

Biofuels Corporation Plc Response to the European Commission's Consultation Paper

Biofuel issues in the new legislation on the promotion of renewable energy

1. How should a biofuel sustainability system be designed?

Biofuels Corporation believes that meaningful carbon and sustainability standards must be implemented as soon as possible. Existing standards, such as the RSPO principles and criteria, can be used as the basis for European sustainability standards. Basing an EU system on recognised independent standards, would allow necessary structures to be put in place more quickly and would minimise the risk of a successful WTO challenge. Public support for biofuels depends on them being able to demonstrate that they are delivering the benefits that are claimed, without leading to the kind of environmental damage that many people fear could be caused by irresponsible production methods. Well founded reservations expressed by environmental NGOs, which are increasingly becoming the focus of media reporting of biofuels, could be alleviated if the introduction of support mechanisms is reinforced by strong standards. By setting a clear timetable for mandatory standards and realistically achievable targets up until then, industry behaviour will be shaped and supply chains will be able to adapt to meet requirements. Waiting until new international standards are in place would create an incentive to seek to delay their implementation, and in the meantime may damage the reputation and development of the biofuels industry.

1.1. Do you think the “possible way forward” described above is feasible?

The “possible way forward” outlined is feasible and would be an efficient method of ensuring that carbon and sustainability standards are implemented.

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

Whilst we believe that the “possible way forward” would be a constructive first step, we believe that the Commission should consider going further in order to ensure that increased biofuel use delivers maximum carbon savings and minimises any adverse effects to the environment. “Well-to-wheel” carbon levels cannot currently be measured with sufficient accuracy to allow for a finely graduated scheme to be introduced immediately – and certainly not for a scheme that makes the value of credits gained directly proportional to reported carbon savings. Agreed We believe that the carbon-savings requirement should be set an appropriate level to ensure that it is credible, and agree with the approach of setting increasing standards over time. Without a clear minimum GHG savings level, public confidence in the ability of biofuels to deliver the promised GHG savings could suffer. Over time, as the science improves and data collection increases, it will be both possible and desirable to add additional carbon saving levels which could be worth more credits. The Commission should therefore design the new system, and any revised legislation, with sufficient flexibility to allow a graduated system to be introduced when the necessary technology has developed.

Biofuels Corporation believes that a carbon-based approach is the most appropriate and effective way of ensuring that biofuels are delivering the benefits required. Not only would such a system ensure that agricultural and production methods are optimised, but by including the carbon effects of land use change, would factor detrimental land use change into the standards in a way that would comply with international trade rules.

1.4. Carbon stock differences between land uses would be taken into account under criterion 2. Should they also be taken into account under criterion 1? If so, what method should be used to determine how the land in question would have been used if it had not been used to produce raw material for biofuels?

Carbon stock differences should be taken into account under criterion 1 because land use change has a significant impact on the carbon savings (or carbon cost) of crop production.

The comparison should be with how the land had previously been used. We would suggest that this should be compared to 2005 when international standards were agreed by the Roundtable on Sustainable Palm Oil. The carbon effect of the land use change would need, at least initially, to be calculated using typical carbon values for various types of land use.

We do not believe that the necessary reporting structures would represent a significant additional administrative burden above those necessary to enforce criterion 2.

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

It would be almost impossible to consistently enforce such a restriction on areas adjacent to land uses with exceptional biodiversity without the active participation and cooperation of the government of the country concerned. Any attempt by the European Union to unilaterally declare parts of a country as being protected as they border areas of exceptional biodiversity would almost certainly result in a challenge within the WTO.

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

The designation of "areas of extraordinary biodiversity" should be the responsibility of an independent international body. We would suggest that the UNEP World Conservation Monitoring Centre classifications should be used.

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

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

Biofuels Corporation supports the Commission's "possible way forward" but would ask that in addition to the Commission being required to report on the estimated effect on overall land use of increasing biofuel use, it should also report on the impact of other users of those crops – particularly the food and cosmetics industries – so that the impact of the biofuels sector can be put into

a proper context.

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

We agree with the Commission that it would not be possible to link indirect land use effects to individual consignments of biofuels.

3. How should second generation biofuels be encouraged?

Biofuels Corporation strongly believes that a level playing field is critical for technologies that save similar amounts of carbon. Although we would support investment in research and development of new fuel technology, we think the most appropriate way to do this is through research and development support and potentially through capital allowances, rather than differential revenue based mechanisms.

Technology-specific discrimination in favour of second generation biofuels – or measures which favoured fuels produced from specific crops or number of crops – would erode the carbon savings delivered by biofuels overall as it will place high performing conventional biofuels at a competitive disadvantage.

Once it becomes feasible to measure greenhouse savings with sufficient accuracy, a more

graduated system of carbon standards should reward all high-performing biofuels regardless of whether they are produced using first generation or second generation technology and regardless of whether they are produced using a single feedstock or multiple raw materials. It is essential that fuels that provide the same overall carbon savings and meet sustainability standards should be treated equally.

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

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

The European Commission should do all that it can to make sure that the 10% biodiesel standard is adopted and implemented as quickly as possible as it is necessary if Member States are to move far beyond 4% of road diesel being produced from renewable sources. Whilst high-blend biodiesel must also be encouraged, progress towards higher biofuels targets will depend on higher biodiesel blends at the pump for M1/M2 and N1/N2 vehicles.

We would welcome measures that ensured that 10% biodiesel blends could be placed on the market without unnecessary delay.

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

Action needs to be taken at to encourage greater use of high blend biofuels by fleet vehicles. Whilst many of these – particularly the extension of duty differentials and additional obligation credits for high blend fuels – will be considered at a national level, there are steps that the European union itself can take to promote high blends:

- The Commission should consider amending public procurement rules to allow public bodies to promote biofuels through their own fleets and transport

contracts.

- Clear guidelines must be established to ensure that non-discriminatory support for high blend biofuels is not restricted by EU state-aid or internal market rules.

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

a) rules that allow 10% blending by volume of ethanol in ordinary petrol, plus

b) rules that allow 10% blending by volume of biodiesel in ordinary diesel, plus

c) the four options listed under 'other options for solving the problem'; If so, what should the date be? If the review were to conclude that the target is unlikely to be met, what action should the Commission take?

The EU needs to establish a clear and ambitious long-term policy framework for biofuels that sets out long term vision for the future role biofuels will have to play in meeting transport sector demand. It is essential that these should be based on binding minimum targets. Indicative targets were tried in the 2003 Directive but failed to deliver the increase in biofuel use that was promised. Regular reviews are needed if the European Union is to meet the proposed target by 2020. It is important that Member States' progress be measured and those that are lagging take corrective action. The Commission should consider early action against Member States that are not on course to meet their obligations, as is the case for other environmental targets. Biofuels Corporation suggest that these reports should be published every three years.

The Commission should also regularly consider whether it would be appropriate to mandate the European Committee on Standardisation a mandate to amend the EN 228 and EN 590 standards for bioethanol and biodiesel above 10%. There are no reasons why any technical barriers to achieving a higher standard cannot be overcome, and this must be done as a priority so that planned biofuel targets can be met. By setting a clear timetable for moving towards standards above 10%, the Commission would give the automotive industry a strong incentive for technical development in this area and a clear but achievable timeframe for doing so.

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

Taxation will be a crucial factor in determining demand for biodiesel. Although biofuels cannot, under current market conditions and development of the industry, be produced at the same cost as ultra low sulphur diesel and unleaded petrol, we believe that it is a mistake to consider duty differential as being "tax breaks" or subsidies. There are few logical reasons why duties on biofuels should be comparable to mineral fuels rather than to other vegetable oils.

Whilst taxation is primarily the responsibility of Member States, the Commission should make it clear that fuel duty differentials are not to be regarded as subsidies or state aids unless they are discriminatory.

As stated elsewhere in this response, we strongly believe that taxation systems and other financial incentives should not discriminate between different technologies and fuels that deliver similar carbon performance.