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Position Paper on Response to Consultation on Biofuels

The American Chamber of Commerce to the European Union (AmCham EU) is pleased to respond to the Commission's (DG TREN) questionnaire on biofuels.

Introduction

The American Chamber of Commerce to the European Union (AmCham EU) represents companies across all industry sectors. By virtue of the nature of our organisation we are able to closely observe the cross-cutting nature of EU and international policy decisions. This gives us a unique, horizontal and global perspective from which to provide observations.

From this perspective, AmCham EU members agree that moves by policy-makers to promote the production and use of biofuels represent a significant long-term development with widespread implications for many sectors of the economy. It is with this in mind that we believe that EU policy-makers should take into account the following responses in the development of policy in this area.

1. How should a biofuels sustainability system be designed?

AmCham EU believes that the most important factors in designing a biofuels sustainability system are that it:

- offers a level playing field to all technologies (technology neutrality)
- promotes trade rather than distort markets
- is based on the fundamental principles of the Single Market and is interpreted and implemented consistently throughout all EU Member States;
- leads to an economically sustainable biofuels industry through measured adoption, supported by impact assessments to identify potential unintended consequences;
- results in cost effective environmental and energy security benefits, such as greenhouse gas emission reductions, the protection of land with high environmental value, and greater diversity of energy sources.,- and

- is socially sustainable, ie, in promoting other goals it does not cause social hardship such as high food prices for those least able to afford it.

In addition, maintaining fuel quality at or above current levels must be a part of all biofuels standards and procedures.

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

AmCham EU is broadly supportive of the ‘possible way forward’ described by the European Commission in its consultation and believes that a sustainability scheme is desirable and should be developed via a multi-stakeholder consultation process.

Impact Assessments

Nevertheless, before any policy decision is taken, a thorough, comprehensive and objective impact assessment is essential. This is particularly important in view of the fact that the unleashing of industrial demand onto the agricultural sector is novel, the impact will be felt globally (particularly by least developed countries), and measuring the impact of the use of biofuels on the environment is complex.

AmCham EU strongly agrees with the suggestion in the consultation that any sustainability criteria must integrate a life-cycle analysis covering all greenhouse gases (GHG), not just carbon dioxide. By assessing sustainability in terms of GHG reduction per unit of energy used as a priority, rather than focusing on carbon dioxide or individual sectors or technologies, biofuels policy will lead to better management of resources and be more effective in achieving a reduction in GHGs. Since the absolute reduction of GHG emissions is what counts, widespread existing solutions with perhaps a modest “per unit of energy” GHG-reduction are at least as important in achieving goals in a step- wise approach as are improved future generation solutions.

Free-Trade

AmCham EU is particularly pleased to see the explicit recognition in the consultation that any biofuels ‘sustainability system’ must avoid discrimination between domestic production and imports, and should not act as a barrier to trade. In order to achieve a sustainable industry, policies must be designed to promote rather than discourage trade. Policies and criteria must be developed that place the same administrative and documentation burdens on domestic and imported biofuels production. It is therefore essential that any sustainability criteria must be transparent, clear, practical and easily implemented and assessed. This is particularly important for imports as providing proof of their sustainability criteria should be made as easy as for those produced domestically.

In addition to easily implementable sustainability criteria AmCham EU is keen to see the international community develop common standards that will facilitate the trade in biofuels and its raw materials. It is therefore desirable that EU standards should be coordinated with major global standards bodies like ASTM (American Society for Testing and Materials) in order to facilitate open international trade in biofuels.

Not only do open markets provide enhanced security of supply by guaranteeing diverse sources of supply and products, they also ensure competitive international pricing for European consumers and contribute to the UN development Millennium goals by enabling Least Developed Countries to compete on a global scale.

Harmonised EU Single Market

The scheme should be developed and implemented on a harmonised and pan-European basis. AmCham EU supports the establishment of clear procedures for Member States to ensure that biofuels sustainability criteria are met. Common requirements across Member States for reporting, verification and monitoring compliance with sustainability standards will facilitate trade in biofuels and feedstocks. All procedural requirements must be technology-neutral to avoid suppression of new technologies. Any legislation should set out some procedural requirements and also set up a centralised system to verify that criteria are effectively met. Otherwise there will be a risk of fragmentation of the biofuels market within the EU, with the potential to impair the growth of the biofuels industry in Europe and to prevent the EU from meeting its biofuels incorporation targets.

AmCham EU underlines the principle that biofuels that failed to meet one of the Commission's criteria would not count towards national biofuels targets, and the attendant "national biofuels obligations". They would not be eligible for tax reductions or similar types of financial support.

Technology Neutrality

Any incentives which support the market for biofuels and their technology developments must be technology-neutral ie, they should apply to any technologies which contribute to the overall sustainability objectives. Moreover, any stimulation of research should integrate market fundamentals and avoid picking winners and losers prematurely. National biofuels targets are only meaningful to the extent that they promote realistic sustainable technologies. Therefore, it is appropriate to apply sustainability criteria to both national biofuels targets and to incentives — as long as the criteria are defined in a technology-neutral fashion and selection of programs for support is performed according to objective impact assessments.

Sustainability

The focus in the paper is on environmental sustainability through reduction of GHG emissions and through conservation of high value land (in terms of carbon and biodiversity). However, sustainability has three dimensions. For any system to be truly sustainable it must also be economically viable and lead to developments based on market fundamentals over time. In addition, there is a social sustainability dimension to this in that any system which systematically promotes the long term use of food crops for fuel use is probably not sustainable, particularly from the perspective of security and affordability of the food supply. Only thorough impact assessments can guide us here.

1.2. What do you think the administrative burden of an approach like the ‘possible way forward’ would be (if possible, please quantify your answer)

Although it is difficult to assess the administrative burden at this stage as details are still vague – it is clear that the burden should be kept at the lowest possible level for all involved stakeholders. The biggest threat for increasing administrative burden would be the creation of 27 potentially different systems for verifying sustainability criteria. There should be a commonly agreed system for measuring GHG emissions and for certifying that high value land has not been used for biofuels feedstocks. Finding a workable system for the latter will not be easy: consultation should include multiple stakeholders and third countries.

1.3. 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?

As mentioned in answer to question 1.1, to ensure that biofuels are sustainably produced, policy needs to ensure technology neutrality; incorporate impact assessments; promote free trade, harmonise the EU market and ensure all three dimensions of sustainability are met.

Biofuels targets should also be defined with respect to the total transportation fuel pool, rather than imposing a requirement that all fuel sold contain a specific fraction of biofuels. This will allow the market to identify the most efficient and least expensive combinations of technologies, thereby increasing the probability of meeting biofuels targets in an economically sustainable fashion.

Once a suitable scheme has been defined via a multi-stakeholder consultation process, it should be tested over a trial period to evaluate its feasibility before implementation.

In general terms, the EU should learn from existing international schemes to ensure sustainable production of feedstocks. Such schemes have concentrated on sustainability issues and not GHG emissions; it may be practical to deal with the two separately. For GHG emissions, default values may well be a good way to start, providing that all the necessary stakeholders are consulted in the determination of the default value system.

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 to be used to determine how the land in question would have been used if it has not been used to produce raw materials for biofuels?

In the interests of a scheme that can be implemented it may be useful to keep the issue of high-value land – for carbon stock reasons or biodiversity reasons – separate from the calculation of GHG emissions in a supply chain. It does not seem sensible to have land use criteria dealt with both separately and together with the GHG emission chain.

Whereas developing the GHG system via a set of default values can work looking at the feedstock production chain, adding land use criteria could complicate the process considerably. The land use issue is better tackled separately by getting consensus on which land is available for commercial agriculture – whether for food or fuel – and which land needs to be conserved because of high carbon value or high biodiversity

value. It is important to remember that farmers growing crops may not know whether their crops will end up as biofuels feedstocks for the EU, for local food use patterns, for local biofuels use etc. Well established international concepts, local use and consensus amongst all the governments involved will be needed to come up with a workable system. Otherwise, while feedstocks for biofuels for EU use may only be grown on particular land, all feedstocks produced for all other uses may be grown on land that should be conserved and no lasting benefit may be achieved. For long term sustainability reasons it would be more appropriate to identify the valuable land and conserve it while allowing the market to determine how other land should be used.

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 with exceptional biodiversity? If so why? How could this land be defined?

See response above. If the approach above is adopted the issue of adjacent land is not relevant: either land has high value to be conserved or it does not.

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

Definitions need to be in line with international and local expert opinion.

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

2.1 Comments on the ‘possible way forward’ described above. If you think the problem should be tackled in a different way, please say how

While the monitoring of the impact of biofuels on land use seems superficially attractive, the task itself is virtually impossible to conduct scientifically. By far the biggest hurdle monitoring is that for the majority of the feedstock, it is impossible to know if a farmer is producing for the food market or biofuels market. Rather than put burdensome monitoring systems on every farm involved in the feedstock supply chain, it would be better to concentrate on identifying land that should be conserved as outlined above and aiding governments particularly outside the EU in setting up proper laws and enforcement systems to protect it. The supply chain can then verify that a feedstock does not come from such land.

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

No, this is not a practical option. Many different forces may impact on land use: it will often not be possible to say that the production of a particular feedstock for biofuels use caused other production to move to other land. Farmers may sometimes sell a crop as biofuels feedstock and other times as food. Defining which land needs to be conserved and putting in place resources to allow this happen while letting the market decide on how other land is used is the most appropriate way forward.

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

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

a) the type of raw materials from which biofuels are made (for example, "biofuels

from cellulosic material")?)

b) the type of technology used to produce the biofuels (for example, "biofuels produced using a production technique that is capable of handling cellulosic material")?)

c) other criteria (please give details)?

There is no agreed definition of second generation biofuels. Anything very specific will immediately run into difficulties vis-a-vis the principle of technology neutrality.

The term should be abandoned as EU seeks to encourage performance related biofuels in terms of GHG's. This is rather a continuous process including new technologies and current technologies improvement. It may be that as the sector develops over time the sustainability criteria become more exacting – again, following the principle of continuous improvement.

If the real issue around the need for a definition is the targeting of EU financial resources towards R&D or demonstration projects more thought needs to be given to target criteria, which is a separate exercise from this scheme.

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

The economic experiences of the 20th century demonstrated that free market economies are key to achieving sustainable growth and economic prosperity. By their very nature, they are decentralised, flexible, practical and innovative. Market economies rest upon the fundamental principle of individual freedom. The role of government should be limited ensuring a level playing-field and availability of public goods which would otherwise be lacking because of market failure. To the extent that incentives may foster innovation and encourage technology development to meet long-term objectives, they must be technology neutral and based on objective outcomes and standards. Any such incentives must be phased out over time as technologies mature and transition into the marketplace.

Picking ‘winners’ amongst competing technologies is a job for the market, not for government policy. EU legislation must encourage more rapid penetration of existing efficient technologies. Nevertheless, prizes for technologies that deliver results can stimulate innovation. This means that the goals to be achieved need to be very clear and there needs to be stability in these goals over a period of time. It is these goals, such as GHG reductions that need to be promoted. Moreover, it is also important that EU legislation takes into consideration the specificities of each sector involved. Car and air industries for example are working separately on technology developments and have not achieved the same level of results. EU legislation should accept different solutions for different sectors while integrating policies on fuels, vehicle standards, etc.

3.3. Should second-generation biofuels only be able to benefit from these advantages if they also achieve a defined level of greenhouse gas savings?

Yes. This is consistent with a performance based approach, which takes into account fuel quality as well as impact. In this context, all greenhouse gases should be considered in a life-cycle type of analysis, rather than only CO₂. This approach will

allow the market to pick the winning technology, within the framework of concrete environmental objectives.

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

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

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

There are multiple routes to achieving a given objective. The role of governmental policies should be to clearly delineate objectives, not to prescribe the method for achieving those objectives.

Legislation should not promote any specific technologies (such as fatty acid methyl esters (FAME), biodiesel or ethanol). Any legislation should also be careful to encourage rather than discourage free trade in biofuels.

In 1993, with the harmonisation of gasoline and diesel specification, the creation of a single market in road transport fuels in the EU was achieved. There are multiple benefits of fuels specification standardisation, ranging from increased security of supply due to the high level of fungibility of the gasoline and diesel market, to the improved control of regulated emissions.

Legislation aimed at introducing and promoting the use of biofuels in the transport sector should therefore also resolve the current mismatch between biofuels targets, vehicle compatibility and fuels specification. There should be an integrated approach to ensure that future targets can be achieved by progressively modifying the biofuels limits in the standard grades of transport fuels, while allowing time for the vehicle fleet to become compatible with those specifications and still meet EURO V and EURO VI emissions requirements.

Moreover, proper biofuels standards and testing procedures are essential to ensure optimum engine performance for customers. They need to provide the technical stability for those fuels to be used in products, addressing the issues of variability in fuel quality, material incompatibility and field storage issues. Enforcing high blends without taking into account the technical risks of using these blends could result in engine failures. This would cause customer dissatisfaction and reduce the public support of these fuels, which in turn could mean a significant step backwards from the overall goal. The technical evaluation of these biofuels and manufacturer buy-in must therefore precede any enforcement. Fuel resources that can support the required levels also have to be ensured prior to mandating high blend levels as well.

AmCham EU supports the initiatives set out in April 2007 by EU and US Leaders to develop a set of compatible specifications for pure biofuels by the end of 2007 and to

establish a roadmap for developing compatible biofuels standards, as well as the joint transatlantic efforts on the development of a performance based biofuels. International common standards and tests for compatibility are needed to promote alternative fuels, in particular biofuels.

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

- a) rules that allow 10% blending by volume of ethanol in ordinary petrol, plus**
- b) rules that allow 10% blending by volume of biodiesel in ordinary diesel, plus**
- c) the four options listed under 'other options for solving the problem';**

If so, what should the date be?

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

As noted under responses to questions 4.1-4.3, it is important that the legislation be neutral with respect to technologies and focus instead on feedstock, environmental impact and fuel characteristics. In addition, the impacts of a target rate of adoption must be assessed carefully to identify and avoid or mitigate any potential unintended consequences. AmCham EU would support a mid-term review of the biofuels targets with an eventual adjustment based on the assessment of progress against criteria such as the introduction of advanced biofuels, the availability of biofuels imports, the impact on supply and cost on the EU road transportation sector, the impact on sustainability, the impact on the food supply and the evolution of the vehicle fleet. Further impact assessments will be required.

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)?

Any incentive programme, whether tax- or subsidy-based, must be technology neutral and defined by performance against clear criteria related to policy objectives. Incentive programmes should be temporary and designed to cultivate an economically-sustainable biofuels industry rather than to provide on-going support for technologies which cannot successfully compete in the marketplace.

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The American Chamber of Commerce to the European Union (AmCham EU) is the voice of companies of American parentage committed to Europe towards the institutions and governments of the European Union. It aims to ensure a growth oriented business and investment climate in Europe. AmCham EU facilitates the resolution of EU – US issues that impact business and plays a role in creating better understanding of EU and US positions on business matters. Total US investment in Europe amounts to €702 billion, and currently supports over 4.1 million jobs.

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