reaches maturity,

Amendment

(1) **In Annex IV, Part C is amended as follows:**

(a) point 7 is replaced by the following:

'7. Annualised emissions from carbon stock changes caused by **land-use** change, e_1 , shall be calculated by dividing total emissions equally over 20 years. For the calculation of these emissions the following rule shall be applied:

$$e_1 = (CS_R - CS_A) \times 3,664 \times 1/20 \times 1/P,$$

where

e_1 = annualised greenhouse gas emissions from carbon stock change due to **land-use** change (measured as mass (grams) of CO₂-equivalent per unit biofuel energy (megajoules));

CS_R = the carbon stock per unit area associated with the reference **land-use** (measured as mass (tonnes) of carbon per unit area, including both soil and vegetation). The reference **land-use** shall be the land use in January 2008 or 20 years before the raw material was obtained, whichever was the later;

CS_A = the carbon stock per unit area associated with the actual **land-use** (measured as mass (tonnes) of carbon per unit area, including both soil and vegetation). In cases where the carbon stock accumulates over more than one year, the value attributed to CS_A shall be the estimated stock per unit area after 20 years or when the crop reaches maturity,

whichever is the earlier;

P = the productivity of the crop (measured as biofuel energy per unit area per year);
and

eB = bonus of 29 gCO₂eq/MJ biofuel if biomass is obtained from restored degraded land under the conditions provided for in point 8.

** The quotient obtained by dividing the molecular weight of CO₂ (44,010 g/mol) by the molecular weight of carbon (12,011 g/mol) is equal to 3,664.*

*** Cropland as defined by IPCC.*

**** Perennial crops are defined as multi annual crops, the stem of which is usually not annually harvested such as short rotation coppice and oil palm."*

whichever the earlier; *and*

P = the productivity of the crop (measured as biofuel *or* energy per unit area per year).'

Or. en

Amendment 70

Council position

Annex I – point 1 – point aa (new)

Directive 98/70/EC

Annex IV – part C – points 8 and 9

Council position

Amendment

(aa) points 8 and 9 are deleted.

Or. en

Amendment 71

Council position

Annex I – point 2

Directive 98/70/EC

Annex V – part A

Council position

"ANNEX V

Part A. *Provisional estimated* indirect *land use* change emissions from biofuels ($\text{gCO}_{2\text{eq}}/\text{MJ}$)⁺

Feedstock group	<i>Mean*</i>	<i>Interpercentile range derived from the sensitivity analysis**</i>
Cereals and other starch-rich crops	12	8 to 16
Sugars	13	4 to 17
Oil crops	55	33 to 66

* *The mean values included here represent a weighted average of the individually modelled feedstock values.*

** *The range included here reflects 90 % of the results using the fifth and ninety-fifth percentile values resulting from the analysis. The fifth percentile suggests a value below which 5 % of the observations were found (i.e. 5 % of total data used showed results below 8, 4, and 33 $\text{gCO}_{2\text{eq}}/\text{MJ}$). The ninety-fifth percentile suggests a value below which 95 % of the observations were found (i.e. 5 % of total data used showed results above 16, 17, and 66 $\text{gCO}_{2\text{eq}}/\text{MJ}$).*

⁺ *The mean values reported here represent a weighted average of the individually modelled feedstock values. The magnitude of the values in the Annex is sensitive to the range of assumptions (such as treatment of co products, yield developments, carbon stocks and displacement of other commodities, etc.) used in the economic models developed for their estimation. Although it is therefore not possible to fully characterise the uncertainty range associated with such estimates, a sensitivity analysis conducted on the results based on a random variability variation of key parameters, a so called Monte Carlo analysis, was conducted.*

Amendment

ANNEX V

Part A. *Estimated* indirect *land-use change* emissions from biofuel

Feedstock group	<i>Estimated indirect land-use change emissions ($\text{gCO}_{2\text{eq}}/\text{MJ}$)</i>
Cereals and other starch-rich crops	12

Sugars	13
Oil crops	55

Or. en

Amendment 72

Council position

Annex II – point 1

Directive 2009/28/EC

Annex V – part C – point 7

Council position

(1) ***Point 7 of part C of Annex V is replaced by the following:***

"7. Annualised emissions from carbon stock changes caused by ***land use*** change, e_l , shall be calculated by dividing total emissions equally over 20 years. For the calculation of those emissions, the following rule shall be applied:

$$e_l = (CS_R - CS_A) \times 3,664 \times 1/20 \times 1/P - e_B, *$$

where

e_l = annualised greenhouse gas emissions from carbon stock change due to ***land use*** change (measured as mass (grams) of CO₂ equivalent per unit of biofuel ***or bioliquid*** energy (megajoules)). ***'Cropland'** and 'perennial cropland'*** shall be regarded as one land use;***

CS_R = the carbon stock per unit area associated with the reference ***land use*** (measured as mass (tonnes) of carbon per unit area, including both soil and vegetation). The reference ***land use*** shall be the ***land use*** in January 2008 or 20 years before the raw material was obtained, whichever was the later;

Amendment

(1) ***In Annex V, part C is amended as follows:***

(a) point 7 is replaced by the following:

"7. Annualised emissions from carbon stock changes caused by ***land-use*** change, e_l , shall be calculated by dividing total emissions equally over 20 years. For the calculation of these emissions the following rule shall be applied:

$$e_l = (CS_R - CS_A) \times 3,664 \times 1/20 \times 1/P,$$

where

e_l = annualised greenhouse gas emissions from carbon stock change due to ***land-use*** change (measured as mass (grams) of CO₂-equivalent per unit biofuel energy (megajoules));

CS_R = the carbon stock per unit area associated with the reference ***land-use*** (measured as mass (tonnes) of carbon per unit area, including both soil and vegetation). The reference ***land-use*** shall be the ***land-use*** in January 2008 or 20 years before the raw material was obtained, whichever was the later;

CS_A = the carbon stock per unit area associated with the actual **land use** (measured as mass (tonnes) of carbon per unit area, including both soil and vegetation). In cases where the carbon stock accumulates over more than one year, the value attributed to CS_A shall be the estimated stock per unit area after 20 years or when the crop reaches maturity, whichever the earlier;

P = the productivity of the crop (measured as biofuel or bioliquid energy per unit area per year); **and**

e_B = bonus of 29 gCO_{2eq}/MJ biofuel or bioliquid if biomass is obtained from restored degraded land under the conditions provided for in point 8.

** The quotient obtained by dividing the molecular weight of CO₂ (44,010 g/mol) by the molecular weight of carbon (12,011 g/mol) is equal to 3,664.*

*** Cropland as defined by IPCC.*

****perennial crops are defined as multi annual crops, the stem of which is usually not annually harvested such as short rotation coppice and oil palm."*

CS_A = the carbon stock per unit area associated with the actual **land-use** (measured as mass (tonnes) of carbon per unit area, including both soil and vegetation). In cases where the carbon stock accumulates over more than one year, the value attributed to CS_A shall be the estimated stock per unit area after 20 years or when the crop reaches maturity, whichever the earlier; **and**

P = the productivity of the crop (measured as biofuel or bioliquid energy per unit area per year).'

Or. en

Amendment 73

Council position

Annex I – point 1 –point a a (new)

Directive 2009/28/EC

Annex V – part C – points 8 and 9

Council position

Amendment

(aa) points 8 and 9 are deleted.

Or. en

Amendment 74

Council position

Annex II – point 2

Directive 2009/28/EC

Annex VIII – part A

Council position

(2) The following Annex is added:

"ANNEX VIII

Part A. *Provisional estimated* indirect *land use* change emissions from biofuel *and bioliquid feedstocks* (gCO_{2eq}/MJ)⁺

Feedstock group	<i>Mean*</i>	<i>Interpercentile range derived from the sensitivity analysis**</i>
Cereals and other starch-rich crops	12	<i>8 to 16</i>
Sugars	13	<i>4 to 17</i>
Oil crops	55	<i>33 to 66</i>

* *The mean values included here represent a weighted average of the individually modelled feedstock values.*

** *The range included here reflects 90 % of the results using the fifth and ninety-fifth percentile values resulting from the analysis. The fifth percentile suggests a value below which 5 % of the observations were found (i.e. 5 % of total data used showed results below 8, 4, and 33 gCO_{2eq}/MJ). The ninety-fifth percentile suggests a value below which 95 % of the observations were found (i.e. 5 % of total data used showed results above 16, 17, and 66 gCO_{2eq}/MJ).*

⁺ *The mean values reported here represent a weighted average of the individually modelled feedstock values. The magnitude of the values in the Annex is sensitive to the range of assumptions (such as treatment of co products, yield developments, carbon stocks and displacement of other commodities, etc.) used in the economic models developed for their estimation. Although it is therefore not possible to fully characterise the uncertainty range associated with such estimates, a sensitivity analysis conducted on the results based on a random variability variation of key parameters, a so called Monte Carlo analysis, was conducted.*

Amendment

"ANNEX VIII

Part A. *Estimated* indirect *land-use* change emissions from biofuels

Feedstock group	<i>Estimated indirect land-use change emissions</i>
Cereals and other starch-rich crops	12
Sugars	13
Oil crops	55

Or. en

Amendment 75

Council position

Annex II – point 3

Directive 2009/28/EC

Annex IX– part A

Council position

Part A. Feedstocks and fuels, the contribution of which towards the target(s) referred to in Article 3(4) shall be considered to be twice their energy content

- (a) Algae if cultivated on land in ponds or photobioreactors.
- (b) Biomass fraction of mixed municipal waste, but not separated household waste subject to recycling targets under point (a) of Article 11(2) of Directive 2008/98/EC.
- (c) Bio waste as defined in Article 3(4) of Directive 2008/98/EC from private households subject to separate collection as defined in Article 3(11) of that Directive.
- (d) Biomass fraction of industrial waste *not*

Amendment

Part A. Feedstocks and fuels, the contribution of which towards the target(s) referred to in Article 3(4) shall be considered to be twice their energy content ***and which contribute towards the 2,5 % target referred to in point (e) of the second subparagraph of Article 3(4)***

- (a) Algae (*autotrophic*) if cultivated on land in ponds or photobioreactors.
- (b) Biomass fraction of mixed municipal waste, but not separated household waste subject to recycling targets under point (a) of Article 11(2) of Directive 2008/98/EC.
- (c) Bio waste as defined in Article 3(4) of Directive 2008/98/EC from private households subject to separate collection as defined in Article 3(11) of that Directive.
- (d) Biomass fraction of industrial waste,

fit for use in the food or feed chain, including material from retail and wholesale and the agro food and fish and aquaculture industry, and excluding feedstocks listed in part B of this Annex.

- (e) Straw.
- (f) Animal manure and sewage sludge.
- (g) Palm oil mill effluent and empty palm fruit bunches.
- (h) Tall oil pitch.
- (i) Crude glycerine.
- (j) Bagasse.
- (k) Grape marcs and wine lees.
- (l) Nut shells.
- (m) Husks
- (n) Cleaned of kernels of corn.
- (o) Biomass fraction of wastes and residues from forestry and forest based industries, i.e. bark, branches, pre commercial thinnings, leaves, needles, tree tops, saw dust, cutter shavings, black liquor, brown liquor, fibre sludge, lignin and tall oil.
- (p) Other non food cellulosic material as defined in point (s) of the second paragraph of Article 2.
- (q) Other ligno cellulosic material as defined in point (r) of the second paragraph of Article 2 except saw logs and veneer logs.
- (r) Renewable liquid and gaseous fuels of non biological origin.

including material from retail and wholesale and the agro food and fish and aquaculture industry, and excluding feedstocks listed in part B of this Annex.

- (e) Straw.
- (f) Animal manure and sewage sludge.
- (g) Palm oil mill effluent and empty palm fruit bunches.
- (h) Tall oil pitch.
- (i) Crude glycerine.
- (j) Bagasse.
- (k) Grape marcs and wine lees.
- (l) Nut shells.
- (m) Husks
- (n) Cleaned of kernels of corn.
- (o) Biomass fraction of wastes and residues from forestry and forest based industries, i.e. bark, branches, pre commercial thinnings, leaves, needles, tree tops, saw dust, cutter shavings, black liquor, brown liquor, fibre sludge, lignin and tall oil.
- (p) Other non food cellulosic material as defined in point (s) of the second paragraph of Article 2.
- (q) Other ligno cellulosic material as defined in point (r) of the second paragraph of Article 2 except saw logs and veneer logs.
- (r) Renewable liquid and gaseous fuels of non biological origin.

(s) Carbon capture and utilisation for transport purposes.

(t) Bacteria.

(ta) Further feedstocks may be added to reflect scientific and technical progress as set out in Art 3(5) of this Directive.

Or. en

Amendment 76

Council position

Annex II – point 3

Directive 2009/28/EC

Annex IX – part B – point ba (new)

Council position

Amendment

(ba) Further feedstocks may be added to reflect scientific and technical progress as set out in Article 3(5) of this Directive.

Or. en

EXPLANATORY STATEMENT

The basis for many of the rapporteur's amendments to this Directive is the European Parliament's first reading position, which the rapporteur sees as a good starting point for the work on this proposal by the newly elected parliament. Re-tabling amendments from the Parliament's first reading position enables colleagues to further participate in the important debate whilst respecting the compromise that was achieved by the parliament in its first reading position.

Directive 2009/28/EC on the promotion of the use of energy from renewable sources establishes a mandatory target to achieve by 2020 a 10% share for renewable energy in the transport sector. Directive 98/70/EC introduces a mandatory target to achieve by 2020 a 6% reduction in the greenhouse gas intensity of fuels used in road transport and non-road mobile machinery.

The aim of the Commission proposal, which was presented in October 2012, is to start the transition towards a biofuels policy that delivers substantial greenhouse gas emissions savings when also emissions associated with indirect land-use change (ILUC) are taken into account.

In order to do this, the Commission has, amongst others, proposed the following:

- limiting the contribution that conventional biofuels make towards the attainment of the targets in Directive 2009/28/EC;
- improving the greenhouse gas performance of biofuel production processes by raising the greenhouse gas saving threshold for new installations subject to protecting installations already in operation on 1st July 2014;
- encouraging a greater market penetration of advanced biofuels by allowing such fuels to contribute more to the targets in Directive 2009/28/EC than conventional biofuels.

The contribution that biofuels can make towards the 2020 targets is expected to be significant. At the same time, emissions from the transport sector are expected to increase by 2030. The reform of the Union's biofuels policy provides an opportunity to correct this trend.

The rapporteur welcomes the Commission's aims and largely agrees with them. The European Parliament adopted its position in first reading in September 2013. The Council adopted its position in December 2014. While there are some convergences between the two positions, which the Rapporteur welcomes, several key issues remain. These will determine the effectiveness of this legislation. The rapporteur has tabled amendments to address these key issues. The basis for many of these amendments is the European Parliament's first reading position.

The main issues from the rapporteur's point of view are:

- Capping of conventional biofuels

The European parliament adopted in its first reading a position introducing a 6% cap on the share of conventional biofuels that can contribute to the targets of Directives 2009/28/EC and

98/70/EC. This constituted an increase compared to the cap proposed by the Commission, which was 5%, with the aim of providing protection of investments already made. According to the Parliament, this cap should also apply to the financial support granted to these biofuels. In the rapporteur's view, a strong cap on land-based biofuels is needed in order to reach the 2020 targets of Directives 2009/28/EC and 98/70/EC and to ensure a transition towards advanced biofuels. The rapporteur is concerned by the further increase of the cap introduced by the Council, and has therefore chosen to re-table the first reading position of the Parliament. This cap should also apply to the Fuel Quality Directive target, in order to ensure consistency of the different policies.

- ILUC factors

Failure to address the ILUC effect would compromise the EU's climate targets for the transport sector. In its first reading position, the European Parliament introduced an amendment on including ILUC factors in the carbon accounting for Directive 98/70/EC from 2020 onwards. ILUC factors would remain for reporting purposes in Directive 2009/28/EC, and the Commission is required to review the factors by 2016. This amendment has not been endorsed by the Council. In addition, the Council has also weakened the reporting requirements for ILUC-related emissions. Furthermore, the introduction of the new concept of "low-ILUC risk biofuels" in the Council position raises questions about how it could be implemented in practice. More work on this concept is clearly needed.

The rapporteur has also on this issue chosen to re-table the Parliament's first reading position in order to give a strong signal that ILUC factors have to be seriously considered. Nevertheless, a thorough review of the methodology for estimating land-use change emission factors in the light of adaptation to technical and scientific progress is needed.

- Target for advanced biofuels

The European Parliament in its first reading position introduced a binding sub-target for advanced biofuels of 0,5% in 2016 and 2,5% in 2020. The aim of these ambitious targets is to put in place strong incentives to promote the market penetration of such fuels, also in the longer term. The rapporteur is of the strong view that it is important to create and reserve a certain space for advanced biofuels in the future fuel mix. A dedicated and binding target for advanced biofuels is an effective way of doing this. In this respect, it is welcomed that the Council also has taken a step in this direction. However, the Council proposes a purely non-binding sub-target based on a significantly lower reference level (0,5%). It is very doubtful whether such a low level of ambition, in combination with the other changes introduced by the Council, will lead to any meaningful incentives for the necessary transformation towards cleaner fuels. The rapporteur has therefore decided to re-table the Parliament's first reading position.

- A post-2020 policy

In the rapporteurs view, one of the biggest challenges in updating Directives 2009/28/EC and 98/70/EC is the lack of a long-term perspective. In order to create a long-term perspective for investments and in order to support innovations in sustainable biofuels and other means of decarbonising the transport sector, instruments and measures for a comprehensive and technology neutral approach for the promotion of emissions reduction and energy efficiency

in transport for a post-2020 policy have to be examined. The rapporteur has therefore chosen to table amendments that highlight the need for a longer-term policy which can bring investments into Europe.

If we do not step up to the plate, the overarching challenge Europe faces is the continent being technologically overtaken regarding sustainable fuels. This is something we cannot afford – regardless of where we find ourselves on the political map. Not being on par with the challenges would mean the end of a greener Europe, as well as a more jobs-friendly Europe and a more investment-friendly Europe.