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*****II**

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 – C8-0004/2015 – 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.

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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 – C8-0004/2015 – 2012/0288(COD))**

(Ordinary legislative procedure: second reading)

The European Parliament,

- having regard to the Council position at first reading (10710/2/2014 – C8-0004/2015),
 - 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 (A8-0025/2015),
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 1

Council position

(1) Pursuant to Article 3(4) of Directive 2009/28/EC of the European Parliament and of the Council³ each Member State is to ensure 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. The blending of biofuels is one of the methods available for Member States to meet this target, and is expected to be the main contributor.

³ Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable energy sources and amending and subsequently repealing Directives 2001/777/EC and 2003/30/EC (OJ L 140, 5.6.2009, p. 16).

Amendment

(1) Pursuant to Article 3(4) of Directive 2009/28/EC of the European Parliament and of the Council³ each Member State is to ensure 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. The blending of biofuels is one of the methods available for Member States to meet this target, and is expected to be the main contributor. ***Other methods to meet the target are reducing energy consumption, which is imperative because a mandatory percentage target for energy from renewable sources is likely to become increasingly difficult to achieve sustainably if overall demand for energy for transport continues to rise, and the use of electricity from renewable energy sources.***

³ Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable energy sources and amending and subsequently repealing Directives 2001/777/EC and 2003/30/EC (OJ L 140, 5.6.2009, p. 16).

Amendment 2

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.

Amendment 3

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.***

Amendment 4

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.***

Amendment 5

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***

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. Greater

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***.

research, development and production of such advanced biofuels ***should be encouraged***, 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. ***It is therefore appropriate to set a specific sub-target for*** the consumption of such advanced biofuels 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 ***that national sub-target*** in 2020 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 ***with low indirect land use change impacts and high overall greenhouse gas emission savings*** are expected to continue to play an important role in the decarbonisation of transport and the development of low-carbon transport technologies beyond ***2020***.

Amendment 6

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.

Amendment 7

**Council position
Recital 7 b (new)**

Council position

Amendment

(7b) 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. Definitions of waste and residues for the purposes of Directive 98/70/EC and Directive 2009/28/EC should be harmonised with those established by Directive 2008/98/EC of the European Parliament and of the Council^{1a}. The waste and residues streams listed in Directive 98/70/EC and Directive 2009/28/EC should be better identified by means of the waste codes in the European catalogue of waste established by Commission Decision 2000/532/EC^{1b} in order to facilitate the application of those Directives by competent authorities in the Member States. Promotion of biofuels and bioliquids in accordance with Directive 98/70/EC and Directive 2009/28/EC should be consistent with the objectives and purpose of Directive 2008/98/EC. In order to achieve the Union's goal to move towards a recycling society, the waste hierarchy set out in Article 4 of Directive 2008/98/EC should be fully implemented. With a view to facilitating that, the use of waste and residues for the production of biofuels and bioliquids should become part of the waste management plans and waste prevention programmes established by Member States in accordance with

Chapter V of Directive 2008/98/EC. The application of Directive 98/70/EC and Directive 2009/28/EC should not jeopardise the full implementation of Directive 2008/98/EC.

^{1a} **Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).**

^{1b} **Commission Decision of 3 May 2000 replacing Decision 94/3/EC establishing a list of wastes pursuant to Article 1(a) of Council Directive 75/442/EEC on waste and Council Decision 94/904/EC establishing a list of hazardous waste pursuant to Article 1(4) of Council Directive 91/689/EEC on hazardous waste (notified under document number C(2000) 1147) (OJ L 226, 6.9.2000, p. 3).**

Amendment 8

Council position Recital 8

Council position

(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***

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 control of biofuel producers. ***It*** is 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.

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.

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.

Amendment 9

Council position Recital 9

Council position

(9) In order to ensure the long-term competitiveness of bio-based industrial sectors, and in line with the **Commission Communication of 13 February 2012** entitled ‘Innovating for Sustainable growth: A Bioeconomy for Europe’ **and the Commission Communication of 20 September 2011** entitled ‘Roadmap to a Resource Efficient Europe’, promoting integrated and diversified biorefineries across Europe, enhanced incentives under Directive 2009/28/EC should be set in a way that gives preference to the use of biomass feedstocks that do not have a high economic value for uses other than biofuels.

Amendment

(9) In order to ensure the long-term competitiveness of bio-based industrial sectors, and in line with the **2012** Communication ‘Innovating for Sustainable growth: A Bioeconomy for Europe’ and the Roadmap to a Resource Efficient Europe, promoting integrated and diversified biorefineries across Europe, enhanced incentives under Directive 2009/28/EC should be set in a way that gives preference to the use of biomass feedstocks that do not have a high economic value for other uses than biofuels **or which do not impact on the environment in such a way as to compromise local ecosystems by depriving food crops of land and water.**

Amendment 10

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

(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. **Furthermore, energy efficiency and energy saving measures in the transport sector should be encouraged.**

Amendment 11

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.

Amendment 12

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 reduction target for life cycle greenhouse gas emissions set out in 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 that target.*** The estimated indirect land-use change emissions 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. ***The Commission should periodically review the methodology for estimating the indirect land-use change greenhouse gas emissions associated with the production of biofuels and bioliquids, based on best available scientific evidence.***

Amendment 13

**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. Special measures to protect indigenous communities' land therefore need to be introduced.

Amendment 14

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.

Amendment 15

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 improvements both in terms of reduced estimated indirect land-use change emission values and the contribution of food and feed crop-based

(16) Yield increases in agricultural sectors beyond levels which would have prevailed in the absence of productivity promoting schemes for food and feed crop based biofuels, or where biofuel production takes place on land where direct land use change occurred without negative impacts on pre-existing ecosystem services delivered by that land, including protection of carbon stocks and biodiversity, could in specific cases contribute to mitigating indirect land-use change to an extent which goes beyond the effects already accounted for in the existing modelling of indirect land use change. The Commission should assess the possibility of setting out criteria for the identification and certification of biofuels and bioliquids that are produced

biofuels towards the share of energy from renewable sources in transport to be achieved in 2020.

within schemes which reduce the displacement of production for purposes other than making biofuels and bioliquids, and in accordance with the appropriate sustainability criteria.

Amendment 16

Council position
Recital 17 a (new)

Council position

Amendment

(17a) With a view to meeting the target for renewable energies in the transport sector while minimising the negative impacts of land-use change, the use of renewable electricity, modal shift, greater use of public transport and energy efficiency should be encouraged. In line with the White Paper on transport, Member States should therefore seek to secure greater energy efficiency and reduce overall energy consumption in transport and at the same time to enhance the market penetration of electric vehicles and the take-up of renewable electricity in transport systems.

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

deleted

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.

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.

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 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.***

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 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.***

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. ***The Commission should also review the effectiveness of the incentives provided for biofuels from non-land using feedstocks and the impact of the implementation of this Directive on the availability of***

resources for other sectors.

Amendment 21

Council position
Recital 26 a (new)

Council position

Amendment

(26a) The Commission should undertake a review of the Union's biofuels legislation, considering different policy options and the cost-effectiveness of the current policy of subsidies versus the promotion of investment in research in innovative renewable fuels. That review should include an analysis of the role of sustainable biofuels, also in a post-2020 context, with regard to, inter alia, the availability of feedstocks, indirect land-use change, air quality including the impact on human health, and energy dependency.

Amendment 22

Council position
Recital 26 b (new)

Council position

Amendment

(26b) It is important that the Commission presents without delay a comprehensive proposal for a cost-effective and technology-neutral post-2020 policy, in order to create a long-term perspective for investments in sustainable biofuels with a low risk of causing indirect land use change and other means of decarbonising the transport sector. The proposal should include measures to promote sustainable advanced biofuels after 2020 within the 2030 framework for climate and energy policies. In this context, the Commission should consider the possibility of introducing after 2020 a Union-level

blending mandate for advanced biofuels, and should also consider reviewing the targets of Directive 98/70/EC and introducing a greenhouse gas reduction trajectory for transport fuels after 2020. The proposal could also include the introduction of estimated indirect land-use change emission factors in the appropriate sustainability criteria.

Amendment 23

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.'

Amendment 24

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

deleted

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 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;

Amendment 25

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.'

Amendment 26

Council position

Article 1 – point 2 – point -a a (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 point (d) of the second subparagraph of Article 3(4) of Directive 2009/28/EC.”

Amendment 27

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

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; ***methodologies for calculating greenhouse gas emissions from renewable liquid and gaseous fuels of non-biological origin and for carbon capture and utilisation for transport purposes shall be adopted by 30 June 2016;***

(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 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.";

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;

(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.

Amendment 28

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.

Amendment 29

Council position

Article 1 – point 3 – point -a (new)

Directive 98/70/EC

Article 7b – paragraph 1

Present text

Amendment

(-a) paragraph 1 is replaced by the following:

1. Irrespective of whether the raw materials were cultivated inside or outside the territory of the **Community**, energy from biofuels shall be taken into account for the purposes of Article 7a only if they fulfil the sustainability criteria set out in paragraphs 2 to 6 of this Article.

However, biofuels produced from waste and residues, other than agricultural, aquaculture, fisheries and forestry residues, need only fulfil the sustainability criteria set out in **paragraph 2** of this Article in order to be taken into account for the purposes referred to in Article 7a.

“1. Irrespective of whether the raw materials were cultivated inside or outside the territory of the **Union**, energy from biofuels shall be taken into account for the purposes of Article 7a only if they fulfil the sustainability criteria set out in paragraphs 2 to 6 of this Article.

However, biofuels produced from waste and residues, other than agricultural, aquaculture, fisheries and forestry residues, need only fulfil the sustainability criteria set out in **paragraphs 2 and 4a** of this Article in order to be taken into account for the purposes referred to in Article 7a.”

Amendment 30

Council position

Article 1 – point 3 – point a

Directive 98/70/EC

Article 7b – paragraph 2 – subparagraph 1

Council position

2. The greenhouse gas emission saving from the use of biofuels taken into account for the purposes referred to in paragraph 1 shall be at least 60 % for biofuels produced in installations starting operation after ...⁺. An installation shall be considered to be in operation if the physical production of biofuels has taken place.

⁺ OJ: please insert the date of entry into force of this Directive.

Amendment

2. The greenhouse gas emission saving from the use of biofuels **and bioliquids** taken into account for the purposes referred to in paragraph 1 shall be at least 60 % for biofuels produced in installations starting operation after ...⁺. An installation shall be considered to be in operation if the physical production of biofuels has taken place.

⁺ OJ: please insert the date of entry into force of this Directive.

Amendment 31

Council position

Article 1 – point 3 – point a

Directive 98/70/EC
Article 7b – paragraph 2 – subparagraph 3

Council position

The greenhouse gas emission saving from the use of biofuels shall be calculated in accordance with Article 7d(1).

Amendment

The greenhouse gas emission saving from the use of biofuels **and bioliquids** shall be calculated in accordance with Article 7d(1).

Amendment 32

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 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)*".

Amendment

"The Commission shall *be empowered to* adopt *delegated acts in accordance with Article 10a concerning* the criteria and geographic ranges *for determining* which grassland *shall be* covered by point (c) of the first subparagraph."

Amendment 33

Council position

Article 1 – point 3 – point b a (new)

Directive 98/70/EC

Article 7b – paragraph 4 a (new)

Council position

Amendment

(ba) the following paragraph is inserted:

"4a. Biofuels taken into account for the purposes referred to in paragraph 1 shall not be made from waste which is subject to re-use and recycling targets pursuant to

*Article 11(2) of Directive 2008/98/EC.
Member States shall ensure that the use of waste and residues covered by Directive 2008/98/EC for the production of biofuels taken into account for the purposes referred to in paragraph 1 complies with the waste hierarchy set out in Article 4 of that Directive. Member States shall also take due account of the principle of cascading use, taking into consideration the regional and local economic and technological circumstances.”*

Amendment 34

Council position

Article 1 – point 3 – point b b (new)

Directive 98/70/EC

Article 7b – paragraph 4 b (new)

Council position

Amendment

(bb) the following paragraph is inserted:

"4b. Biofuels and bioliquids taken into account for the purposes referred to in paragraph 1 shall not be made from land-based raw material unless third parties' legal rights regarding use and tenure of the land are respected, inter alia by obtaining the free prior and informed consent of the third parties, with the involvement of their representative institutions."

Amendment 35

Council position

Article 1 – point 4 – point c

Directive 98/70/EC

Article 7c – paragraph 6

Council position

Amendment

6. Decisions under paragraph 4 of this

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

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 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.

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.";

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.";

Amendment 36

Council position

Article 1 – point 5 – point -a (new)

Directive 98/70/EC

Article 7d – paragraph 1

Present text

1. For the purposes of Article 7a and Article 7b(2), life cycle greenhouse gas emissions from biofuels shall be calculated as follows:

(a) where a default value for greenhouse gas emission savings for the biofuel production pathway is laid down in Part A or B of Annex IV and where the e_1 value

Amendment

(-a) paragraph 1 is replaced by the following:

"1. For the purposes of Article 7a and Article 7b(2), life cycle greenhouse gas emissions from biofuels shall be calculated as follows:

(a) where a default value for greenhouse gas emission savings for the biofuel production pathway is laid down in Part A or B of Annex IV and where the e_1 value

for those biofuels calculated in accordance with point 7 of Part C of Annex IV is equal to or less than zero, by using that default value;

(b) by using an actual value calculated in accordance with the methodology laid down in Part C of Annex IV; or

(c) by using a value calculated as the sum of the factors of the formula referred to in point 1 of Part C of Annex IV, where disaggregated default values in Part D or E of Annex IV may be used for some factors, and actual values, calculated in accordance with the methodology laid down in Part C of Annex IV, for all other factors.

for those biofuels calculated in accordance with point 7 of Part C of Annex IV is equal to or less than zero, by using that default value;

(b) by using an actual value calculated in accordance with the methodology laid down in Part C of Annex IV; or

(c) by using a value calculated as the sum of the factors of the formula referred to in point 1 of Part C of Annex IV, where disaggregated default values in Part D or E of Annex IV may be used for some factors, and actual values, calculated in accordance with the methodology laid down in Part C of Annex IV, for all other factors.

For the purposes of Article 7a, from 2020 onwards, the life cycle 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.

Amendment 37

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 and for carbon capture and utilisation purposes. Those delegated acts shall be adopted by 30 June 2016.'

Amendment 38

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.***”;

Amendment 39

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 of Annex V to technical and scientific progress, including by the revision of the proposed crop group indirect land-use change values on the basis of the best available scientific evidence. 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 biofuels which are assigned zero indirect land-use change emissions; and develop factors for feedstocks from energy crops grown on land.'

Amendment 40

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 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:***

Amendment

(c) in paragraph 7, the first ***subparagraph is*** replaced by the following:

"7. The Commission shall ***be empowered to adopt delegated acts in accordance with Article 10a concerning the adaptation of Annex IV 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."

- *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."

Amendment 41

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)."

Amendment 42

Council position

Article 1 – point 8

Directive 98/70/EC

Article 8a – paragraph 3

Council position

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.*

Amendment

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.*

Amendment 43

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.

Amendment 44

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 of Annex I or II to technical and scientific progress, in order to introduce specific parameters, test limits and test methods.'

Amendment 45

Council position

Article 1 – point 11

Directive 98/70/EC

Article 10a – paragraph 2

Council position

Amendment

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

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.

Amendment 46

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.

Amendment 47

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

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

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."

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 48

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.

Amendment 49

Council position

Article 2 – point -1 (new)

Directive 2009/28/EC

Article 2 – paragraph 2 – point k

Present text

(k) ‘support scheme’ means any instrument, scheme or mechanism applied by a Member State or a group of Member States, that promotes the use of energy from renewable sources by reducing the cost of that energy, increasing the price at

Amendment

-1. In Article 2(2), point k is replaced by the following:

‘(k) ‘support scheme’ means any instrument, scheme or mechanism applied by a Member State or a group of Member States, that promotes the use of energy from renewable sources by reducing the cost of this energy, increasing the price at

which it can be sold, or increasing, by means of a renewable energy obligation or otherwise, the volume of such energy purchased. This includes, but is not restricted to, investment aid, tax exemptions or reductions, tax refunds, renewable energy obligation support schemes including those using green certificates, and direct price support schemes including feed-in tariffs and premium payments;

which it can be sold, or increasing, by means of a renewable energy obligation or otherwise, the volume of such energy purchased; this includes, but is not restricted to, investment aid, tax exemptions or reductions, tax refunds, renewable energy obligation support schemes including those using green certificates, and direct price support schemes including feed-in tariffs and premium payments; ***support schemes shall not distort the markets in raw materials of other manufacturing sectors in which the same raw materials are traditionally used.***

Amendment 50

Council position

Article 2 – point 1

Directive 2009/28/EC

Article 2 – paragraph 2 – point p

Council position

(p) 'waste' ***shall be defined as*** in Article 3(1) of Directive 2008/98/EC of the European Parliament and of the Council*; substances that have been intentionally modified or contaminated to meet that definition are not covered by this ***definition***;

Amendment

(p) 'waste' ***means any substance or object which the holder discards or intends, or is required, to discard, as defined*** in Article 3(1) of Directive 2008/98/EC of the European Parliament and of the Council ***and whose status is subject to independent verification and certification as to its compliance with the waste hierarchy established in Article 4 of that Directive or with a comparable waste prevention and management programme.*** Substances that have been intentionally modified or contaminated to meet that definition are not covered by this ***category***;

Amendment 51

Council position

Article 2 – point 1

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Directive 2009/28/EC
Article 2 – paragraph 2 – point s

Council position

(s) 'non-food cellulosic material' means feedstocks mainly composed of cellulose and hemicellulose, and having a lower lignin-content than ligno-cellulosic material; it includes food and feed crop residues (such as straw, stover, husks and shells), grassy energy crops with a low starch content (such as switchgrass, miscanthus, giant cane), industrial residues (including from food and feed crops after vegetal oils, sugars, starches and protein have been extracted), and material from biowaste ;

Amendment

(s) 'non-food cellulosic material' means feedstocks mainly composed of cellulose and hemicellulose, and having a lower lignin-content than ligno-cellulosic material; it includes food and feed crop residues (such as straw, stover, husks and shells), grassy energy crops with a low starch content (such as ***alfalfa and other nitrogen-fixing crops, cover crops before and after annual cereal and oil crops, cactus and other CAM crops, ryegrass, switchgrass, miscanthus, giant cane, etc.***), industrial residues (including from food and feed crops after vegetal oils, sugars, starches and protein have been extracted), and material from biowaste;

Amendment 52

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.

Amendment 53

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

Amendment 54

Council position

Article 2 – point 2 – point a

Directive 2009/28/EC

Article 3 – paragraph 1 – subparagraph 2

Council position

For the purpose of compliance with the targets referred to in the first subparagraph of this paragraph, the maximum joint contribution from biofuels and bioliquids produced from cereal and other starch-rich crops, sugars and oil crops shall be no more than the energy quantity corresponding to the maximum contribution as set out in paragraph 4(d).

Amendment

For the purpose of compliance with the targets referred to in the first subparagraph of this paragraph, the maximum joint contribution from biofuels and bioliquids produced from cereal and other starch-rich crops, sugars and oil crops **and other energy crops grown on land** shall be no more than the energy quantity corresponding to the maximum contribution as set out in paragraph 4(d).

Amendment 55

Council position

Article 2 – point 2 – point a a (new) Directive 2009/28/EC

Article 3 – paragraph 4 – subparagraph 1

Present text

4. Each Member State shall ensure 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.

Amendment

(aa) the first subparagraph of paragraph 4 is replaced by the following:

“4. Each Member State shall ensure 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. ***A Member State may derogate from that target if the following conditions are met:***

- the Member State has achieved the targets set out in paragraphs 1 and 2;

- the total energy consumption in transport in the Member State does not exceed the forecasts in the national renewable energy action plan;”

Amendment 56

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 Member States in 2020;

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 of energy in transport in the Member States in 2020;

Amendment 57

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*

Amendment

(e) **Each Member State shall ensure that the share of energy from biofuels produced from feedstocks and other fuels, listed in part A of Annex IX in all forms of transport in 2020 is at least 1,25 % of the final consumption of energy in transport in that Member State.**

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 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.;

⁺ *OJ: please insert the number of this Directive.*

Amendment 58

Council position

Article 2 – point 2 – point b – point iv
Directive 2009/28/EC
Article 3 – paragraph 4 – subparagraph 2 – point e a (new)

Council position

Amendment

(ea) Each Member State shall ensure that the share of energy from renewable sources in petrol in 2020 is at least 6,5 % of the final consumption of energy in petrol in transport in that Member State.

Amendment 59

Council position
Article 2 – point 2 – point b – point iv
Directive 2009/28/EC
Article 3 – paragraph 4 – subparagraph 2 – point f

Council position

Amendment

(f) biofuels produced from feedstocks listed in Annex IX shall be considered to be twice their energy content.

deleted

Amendment 60

Council position
Article 2 – point 2 – point d
Directive 2009/28/EC
Article 3 – paragraph 4 – subparagraph 4

Council position

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.***

For the purpose of complying with the ***target*** set out in ***the first subparagraph of*** this paragraph, the contribution made by biofuels produced from feedstocks listed in Annex IX shall be ***counted multiple times their energy content in accordance with the rules set out in that Annex.***

Amendment 61

Council position

Article 2 – point 2 – point d a (new)

Directive 2009/28/EC

Article 3 – paragraph 4 a (new)

Council position

Amendment

(da) the following paragraph is added:

"4a. By [one year after the date of entry into force of this Directive], the Commission shall make recommendations for additional measures that Member States may take to promote and encourage energy efficiency and energy saving in transport. The recommendations shall include estimates of the quantity of energy that can be saved by implementing each of those measures. The energy quantity corresponding to the measures implemented by a Member State shall be taken into account for the purposes of the calculation referred to in point (b) of the second subparagraph of paragraph 4."

Amendment 62

Council position

Article 2 – point 2 – point b – point d b (new)

Directive 2009/28/EC

Article 3 – paragraph 4 b (new)

Council position

Amendment

(db) the following paragraph is added:

"4b. With a view to meeting the target set in paragraph 4, Member States shall reduce overall energy consumption in the transport sector so as to increase energy efficiency in that sector by at least 12% with respect to their current projections for overall energy consumption in the transport sector by 2020."

Amendment 63

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 ***established in Directive 2008/98/EC,*** 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 64

Council position

Article 2 – point 2 a (new)

Directive 2009/28/EC

Article 4 – paragraph 3 a (new)

Council position

Amendment

(2a) In Article 4, the following paragraph is inserted:

"3a. Each Member State shall publish and notify to the Commission by [one year

after the date of entry into force of this Directive] a forecast document indicating the additional measures it intends to take in accordance with Article 3(4b)."

Amendment 65

Council position

Article 2 – point 2 b (new)

Directive 2009/28/EC

Article 4 – paragraph 3 b (new)

Council position

Amendment

(2b) In Article 4, the following paragraph is inserted:

'3b. Each Member State shall publish and notify to the Commission by [one year after the date of entry into force of this Directive] a forecast document indicating the steps it intends to take to meet the target set in the first subparagraph of Article 3(4).'

Amendment 66

Council position

Article 2 – point 3

Directive 2009/28/EC

Article 5 – paragraph 5

Council position

Amendment

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

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.'

Amendment 67

Council position

Article 2 – point 5 – point -a (new)

Directive 2009/28/EC

Article 17 – paragraph 1

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:

(a) measuring compliance with the requirements of this Directive concerning national targets;

(b) measuring compliance with renewable energy obligations;

(c) eligibility for financial support for the consumption of biofuels and bioliquids.

However, biofuels and bioliquids produced from waste and residues, other than agricultural, aquaculture, fisheries and forestry residues, need only fulfil the sustainability criteria set out in paragraph 2 in order to be taken into account for the purposes referred to in points (a), (b) and (c).

Amendment 68

Council position

Article 2 – point 5 - point b

Directive 2009/28/EC

Article 17 – paragraph 3 – subparagraph 2

Amendment

(-a) paragraph 1 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 7 **and do not exceed the contributions set out in point (d) of the second subparagraph of Article 3(4):**”

(a) measuring compliance with the requirements of this Directive concerning national targets;

(b) measuring compliance with renewable energy obligations;

(c) eligibility for financial support for the consumption of biofuels and bioliquids.

However, biofuels and bioliquids produced from waste and residues, other than agricultural, aquaculture, fisheries and forestry residues, need only fulfil the sustainability criteria set out in **paragraphs 2 and 4a** in order to be taken into account for the purposes referred to in points (a), (b) and (c).”

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 69

Council position

**Article 2 – point 5 – point b a (new)
Directive 2009/28/EC
Article 17 – paragraph 4 a (new)**

Present text

Amendment

(ba) the following paragraph is inserted:
“4a. Biofuels and bioliquids taken into account for the purposes referred to in points (a), (b) and (c) of paragraph 1 shall not be made from waste which is subject to re-use and recycling targets pursuant to Article 11(2) of Directive 2008/98/EC. Member States shall ensure that the use of waste and residues covered by Directive 2008/98/EC for the production of biofuels and bioliquids taken into account for the purposes referred to in points (a), (b) and (c) of paragraph 1 complies with the waste hierarchy set out in Article 4 of that Directive. Member States shall also take due account of the principle of cascading use, taking into consideration the regional and local economic and technological circumstances.”

Amendment 70

Council position

Article 2 – point 5 – point b b (new)

Directive 2009/28/EC

Article 17 – paragraph 4 b (new)

Council position

Amendment

(bb) the following paragraph is inserted:

“4b. Biofuels and bioliquids taken into account for the purposes referred to in points (a), (b) and (c) of paragraph 1 shall not be made from land-based raw material unless third parties' legal rights regarding use and tenure of the land are respected, inter alia by obtaining the free prior and informed consent of the third parties, with the involvement of their representative institutions.”

Amendment 71

Council position

Article 2 – point 6 – point –a (new)

Directive 2009/28/EC

Article 18 – paragraph 2 a (new)

Council position

Amendment

(-a) the following paragraph is inserted:

"2a. Eurostat shall gather and publish detailed trade-related information on biofuels produced from food crops, such as those based on cereals and other starch rich crops, sugars and oil crops. Available information shall be disaggregated trade data for both ethanol and biodiesel as current data is published in an aggregated format with ethanol and biodiesel imports and exports combined under one data set labelled biofuels. Import and export data shall identify the type and volumes of biofuels imported and consumed by

Member States. Data shall also include the country of origin or the country exporting those products into the Union. Data on the import and export of biofeedstock or semi-processed products shall be improved with Eurostat gathering and publishing information on the import or export of feedstocks, type and country of origin, including internally traded feedstocks or semi-traded feedstocks."

Amendment 72

Council position

Article 2 – point 6 – point d

Directive 2009/28/EC

Article 18 – paragraph 6 – subparagraph 7

Council position

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 25(3), in order to facilitate mutual bilateral and multilateral recognition of schemes for verification of compliance with the sustainability criteria for biofuels and bioliquids. ***Where the decision is positive, schemes established in accordance with this Article shall not refuse mutual recognition with that Member State's scheme.***

Amendment

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 25(3), in order to facilitate mutual bilateral and multilateral recognition of schemes for verification of compliance with the sustainability criteria for biofuels and bioliquids.

Amendment 73

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 74

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 and for carbon capture and utilisation purposes. Those delegated acts shall be adopted by 30 June 2016.'

Amendment 75

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

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 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.**";

Amendment 76

Council position

Article 2 – point 7 – point b

Directive 2009/28/EC

Article 19 – paragraph 6

Council position

(b) paragraph 6 is **deleted**;

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 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.**';

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 of Annex VIII to technical and scientific progress, including the revision of the proposed crop group indirect land-use change values on the basis of the best available scientific evidence.

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 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.

Amendment 77

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

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 the 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. ***In the event that the 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.;***

– 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.

Amendment 78

Council position

Article 2 – point 7 – point d

Directive 2009/28/EC

Article 19 – paragraph 8

Council position

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

"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)."

Amendment

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

Amendment 79

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.';

Amendment 80

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 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 ***taking into consideration the regional and local economic and technological circumstances***, the maintenance of the necessary carbon stock in the soil and the quality of the soil and the ecosystems;

Amendment 81

Council position

Article 2 – point 9 a (new)

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 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, ***and shall add the estimated indirect land use change emissions set out in Annex VIII.***

Amendment 82

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

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 approach.";

Amendment 83

Council position

Article 2 – point 10 – point c

Directive 2009/28/EC

Article 23 – paragraph 5 – point e

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

Amendment

(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 ***taking into consideration the regional and local economic and technological circumstances***, the maintenance of the necessary carbon stock in the soil and the quality of soil and ecosystems; and

Amendment 84

Council position

Article 2 – point 10 – point c

Directive 2009/28/EC

Article 23– paragraph 5 – point f

Council position

(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

(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.";

Amendment 85

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.

Amendment 86

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(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***

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."

each period.

3. The delegation of power referred to in Articles 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(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."

Amendment 87

**Council position
Article 3**

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-

Amendment

1. The Commission shall at the latest by **31 December 2016**, 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.***

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***

land using feedstocks and non-food crops by 2020 ***and of their environmental, economic and social impacts***, 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.

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:

low risk of indirect land-use change by way of project-level mitigation measures, and their effectiveness.

*(a) 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 **to assess** 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;*

(b) 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 under Article 7a of Directive 98/70/EC;

(c) the impact of the production of biofuels and bioliquids on the availability of resources for other sectors using biomass;

(d) in light of Member States' reports pursuant to Article 3(5) of Directive 2009/28/EC, the effectiveness of measures taken to prevent and fight fraud;

(e) the possibility of setting out criteria for the identification and certification of biofuels and bioliquids that are produced within schemes which reduce the displacement of production for purposes other than making biofuels and bioliquids, and in accordance with the sustainability criteria provided for in Directives 98/70/EC and 2009/28/EC, with a view to updating Annex V to Directive 98/70/EC and Annex VIII to Directive 2009/28/EC, if appropriate.

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.

3. The Commission shall, if appropriate in

The report referred to in the first subparagraph shall, if appropriate, be accompanied by legislative *proposals*, based on the best available scientific evidence, for:

(a) introducing estimated indirect land use change emissions factors into the appropriate sustainability criteria of Directives 98/70/EC and 2009/28/EC;

(b) establishing appropriate additional sustainability criteria for biofuels from non-land using feedstocks and non-food crops;

(c) introducing further measures to prevent and fight fraud, including additional measures to be taken at Union level;

(d) promoting sustainable advanced biofuels after 2020 in a technology-neutral manner, in the context of a 2030 framework for climate and energy policies, including reviewing the targets of Directive 98/70/EC and introducing a greenhouse gas reduction trajectory for transport fuels after 2020, and considering the possibility of introducing after 2020 a Union-level blending mandate for advanced biofuels that comply with the sustainability criteria of Directive 98/70/EC.

3. The Commission shall, if appropriate in

light of the reports by the voluntary schemes in accordance with the second subparagraph of Article 7c(6) of Directive 98/70/EC and the second subparagraph of Article 18(6) of Directive 2009/28/EC, submit a proposal to the European Parliament and to the Council for amending the provisions of those Directives relating to voluntary schemes with a view to promoting best practice.

light of the reports by the voluntary schemes in accordance with the second subparagraph of Article 7c(6) of Directive 98/70/EC and the second subparagraph of Article 18(6) of Directive 2009/28/EC, submit a proposal to the European Parliament and to the Council for amending the provisions of those Directives relating to voluntary schemes with a view to promoting best practice.

⁺ *OJ: please insert the date: one year after the entry into force of this Directive.*

Amendment 88

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 89

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*

PE544.412v02-00

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

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.

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the reasons for any shortfall.

Amendment 90

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

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 gCO_{2eq}/MJ biofuel if biomass is obtained from restored degraded land under the conditions provided for in point 8.

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 energy per unit area per year).'

**** 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. "***

Amendment 91

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.

Amendment 92

Council position

Annex I – point 2

Directive 98/70/EC

Annex V – part A

Council position

Part A. ***Provisional*** estimated indirect land use change emissions from biofuels (gCO_{2eq}/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 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

Part A. Estimated indirect land use change emissions from biofuels (gCO_{2eq}/MJ)

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

Amendment 93

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_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 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;

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**

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_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 the earlier; **and**

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

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."*

Amendment 94

Council position

Annex II – 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.

Amendment 95

Council position

Annex II – point 2

Directive 2009/28/EC

Annex VIII – part A

Council position

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	8 to 16
Sugars	13	4 to 17

Oil crops	55	33 to 66
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* *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

Part A. Estimated indirect land use change emissions from *biofuels* and *bioliquids* (gCO_{2eq}/MJ)

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

Amendment 96

Council position

Annex II – point 3

Directive 2009/28/EC

Annex IX

Council position

Amendment

Annex IX

Annex IX

Part A. Feedstocks and fuels, the contribution of which towards the **target(s)**

Part A. Feedstocks and fuels, the contribution of which towards the **target**

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 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) Cobs 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

referred to in *the first subparagraph* of Article 3(4) shall be considered to be twice their energy content, *and which contribute towards the target referred to in point (e) of the second subparagraph of Article 3(4)*

(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 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) Cobs 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.

Part B. Feedstocks, the contribution of which towards the target referred to in the first subparagraph of Article 3(4) shall be considered to be twice their energy content

(a) Used cooking oil.

(b) Animal fats classified as categories 1 and 2 in accordance with Regulation (EC) No 1069/2009*

*Regulation (EC) No 1069/2009 of the European Parliament and of the Council of 21 October 2009 laying down health rules as regards animal by-products and derived products not intended for human

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.

Part Aa. Feedstocks and fuels, the contribution of which towards the target referred to in the first subparagraph of Article 3(4) shall be considered to be four times their energy content, and which contribute towards the 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) Renewable liquid and gaseous fuels of non-biological origin.

(c) Carbon capture and utilisation for transport purposes.

(d) Bacteria.

Part B. Feedstocks, the contribution of which towards the target referred to in the first subparagraph of Article 3(4) shall be considered to be twice their energy content

(a) Used cooking oil.

(b) Animal fats classified as categories 1 and 2 in accordance with Regulation (EC) No 1069/2009*

(ba) feedstocks that were determined to be waste, residues, non-food cellulosic material or ligno-cellulosic material by the competent national authorities and were used in existing installations prior to 31 December 2014.

*Regulation (EC) No 1069/2009 of the European Parliament and of the Council of 21 October 2009 laying down health rules as regards animal by-products and derived products not intended for human

consumption and repealing Regulation
(EC) No 1774/2002 (Animal by-products
Regulation) (OJ L 300, 14.11.2009, p. 1)'.!

consumption and repealing Regulation
(EC) No 1774/2002 (Animal by-products
Regulation) (OJ L 300, 14.11.2009, p. 1)'.!

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 form 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. - 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.

PROCEDURE

Title	Amendment to the fuel quality directive and the renewable energy directive (Indirect Land Use Change)
References	10710/2/2014 – C8-0004/2015 – 2012/0288(COD)
Date of Parliament's first reading – P number	11.9.2013 T7-0357/2013
Commission proposal	COM(2012)0595 - C7-0337/2012
Receipt of Council position at first reading announced in plenary	15.1.2015
Committee responsible Date announced in plenary	ENVI 15.1.2015
Rapporteurs Date appointed	Nils Torvalds 17.7.2014
Discussed in committee	21.1.2015
Date adopted	24.2.2015
Result of final vote	+: 39 -: 26 0: 4
Members present for the final vote	Marco Affronte, Margrete Auken, Pilar Ayuso, Zoltán Balczó, Catherine Bearder, Ivo Belet, Biljana Borzan, Lynn Boylan, Cristian-Silviu Buşoi, Nessa Childers, Birgit Collin-Langen, Mireille D'Ornano, Miriam Dalli, Seb Dance, Angélique Delahaye, Ian Duncan, Stefan Eck, Bas Eickhout, Eleonora Evi, José Inácio Faria, Francesc Gambús, Elisabetta Gardini, Enrico Gasbarra, Gerben-Jan Gerbrandy, Jens Gieseke, Julie Girling, Sylvie Goddyn, Matthias Groote, Françoise Grossetête, Andrzej Grzyb, Jytte Guteland, György Hölvényi, Anneli Jäätteenmäki, Jean-François Jalkh, Karin Kadenbach, Kateřina Konečná, Giovanni La Via, Peter Liese, Norbert Lins, Valentinas Mazuronis, Susanne Melior, Miroslav Mikolášik, Massimo Paolucci, Piernicola Pedicini, Bolesław G. Piecha, Pavel Poc, Marcus Pretzell, Frédérique Ries, Michèle Rivasi, Daciana Octavia Sârbu, Annie Schreijer-Pierik, Davor Škrlec, Tibor Szanyi, Claudiu Ciprian Tănăsescu, Nils Torvalds, Glenis Willmott, Jadwiga Wiśniewska
Substitutes present for the final vote	Paul Brannen, Nicola Caputo, Mark Demesmaeker, Christofer Fjellner, Esther Herranz García, Merja Kyllönen, Jo Leinen, James Nicholson, Younous Omarjee, Alojz Peterle, Sirpa Pietikäinen, Bart Staes
Date tabled	26.2.2015