

406/LET/17

Brussels, November 21th, 2017

TO: Deputy Permanent Representatives
COREPER 1
Council of the European Union

Re: RED II: EBB main concerns and proposals ahead of the next COREPER meeting

Dear Deputy Permanent Representatives,

We are writing you ahead of the upcoming COREPER meeting of November 24th on the post-2020 EU Renewable Energy Directive (RED II), which we expect will allow for consolidating the Council's position on different issues included in the legislative proposal.

We understand that the Council of the EU has been working quite intensively over the last weeks based on the last draft issued by the Estonian Presidency. We believe that, although such a document represents a good basis of work, there are still a few points which represent important problems for the future survival of the EU biodiesel industry. In this context we would like to kindly raise your attention to our five main suggestions related to our concerns during this final phase of negotiations:

1. 15% renewables obligation in transport is a necessity

While the proposed obligation for Member States to require fuel suppliers to deliver an overall share of fuels from renewable sources of 12% is already better than what was initially proposed by the European Commission, we believe this is not enough to ensure an ambitious decarbonization of the transport sector, especially regarding **heavy-duty vehicles**, as well as the **aviation** and **maritime** sectors, where electrification is not a feasible solution (and where separate sectoral targets would also represent an ideal solution in parallel).

As such, we call upon the Council to increase the ambition of this obligation, and **agree on a proposal that requires each Member State to mandate its fuel suppliers to include a minimum share of at least 15% of renewable energy in transport by 2030**, which would logically build upon the current 10% target of 2020.

2. The 7% cap on crop-based biofuels cannot be lowered

The **7% maximum contribution of crop-based biofuels to the share of renewables in transport cannot be reduced**. If this cap would be reduced, or even brought down to zero via an unjustifiable phase-out, the whole EU economic sector linked to biodiesel would disappear, due to what would be an absurdly inconsistent EU policy, which first supported investments, for promoting – only after a few years – their dismantling. The 7% cap figure was agreed upon in the 2015 Directive on Indirect-Land Use Change (ILUC), and is the result of a three-year policy debate. Moreover, this compromise is still being implemented by Member States and addresses concerns over the alleged impact of the EU's biofuels policy on the availability of biomass.

This compromise also recognises that **conventional biofuels produce valuable co-products, notably for the livestock sector**, allowing the EU to decrease its protein deficit by substantially reducing its dependence on imports of feed meals.

it is not useless to remind that the European biodiesel industry includes more than **25.000 jobs directly linked to biodiesel production**, which are part of the **220.000 total jobs of the EU biofuels sector**. These include also jobs in the farming and crushing sectors. Together with crop-based biodiesel, this industry is also the main European investor and producer of advanced biofuels from waste and residues. **A phase-out of crop-based biodiesel and a discontinuation of the existing industry would consequently prevent investments in advanced biodiesel**, which are produced from a wide variety of waste and residues, such as food waste, residual wastes, animal fats or used cooking oils.

3. No inclusion of any kind (even soft) of ILUC-based differentiation in the RED II proposal

As recognized by the European Commission in the past, and stressed on several occasions by independent scientific parties such as California Air Resources Board (CARB) in the USA, ILUC is a theory and cannot be observed nor measured.

In fact, various ILUC studies have highlighted considerably different conclusions: for example, the study conducted by the CARB in 2015 ⁽¹⁾ established that ILUC values for rapeseed biodiesel are four to five times lower than those established by GLOBIOM, the latest study commissioned by the European Commission ⁽²⁾.

Since ILUC has no robust scientific ground and results from studies can differ by 200-300%, differentiation among feedstocks based on alleged different levels of ILUC would be illogical and illegal, and should not be accepted by the Council.

Therefore, **we call for a Council agreement on the fact that ILUC factors cannot be used as a reference, even for soft accounting**, since latest studies both in Europe and the US have confirmed that there is no existing consensus on the ILUC concept (and values) in the international scientific community.

Any potential concerns with deforestation would be tackled more consistently with other kind of measures, such as requiring certification from all sectors and for all uses and not only the biofuels sector, or requiring a stricter traceability and land use control from the countries of origin of the raw materials.

4. Advanced biofuels to be promoted on top and with conventional biofuels

The deployment of advanced biofuels should build upon existing legislation and industry, to secure investor confidence, which is a prerequisite for any new investment in renewable fuels projects. A policy that plays off biofuels against each other will only protect the market share of fossil fuels, favouring oil imports from unstable regions over renewable fuels which are locally produced from domestic biomass.

Advanced biofuels must be supported through a dedicated sub-target as per the Commission's proposed trajectory, and they are an additional instrument to further reduce fossil fuel use and GHG emissions.

For advanced biofuels to develop, a **clear and rational definition of advanced biofuels** is crucial, to avoid having simply an arbitrary list of raw materials, processing or by-products, as is the case in the current proposal. This is crucial to ensure a meaningful contribution of waste and residue feedstock-based biofuels towards the reduction of GHG emissions in transport, as well as to give long term regulatory

¹ The Low Carbon Fuels Standard (LCFS), adopted in September 2015 by the CARB, concluded that biodiesel is the most sustainable liquid fuel, reducing carbon emissions on average by 50% to 81% in comparison with fossil fuels. The LCFS, which aims to reduce GHG emissions from transport, is based on an economic model approved by thorough independent academic counter-expertise. These findings come as the result of 7 years of research on the carbon efficiency over the whole life cycle of the different fuels. This new study gives rapeseed biodiesel an ILUC value of 14.5gCO₂eq/MJ. These results are substantially different from those of the ILUC Directive (gives an ILUC value of 55g for rapeseed) and the GLOBIOM study (which established an ILUC value of 65g).

² GLOBIOM, Global Biosphere Management Model: used to analyse the competition for land use between agriculture, forestry, and bioenergy, which are the main land-based production sectors.

stability to stakeholders, to promote diversified advanced biofuels technologies and to allow investments into new technologies

Moreover, **eliminating (or at least increasing in a substantial way) the 1.7% cap on Part B of Annex IX is key to enable biodiesel from waste to be deployed and supported in an appropriate framework.** Such an approach would also be consistent with the Commission's proposal, which recognizes savings of as much as 90% of GHG emissions for biofuels made from waste and residues. As a principle, any idea of capping the support to advanced biodiesel produced from waste and residues appears quite absurd and inconsistent with current policy goals. In our view it deserves to be reconsidered in depth.

5. EU-wide traceability database necessary

Our industry is putting forward - as a positive proposal in the context of ongoing negotiations - the idea of submitting all its products to a very strict EU-wide system of traceability. We believe that this should be the future effort produced by our sector to reply positively to any concern about sustainability, deforestation, fraud or other trade issues regarding the origin of biofuels' feedstocks. In this sense, it will be key to **submit advanced and non-advanced biofuels to a single EU-wide traceability database**, ran or approved and verified by the European Commission, to avoid untrustworthy claims for extra incentives. Such an independent database already exists and could be easily improved and upgraded to the level indicated above.

The European biodiesel chain is already complying with strict sustainability criteria laid out in the existing RED, and committed to continuous improvements. European biodiesels already abide by the most stringent sustainability rules in the world, which prevent feedstocks from being grown on deforested land, peat lands or areas with a high biodiversity value. Sustainability is a precondition for any form of renewable energy to be able to contribute to decarbonisation objectives. This should be fully traced from each place of production to each final delivery to give to the EU and national regulators a full view of what biofuels is indeed to be supported and what needs - in case - to be cautiously denied any EU support.

On this point, we welcome the Council's proposal to set-up a single database, and hope this element is endorsed by the Member States in COREPER.

Yours faithfully,

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