

Fuel quality directive and renewable energy *I**

European Parliament legislative resolution of 11 September 2013 on the proposal for 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 (COM(2012)0595 – C7-0337/2012 – 2012/0288(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2012)0595),
 - having regard to Article 294(2) and Articles 192(1) and 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0337/2012),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 17 April 2013¹,
 - after consulting the Committee of the Regions,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on the Environment, Public Health and Food Safety and the opinions of the Committee on Industry, Research and Energy, the Committee on Development, the Committee on International Trade, the Committee on Transport and Tourism, the Committee on Regional Development and the Committee on Agriculture and Rural Development(A7-0279/2013);
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ OJ C 198, 10.7.2013, p. 56.

Position of the European Parliament adopted at first reading on 11 September 2013 with a view to the adoption of Directive 2013/.../EU 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

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof, in conjunction with Article 114 thereof in relation to Article 1(2) to 1(9) and Article 2(5) to 2(7) of this Directive,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure²,

Whereas:

- (1) Article 3(4) of Directive 2009/28/EC of the European Parliament and of the Council³ requires Member States to ensure that the share of energy from renewable energy sources in all forms of transport in 2020 is at least 10 % of their final energy consumption. 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 available to meet the target are the reduction of 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.*** [Am. 123]

¹ OJ C 198, 10.7.2013, p. 56.

² Position of the European Parliament of 11 September 2013.

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 2001/77/EC and 2003/30/EC (OJ L 140, 5.6.2009, p. 16).

- (2) In view of the Union's objectives to further reduce greenhouse gas emissions and the significant contribution that road transport fuels make to those emissions, Article 7a(2) of Directive 98/70/EC of the European Parliament and of the Council¹ requires fuel suppliers to reduce by at least 6% by 31 December 2020 the life cycle greenhouse gas emissions per unit of energy ("greenhouse gas intensity") of fuels used in the Union by road vehicles, non-road mobile machinery, agricultural and forestry tractors and recreational craft when not at sea. The blending of *zero or low greenhouse gas emissions* biofuels ~~is one of~~ *and other fuels derived from unavoidable waste gas using carbon capture and utilisation for transport purposes are among* the methods available for fossil fuel suppliers to reduce the greenhouse gas intensity of the fossil fuels supplied. [Am. 2]
- (3) Article 17 of Directive 2009/28/EC establishes sustainability criteria that biofuels and bioliquids need to comply with in order to be counted towards the targets in the Directive and to qualify for inclusion in public support schemes. These criteria include requirements on the minimum greenhouse gas emission savings that biofuels and bioliquids need to achieve compared to fossil fuels. Identical sustainability criteria are established for biofuels under Article 7b of Directive 98/70/EC.

¹ Directive 98/70/EC of the European Parliament and of the Council of 13 October 1998 relating to the quality of petrol and diesel fuels and amending Council Directive 93/12/EEC (OJ L 350, 28.12.1998, p. 58).

- (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. [Am. 4]*
- (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 represents indirect land-use change and when it involves the conversion of high carbon stock land it can lead to significant greenhouse gas emissions. ~~Directives 98/70/EC and 2009/28/EC should therefore include provisions to address indirect land use change given that current biofuels are mainly produced from crops grown on existing agricultural land.~~ [Am. 124]
- (4a) *Article 19(7) of Directive 2009/28/EC and Article 7d(6) of Directive 98/70/EC require appropriate steps to be taken to address the impact of indirect land-use changes on greenhouse gas emissions, while taking due account of the need to protect investments already made. [Am. 126]*

- (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 ~~will~~ ~~could~~ negate some or all of the greenhouse gas savings of individual biofuels. This is because *land-based biofuels have received a large amount of public subsidies (EUR 10 billion (EUR 10 000 000 000) a year) and therefore,* 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. *Furthermore, biofuel production from food crops contributes to food price volatility and may have a significant negative social impact on livelihoods and the ability to implement human rights, including the right to food or access to land for local communities living in poverty in countries outside the Union.* In order to reduce such emissions *and such negative social impact and mitigate negative effects on food security,* it is appropriate to ~~distinguish between crop groups such as oil crops, cereals, sugars and other starch-containing crops accordingly.~~ *focus, in particular, on reducing the projected use of biofuels grown on land, as well as taking into account indirect land-use change emissions when calculating the greenhouse gas emission savings required under the sustainability criteria set out in Directives 2009/28/EC and 98/70/EC. Furthermore, in order to find medium and long-term solutions, 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 groups of crops on both direct and indirect land-use changes.* [Am. 8]

- (6) 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 savings with low risk of causing indirect land-use change and do not compete directly for agricultural land for the food and feed markets. It is appropriate, therefore, to encourage greater production of such advanced biofuels as these are currently not commercially available in large quantities, in part due to competition for public subsidies with established food crop based biofuel technologies. Further incentives should be provided by increasing the weighting of advanced biofuels towards 10% target for transport set in Directive 2009/28/EC compared to conventional biofuels. In this context, only advanced biofuels with low estimated indirect land-use change impacts and high overall greenhouse gas savings should be supported as part of the post 2020 renewable energy policy framework.
- (6a) *In order to ensure the efficiency of incentivising measures, particularly those aimed at promoting advanced biofuels, it is essential that the support policies and mechanisms established by Member States provide for the identification, authentication and quality control of biofuel volumes to prevent fraudulent or misleading claims about the origin of a biofuel product, and deter the submission of multiple declarations of biofuels volumes under two or more national systems or international accreditation schemes. [Am. 11]*

(6b) *While biofuels and bioliquids produced from waste and residues have the potential to achieve high greenhouse gas emission savings while causing low adverse environmental, social and economic impacts, further assessment of their availability, benefits and risks is appropriate, inter alia, to inform post-2020 policy. At the same time, further information is needed about the energy security benefits of both conventional and advanced biofuels, particularly insofar as fossil fuels are directly or indirectly used for their production. A mandate should be given to the Commission to submit a report and, if appropriate, make proposals to the European Parliament and the Council in relation to these matters. The report should take into account the environmental, social and economic opportunity cost of using raw materials for purposes other than biofuel and bioliquid production in order to ensure that overall positive and adverse impacts are reflected in the report. [Am. 12]*

- (6c) *In all Member States, conventional and advanced biofuels of a consistent and high quality should be available. To help achieve this goal, the Commission should, as a matter of urgency, give a clear mandate to the European Committee for Standardisation (CEN) to prepare technical performance standards for advanced biofuels and final fuel blends and, where necessary, to revise conventional biofuel standards to ensure that the quality of the final fuel product will not reduce the CO₂ emissions performance or the overall operational performance of vehicles. [Am. 13]*
- (7) 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.*** [Am. 129]

(7a) *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 Council¹. 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/EC² 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 this, 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. [Am. 16]*

¹ *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).*

² *Commission Decision 2000/532/EC 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 (OJ L 226, 6.9.2000, p. 3).*

- (8) The minimum greenhouse gas saving threshold for biofuels and bioliquids produced in new installations should be increased with effect from 1 July 2014 in order to improve their overall greenhouse gas balance as well as discouraging further investments in installations with low greenhouse gas savings performance. This increase provides for investment safeguards in biofuels and bioliquids production capacities in conformity with Article 19(6) second subparagraph of Directive 2009/28/EC.
- (8a) *In promoting the development of the market in renewable energy carriers and fuels, account should be taken of their impact not only on climate but also on regional and local development opportunities and employment. Production of second-generation and advanced biofuels has the potential to create employment and generate growth, particularly in rural areas. The energy self-sufficiency and security of supply of regions of the Union are also objectives of the promotion of markets in renewable energy and fuels. [Am. 17]*

- (9) 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 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, the share of biofuels and bioliquids produced from cereal and other starch rich crops, sugar and oil crops that can be counted towards the targets of Directive 2009/28/EC should be limited to the share of such biofuels and bioliquids consumed in 2011.

- (10) The ~~5%~~ **6 %** limit set up in Article 3(4)(d) of Directive 2009/28/EC does not affect the Member States' freedom to arrange their own trajectory as to compliance with this prescribed share of conventional biofuels within the overall 10% target. As a consequence, the access to the market of the biofuels produced by the installations in operation before the end of 2013 remains fully open. Therefore this amending directive does not affect the legitimate expectations of the operators of such installations. **[Am. 183]**
- (10a) *Incentives should be provided 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.* **[Am. 133]**

- (11) The estimated indirect land-use change emissions should 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.
- (11a) *Member States should be allowed to channel financial resources currently deployed with a view to achieving, either wholly or in part, their share of energy from biofuels produced from cereal and other starch-rich crops, sugars, oil crops and other land-based energy crops into renewable energies – in particular wind, solar, wave and geothermal energy – that have demonstrated their renewability and sustainability. [Am. 22]*

(11b) Voluntary schemes recognised by the Commission are the main instruments that are used by economic operators to show compliance with the sustainability criteria set out in Article 7b of Directive 98/70/EC and Article 17 of Directive 2009/28/EC. However, there is a lack of criteria that those schemes need to comply with in order to obtain recognition. Clearer rules should therefore be laid down. Only schemes that provide effective mechanisms for guaranteeing the independence and reliability of audits and the involvement of local and indigenous communities should be considered as compliant with this Directive. Those schemes should further include clear and stringent rules on the exclusion of consignments of biofuels and bioliquids from the scheme in case of non-compliance with its provisions. In order to monitor and enforce the effective operation of the schemes, the Commission should be able to access and disclose all relevant documents that give rise to concerns about malpractices. [Am. 23]

- (11c) *Directive 98/70/EC and Directive 2009/28/EC do not contain any provisions concerning the recognition process of those voluntary schemes and are therefore not effective in ensuring compliance with sustainability criteria and transparent. It is therefore appropriate for the Commission to set mandatory minimum requirements for those schemes to be considered as giving presumption of compliance with sustainability criteria. [Am. 24]*
- (11d) *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. [Am. 25]*
- (11e) *Directives 98/70/EC and 2009/28/EC provide for different treatment for feedstocks according to whether they are classified as waste, residues or co-products. However, the current lack of definitions for these categories is a source of uncertainty which could hamper proper implementation and compliance. An indicative list of the feedstocks in each category should therefore be drawn up. [Am. 27]*

- (12) The Commission should review the methodology for estimating land-use change emission factors included in Annexes VIII and V to Directives 2009/28/EC and 98/70/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.
- (13) Article 19(8) of Directive 2009/28/EC and Article 7d(8) of Directive 98/70/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. These provisions are no longer adequate in their current form and need to be integrated in the approach laid out in this Directive to ensure that overall actions for minimising emission from indirect land-use change remain coherent.

- (14) It is appropriate to align the rules for using default values to ensure equal treatment for producers regardless of where the production takes place. While third countries are allowed to use default values, EU producers are required to use actual values where they are higher than the default values, or a report has not been submitted by the Member State, increasing their administrative burden. Therefore, current rules should be simplified so that the use of default values is not limited to areas within the Union included in the lists referred to in Article 19(2) of Directive 2009/28/EC and Article 7d(2) of Directive 98/70/EC.
- (14a) ***With a view to meeting the target for renewable energies in the transport sector while minimising the negative impacts of land-use change, 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. [Ams. 29 and 139]***

(15) The objectives of this Directive, ~~to~~ ***should*** ensure a single market for fuel for ~~road~~ ***the*** transport and ~~non-road mobile machinery~~ ***sector*** and ensure ~~respect for~~ ***that*** minimum levels of environmental protection ~~from use of this fuel~~, ***are respected and adverse effects on food security and land-use rights are avoided in connection with the production and use of such fuel. Since these objectives*** cannot be sufficiently achieved by the Member States and can therefore be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on ~~the Functioning of the~~ European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives. **[Am. 30]**

(16) As a consequence of the entry into force of the Treaty on the Functioning of the European Union, the powers conferred under Directives 2009/28/EC and 98/70/EC upon the Commission need to be aligned to Article 290 of that Treaty.

- (17) In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹.
- (18) In order to permit adaptation to technical and scientific progress of Directive 98/70/EC, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union 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 related to the metallic additives content in fuels, the permitted analytical methods related to the fuel specifications and the vapour pressure waiver permitted for petrol containing bioethanol.

¹ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

- (19) In order to permit adaptation to technical and scientific progress of Directive 2009/28/EC, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the list of biofuel feedstocks that are counted multiple times towards the target set 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.
- (20) The Commission should review the effectiveness of the measures introduced by this Directive, based on the best and latest available scientific evidence, in limiting indirect land-use change greenhouse gas emissions and addressing ways to further minimise that impact, which could include the introduction of estimated indirect land-use change emission factors in the sustainability scheme as of 1 January 2021.

- (21) It is of particular importance that the Commission in application of this Directive carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (22) In accordance with the Joint Political Declaration of Member States and the Commission on explanatory documents of 28 September 2011, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.
- (23) Directives 98/70/EC and 2009/28/EC should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments to Directive 98/70/EC

Directive 98/70/EC is amended as follows:

-1. *In Article 2 the following points are added:*

'9a. "non-food cellulosic material" means land-based non-food energy crops grown for bio-energy production purposes, including miscanthus, other energy grasses, certain varieties of sorghum and industrial hemp, but excluding crops with a high lignin content, such as trees. [Am. 34]

9b. "non-food ligno-cellulosic material" means land-based woody energy crops such as short-rotation coppice and short-rotation forestry crops. [Am. 35]

9c. *"direct land-use change" means any change in the use of a piece of land from one to another of the six IPCC land cover categories (forest land, cropland, grazing land, wetlands, settlements, other land) plus a seventh category for perennial crops, covering in particular multiannual crops whose stem is usually not annually harvested, such as short-rotation coppice and palm oil. [Am. 36]*

9d. *"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 and which are used in transport.'*

[Am. 37]

-1a. In Article 3, paragraph 3 is replaced by the following:

- '3. Member States shall require suppliers to ensure the placing on the market of petrol with a maximum oxygen content of 2,7 % and a maximum ethanol content of 5 % until the end of 2018 and may require the placing on the market of such petrol for a longer period if they consider it necessary. They shall ensure the provision of appropriate information to consumers directly at the fuel filler pump concerning the biofuel content of petrol and, in particular, on the appropriate use of different blends of petrol. In this respect, the marking recommendations of EN228:2012 shall be followed at all fuel filling stations across the Union.'**

[Am. 38]

-1b. In Article 4(1), the third subparagraph is replaced by the following:

'When the percentage of FAME blended in diesel exceeds 7 % by volume, Member States shall ensure the provision of appropriate information concerning the FAME content to consumers directly at the fuel filler pump.'

[Am. 39]

1. Article 7a is amended as follows:

(-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.'

[Am. 40]

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

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

[Am. 184/REV]

(a) in paragraph 5, the introductory phrase is replaced by the following:

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

(b) the following paragraph is added:

- '6. Fuel suppliers shall by 31 March each year report to the authority designated by the Member State, the biofuel production pathways, volumes, and the life cycle greenhouse gas emissions per unit of energy, including the estimated indirect land-use change emissions set out in Annex V, Member States shall report these data to the Commission.'

2. Article 7b is amended as follows:

(a) paragraph 2 is replaced by the following:

- '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 1 July 2014. An installation is “in operation” if the physical production of biofuels has taken place.'

In the case of installations that were in operation on or before 1 July 2014 , for the purposes referred to in paragraph 1, biofuels shall achieve a greenhouse gas emission saving of at least 35% until 31 December 2017 and at least 50% from 1 January 2018.

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

- (b) in paragraph 3, the second subparagraph is replaced by the following:

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

(ba) *the following paragraph is inserted:*

'4a. 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.'

[Am. 49]

(bb) *in paragraph 7, the first sentence of the second subparagraph is replaced by the following:*

'The Commission shall report every two years to the European Parliament and the Council on the impact on social sustainability in the Union and in third countries of increased demand for biofuel, on the contribution of biofuel production to reducing the Union's shortage of vegetable protein and on the impact of Union biofuel policy on the availability of foodstuffs at affordable prices, in particular for people in developing countries, and wider development issues.'

[Am. 50]

2a. *Article 7c is amended as follows:*

(a) *in paragraph 3, the third subparagraph is replaced by the following:*

'The Commission shall, in accordance with the advisory procedure referred to in Article 11(3), establish the list of appropriate and relevant information referred to in the first two subparagraphs. It shall seek to ensure maximum compliance with the substantive obligations of this paragraph, while seeking to minimise excessive administrative burden for operators, in particular the smaller ones.'

[Am. 53]

(b) *in paragraph 3, the fifth subparagraph is replaced by the following:*

'Member States shall submit to the Commission, in aggregated form, the information referred to in the first subparagraph of this paragraph, including the reports carried out by the independent auditors. The Commission shall publish that information on the transparency platform referred to in Article 24 of Directive 2009/28/EC.'

[Am. 54]

(c) *in paragraph 4, the first subparagraph is replaced by the following:*

'1. The Union shall endeavour to conclude bilateral or multilateral agreements with third countries containing mandatory commitments on provisions on sustainability criteria that correspond to those of this Directive. Such agreements should also set out rules in order to ensure that third countries' customs procedures do not lead to fraud related to the import and export of biofuels and bioliquids, as well as on provisions on trade facilitation. The Union shall also endeavour to conclude agreements with third countries containing commitments on the ratification and enforcement of ILO Conventions and MEAs as referred to in Article 7b(7). Where the Union has concluded agreements containing mandatory commitments on provisions relating to matters covered by the sustainability criteria set out in Article 7b(2) to (5), the Commission may decide that those agreements demonstrate that biofuels and bioliquids produced from raw materials cultivated in those countries comply with the sustainability criteria in question. When those agreements are concluded, due consideration shall be given to measures taken for the conservation of areas that provide, in critical situations, basic ecosystem services (such as watershed protection and erosion control), for soil, water and air protection, indirect land-use changes, the restoration of degraded land, the avoidance of excessive water consumption in areas where water is scarce and to the issues referred to in the second subparagraph of Article 7b(7).'

[Am. 55]

(d) *the following paragraphs are added :*

'9a. By [one year after entry into force of this Directive] the Commission shall submit a report to the European Parliament and the Council reviewing the operation of agreements or voluntary schemes for which a decision under paragraph 4 has been adopted and identifying best practices. The report shall be based on the best information available, including from consultation with stakeholders, and shall be based on practical experience in the application of the agreements or schemes. The report shall take into account relevant internationally recognised standards and guidelines, including those developed by the International Organization for Standardization and the ISEAL Alliance. In relation to each agreement and scheme, the report shall analyse, inter alia, the following:

- *independence, modality and frequency of audits;*
- *availability and experience in the application of methods for identifying and dealing with non-compliance;*
- *transparency, particularly in relation to the accessibility of the scheme, the availability of translations in the official languages of the countries and regions from which raw materials originate, accessibility of a list of certified operators and corresponding certificates, accessibility of auditor reports;*
- *stakeholder involvement, particularly as regards the consultation of indigenous and local communities during the drafting and review of the scheme as well as during audits;*
- *overall robustness of the scheme, particularly in light of rules on the accreditation, qualification and independence of auditors and relevant scheme bodies;*
- *market update of the scheme.*

The Commission shall, if appropriate in light of the report, 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.

[Am. 58]

- 9b. The Commission shall be empowered to adopt delegated acts pursuant to Article 10a concerning detailed rules governing independent verification and certification of compliance with the waste hierarchy established in Article 4 of Directive 2008/98/EC of the European Parliament and of the Council*. Those delegated acts shall be adopted by 30 June 2016.*

* *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).'*

[Am. 59]

3. Article 7d is amended as follows:

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

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

[Am. 60]

(-aa) the following paragraph is inserted:

'1a. The Commission shall be empowered to adopt delegated acts pursuant to Article 10a concerning the inclusion in Annex IV of a procedure for calculating greenhouse gas emissions from renewable liquid and gaseous fuels of non-biological origin for the purpose of verifying their compliance with Article 7b. Those delegated acts shall be adopted by 31 December 2015.'

[Am. 61]

(a) paragraphs 3 to 6 are replaced by the following:

- '3. The typical greenhouse gas emissions from cultivation of agricultural raw materials in the reports referred to in Article 7d(2) in the case of Member States, and in reports equivalent to those in the case of territories outside the Union, may be submitted to the Commission.
4. The Commission may decide, by means of an implementing act adopted in accordance with advisory procedure referred to in Article 11(3), that the reports referred to in paragraph 3 contain accurate data for the purposes of measuring the greenhouse gas emissions associated with the cultivation of biofuel feedstocks typically produced in those areas for the purposes of Article 7b(2).
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. [Am. 62]

The Commission shall be empowered to adopt delegated acts pursuant to Article 10a concerning the correction of the estimated typical and default values in Parts B and E of Annex IV.

6. The Commission shall be empowered to adopt delegated acts pursuant to Article 10a concerning the adaptation to technical and scientific progress of Annex V, including by the revision of the proposed crop group indirect land-use change values; ~~the introduction of~~ ***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 latest available information with regards 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; the inclusion of additional values should new biofuel feedstocks come to market as appropriate, review the categories of which biofuels are assigned zero indirect land-use change emissions; and the development of factors for feedstocks from non-food cellulosic and ligno-cellulosic materials.'

[Am. 189]

- (b) in paragraph 7, the first subparagraph is replaced by the following:
 - '7. The Commission shall be empowered to adopt delegated acts pursuant to Article 10a concerning the adaptation to technical and scientific progress of Annex IV, including by the addition of values for further biofuel production pathways for the same or for other raw materials and by modifying the methodology laid down in Part C.'
- (c) paragraph 8 is deleted.

(ca) *the following paragraph is added:*

'8a. The Commission shall be empowered to adopt delegated acts in accordance with Article 10a concerning the establishment of detailed definitions, including technical specifications, required for the categories set out in point 9 of Part C of Annex IV.'

[Am. 65].

4. Article 8 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. Member States shall monitor compliance with the requirements of Articles 3 and 4, in respect of petrol and diesel fuels, on the basis of the analytical methods referred to in the version in force of the European standards EN 228 and EN 590 respectively.'

(b) paragraph 3 is replaced by the following:

- '3. Each year by 30 June, the Member States shall submit a report of national fuel quality data for the preceding calendar year. The Commission shall establish a common format for the submission of a summary of national fuel quality by means of an implementing act adopted in accordance with the advisory procedure referred to in Article 11(3). The first report shall be submitted by 30 June 2002. From 1 January 2004, the format for this report shall be consistent with that described in the relevant European standard. In addition, Member States shall report the total volumes of petrol and diesel fuels marketed in their territories and the volumes of unleaded petrol and diesel fuels marketed with a maximum sulphur content of 10 mg/kg. Furthermore, Member States shall report annually on the availability on an appropriately balanced geographical basis of petrol and diesel fuels with a maximum sulphur content of 10 mg/kg that are marketed within their territory.'

5. In Article 8a, paragraph 3 is replaced by the following:

- '3. The Commission shall be empowered to adopt delegated acts pursuant to 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. It may be reduced to zero where justified by the risk assessment. It cannot be increased unless justified by the risk assessment.'

5a. In Article 9, the following paragraph is added:

'2a. The Commission should 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 pursuant to Article 10a if necessary, concerning the adaptation to technical and scientific progress of Annex I or II of this Directive to introduce specific parameters, test limits and test methods.'

[Am. 66]

6. In Article 10, paragraph 1 is replaced by the following:

- '1. The Commission shall be empowered to adopt delegated acts pursuant to Article 10a concerning the adaptation to technical and scientific progress of the permitted analytical methods referred to in Annexes I, II and III.'

7. The following Article is inserted:

'Article 10a

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 delegation of power referred to in Article 7a(5), the second subparagraph of Article 7b(3), Articles 7d(5), ~~7d(6)~~, 7d(7), **7d(8a)**, 8a(3) and 10(1) shall be conferred for an indeterminate period of time from the date of entry into force of this Directive.

3. The delegation of powers referred to in Articles 7a(5), the second subparagraph of Article 7b(3), Articles 7d(5), ~~7d(6)~~, 7d(7), **7d(8a)**, 8a(3) and 10(1) 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 7a(5), the second subparagraph of Article 7b(3), Articles 7d(5), ~~7d(6)~~, 7d(7), **7d(8a)**, 8a(3) 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 2 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 2 months at the initiative of the European Parliament or the Council.'

[Am. 149]

8. Article 11(4) is deleted.
9. The annexes are amended as set out in Annex I to this Directive.

Article 2

Amendments to Directive 2009/28/EC

Directive 2009/28/EC is amended as follows:

1. In Article 2, the following points are added:

- '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 category;
- (q) ***‘non-food cellulosic material’ means land-based non-food energy crops grown for bio-energy production purposes, including miscanthus, other energy grasses, certain varieties of sorghum and industrial hemp, but excluding crops with a high lignin content, such as trees; [Am. 69]***

- (r) *‘non-food ligno-cellulosic material’ means land-based woody energy crops such as short-rotation coppice and short-rotation forestry crops; [Am. 70]*
- (s) *‘co-products’ means raw materials which have a market value or alternative uses and materials that constitute a significant outcome of a process in terms of economic value or where the main process has been deliberately modified to produce a larger quantity or another quality of the material at the expense of the main product; [Am. 71]*
- (t) *‘renewable liquid and gaseous fuels of non-biological origin’ means gaseous or liquid fuels other than biofuels which are obtained from renewable energy sources and are used in transport; [Am. 72]*

- (u) *'direct land-use change' means any change in the use of a piece of land from one to another of the six IPCC land cover categories (forest land, cropland, grazing land, wetlands, settlements, other land) plus a seventh category for perennial crops, covering in particular multiannual crops whose stem is usually not annually harvested, such as short-rotation coppice and palm oil; [Am. 74]*
- (v) *'carbon capture and utilisation (CCU) for transport purposes' means a process that captures carbon (CO/CO₂) rich waste and residues gas streams from non-renewable energy sources and transforms them into fuels that are used in the transport sector; [Am. 75]*
- (w) *'processing residue' is a substance that is not the end product(s) that the production process directly seeks to produce. It is not a primary aim of the production process and the process has not been deliberately modified to produce it. [Am. 76]*

* 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.).'

2. Article 3 is amended as follows:

(a) the title is replaced by the following:

'Mandatory national targets and measures for the use of energy from renewable sources'.

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

'For the purpose of compliance with target referred to in the first subparagraph, 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 Article 3(4)d.'

(c) paragraph 4 is amended as follows:

(-i) in the first subparagraph, the following sentence is added:

'Each Member State shall ensure that the share of energy from renewable sources in petrol in 2020 is at least 7,5% of the final consumption of energy in petrol in that Member State.'

(-ii) the following subparagraphs are inserted after the first subparagraph:

'In 2016, at least 0,5 % of the final consumption of energy in transport shall be met with energy from advanced biofuels.'

'In 2020, at least 2,5 % of the final consumption of energy in transport shall be met with energy from advanced biofuels.'

[Am. 152/REV]

(i) in point (b) of the second subparagraph, the following phrase is added:

'This point shall be without prejudice to Article 17(1)(a) and point (d) of this paragraph;'

(ii) in the second subparagraph, the following points are added:

- '(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~~ **and other energy crops grown on land** shall be no more than 5%, ~~the estimated share at the end of 2011, 6 %~~ of the final consumption of energy in transport in 2020.

The share of energy from advanced biofuels listed in part A and part C of Annex IX shall be no less than 2,5 % of the final consumption of energy in transport in 2020.

[Am. 181]

- (e) the contribution made by:
- (i) biofuels produced from feedstocks listed in Part A of Annex IX shall be considered to be ~~four times~~ **equal to** their energy content;

- (ii) biofuels produced from feedstocks listed in Part B of Annex IX shall be considered to be twice their energy content;
- (iii) ~~renewable liquid and gaseous fuels of non-biological origin~~
biofuels produced from feedstocks listed in Part C of Annex IX shall be considered to be four times their energy content.

Member States shall ensure that no raw materials are intentionally modified to be covered by categories (i) to (iii).

With a view to minimising the risk of single consignments being claimed more than once in the Union, the Member States and the Commission shall endeavour to strengthen cooperation among national systems and between national systems and voluntary schemes established pursuant to Article 18, including where appropriate the exchange of data. To prevent materials from being intentionally modified in order to fall under Annex IX, Member States shall encourage the development and use of systems which track and trace feedstocks and the resulting biofuels over the whole value chain. Member States shall ensure that when fraud is detected, appropriate action is taken.

The list of feedstock set out in Annex IX may be adapted to scientific and technical progress, in order to ensure a correct implementation of the accounting rules set out in this Directive. The Commission shall be empowered to adopt delegated acts in accordance with Article 25b concerning the list of feedstock set out in Annex IX'

[Am. 185]

(ca) the following paragraph is added:

'4a. By [one year after entry into force of this Directive], the Commission shall make recommendations for additional measures that Member State 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).'

[Am. 153]

2a. *In Article 4, the following paragraph is added:*

'3a. Each Member State shall publish and notify to the Commission by [one year after entry into force of this Directive] a forecast document indicating the additional measures it intends to take in accordance with Article 3(4a).'

[Am. 154]

3. In Article 5(5), the last sentence is replaced by the following:

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

4. In Article 6(1) the second subparagraph is deleted.

4a. *In Article 15(2), the fourth subparagraph is replaced by the following:*

'The guarantee of origin shall have no function in terms of a Member State's compliance with Article 3(1). Transfers of guarantees of origin, separately or together with the physical transfer of energy, shall have no effect on the decision of Member States to use statistical transfers, joint projects or joint support schemes for target compliance or on the calculation of the gross final consumption of energy from renewable sources in accordance with Article 5.'

[Am. 88]

5. Article 17 is amended as follows:

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

'1. Irrespective of whether the raw materials were cultivated inside or outside the territory of the 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 7 and do not exceed contributions set out in Article 3(4)(d):'

[Am. 89]

(a) paragraph 2 is replaced by the following:

- '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 and bioliquids produced in installations starting operation after 1 July 2014. An installation is “in operation” if the physical production of biofuels or bioliquids has taken place.

In the case of installations that were in operation on or before 1 July 2014, for the purposes referred to in paragraph 1, biofuels and bioliquids shall achieve a greenhouse gas emission saving of at least 35 % until 31 December 2017 and at least 50 % from 1 January 2018.

The greenhouse gas emission saving from the use of biofuels and bioliquids shall be calculated in accordance with Article 19(1).'

- (b) in paragraph 3, the second subparagraph is replaced by the following:

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

- (ba) *the following paragraph is inserted:*

'4a. Biofuels and bioliquids taken into account for the purposes referred to in paragraph 1(a), (b) and (c) 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.'

[Am. 96]

- (bb) *the following paragraph is inserted:*

'5a. Raw materials used for biofuels and bioliquids for the purposes of paragraph 1 shall be produced through sustainable land management practices.'

[Am. 97]

6. *Article 18 is amended as follows:*

(a) *the following paragraphs are 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 import or export of feedstocks, type and country of origin, including internally traded feedstocks or semi-traded feedstocks. [Am. 98]

2b. Eurostat shall gather and publish detailed employment information on the numbers, duration and salaries associated with direct, indirect and induced employment generated by the Union's biofuels industry. The Commission should develop an agreed methodology for measuring jobs which should systematically assess and monitor employment levels in member states and at Union level. Employment figures should be disaggregated by ethanol and biodiesel sectors and clearing identifying the location of the job within the biofuel supply chain. Currently biofuel employment data is not included in official statistics with the employment estimates available to policy-makers varying depending on the underlying definition or methodology adopted by the particular study, the job counting approach applied, and the extent to which studies link agricultural activity to the biofuels industry. A formal process requiring employment figures to be supported by underlying data and transparent assumptions would improve the availability of information.'

[Am. 99]

(b) *in paragraph 4, the first and second subparagraphs are replaced by the following:*

'4. The Union shall endeavour to conclude bilateral or multilateral agreements with third countries containing mandatory commitments on provisions on sustainability criteria that correspond to those of this Directive. Such agreements should also set out rules in order to ensure that third countries' customs procedures do not lead to fraud related to the import and export of biofuels and bioliquids, as well as on provisions on trade facilitation. The Union shall also endeavour to conclude agreements with third countries containing commitments on the ratification and enforcement of ILO Conventions and MEAs as referred to in Article 17(7). Where the Union has concluded agreements containing mandatory commitments on provisions relating to matters covered by the sustainability criteria set out in Article 17(2) to (7), the Commission may decide that those agreements demonstrate that biofuels and bioliquids produced from raw materials cultivated in those countries comply with the sustainability criteria in question. When those agreements are concluded, due consideration shall be given to measures taken for the conservation of areas that provide, in critical situations, basic ecosystem services (such as watershed protection and erosion control), for soil, water and air protection, indirect land-use changes, the restoration of degraded land, the avoidance of excessive water consumption in areas where water is scarce and to the issues referred to in the second subparagraph of Article 17(7). [Am. 100]

The Commission ~~may~~ **shall** decide whether voluntary national or international schemes setting standards for the production of biomass products contain accurate data for the purposes of Article 17(2) or demonstrate that consignments of biofuel or bioliquid comply with the sustainability criteria set out in Article 17(3) to ~~(5)~~ **(5a)**, **and whether any materials have been intentionally modified in order to be covered by points (i) to (iii) of Article 3(4)(e)**. The Commission may decide that those schemes contain accurate data for the purposes of information on measures taken for the conservation of areas that provide, in critical situations, basic ecosystem services (such as watershed protection and erosion control), for soil, water and air protection, the restoration of degraded land, the avoidance of excessive water consumption in areas where water is scarce and on the issues referred to in the second subparagraph of Article 17(7).

The Commission may also recognise areas for the protection of rare, threatened or endangered ecosystems or species recognised by international agreements or included in lists drawn up by intergovernmental organisations or the International Union for the Conservation of Nature for the purposes of Article 17 (3)(b) (ii). **[Am. 101]**

The Commission and the Member States shall ensure the mutual recognition of verification schemes safeguarding the compliance with the sustainability criteria for biofuels and bioliquids, where the schemes concerned have been established in accordance with this Directive.'

[Am. 102]

(c) *the following paragraph is added:*

'9a. By [three years after entry into force of this Directive], the Commission shall submit a report to the European Parliament and the Council reviewing the operation of voluntary schemes for which a decision under paragraph 4 has been adopted and identifying best practices. The report shall be based on the best information available, including from consultation with stakeholders, and shall be based on practical experience in the application of the schemes. The report shall take into account the evolution of relevant internationally recognised standards and guidelines, including those developed by the International Organization for Standardization and the ISEAL Alliance. In relation to each scheme, the report shall analyse, inter alia, the following:

- independency, modality and frequency of audits;*
- availability and experience in the application of methods for identifying and dealing with non-compliance;*

- *transparency, particularly in relation to the accessibility of the scheme, the availability of translations in the official languages of the countries and regions from which raw materials originate, accessibility of a list of certified operators and relative certificates, accessibility of auditor reports;*
- *stakeholders' involvement, particularly as regards the consultation of indigenous and local communities during the drafting and reviewing of the scheme as well as during audits;*
- *overall robustness of the scheme, particularly in light of rules on the accreditation, qualification and independence of auditors and relevant scheme bodies;*
- *market update of the scheme.*

The Commission shall, if appropriate in light of the report, submit a proposal to the European Parliament and the Council to modify the criteria listed in Article 18(5).'

[Am. 103]

7. Article 19 is amended as follows:

(-a) *the following paragraph is inserted:*

'1a. The Commission shall be empowered to adopt delegated acts pursuant to Article 25b concerning the inclusion in Annex V of a procedure for calculating greenhouse gas emissions from renewable liquid and gaseous fuels of non-biological origin for the purpose of verifying their compliance with Article 17. Those delegated acts shall be adopted by 31 December 2015.'

[Am. 106]

(a) paragraphs 3 and 4 are replaced by the following:

'3. The typical greenhouse gas emissions from cultivation of agricultural raw materials in the reports referred to in Article 19(2) in the case of Member States, and in reports equivalent to those in the case of territories outside the Union, may be submitted to the Commission.

4. The Commission may decide, by means of an implementing act adopted in accordance with advisory procedure referred to in Article 25(3), that the reports referred to in paragraph 3 contain accurate data for the purposes of measuring the greenhouse gas emissions associated with the cultivation of biofuel and bioliquid feedstocks typically produced in those areas for the purposes of Article 17(2).'

- (b) in paragraph 5, the last sentence is replaced by the following:

'To this end, the Commission shall be empowered to adopt delegated acts in accordance with Article 25b.'

- (c) paragraph 6 is replaced by the following:

- '6. The Commission shall be empowered to adopt delegated acts pursuant to Article 25b concerning the adaptation to technical and scientific progress of Annex VIII, including the revision of the proposed crop group indirect land-use change values; ~~the introduction of~~ ***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 latest available information with regards to key assumptions influencing modelling results including measured trends in agricultural yields and productivity, co-product allocation and observed global land-use change and deforestation rates. The Commission shall ensure that stakeholders are involved in such review process. The first such review shall be concluded no later than 30 June 2016.***

The Commission shall, if appropriate, propose new indirect land-use change values at further levels of disaggregation (i.e. at a feedstock level); the inclusion of greenhouse gas emissions resulting from the transport of raw materials; the inclusion of additional values should new biofuel feedstocks come to market as appropriate; and the development of factors for feedstocks from non-food cellulosic and ligno-cellulosic materials.

The Commission shall be empowered to adopt delegated acts pursuant to Article 25b to set out in Annex VIII values for indirect land-use change emissions for feedstocks from non-food cellulosic and ligno-cellulosic materials and shall include those values in the method for calculating the greenhouse gas impact of biofuels and bioliquids provided for in this Article. Those delegated acts shall be adopted by 30 June 2016.'

[Ams. 107 and 190]

- (d) in paragraph 7, the first subparagraph is replaced by the following:
 - '7. The Commission shall be empowered to adopt delegated acts pursuant to Article 25b 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'.
- (e) paragraph 8 is deleted.

8. Article 21 is deleted.

9. 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 estimates for any indirect land-use change emissions to be set out in Annex VIII.'

9a. *In Article 23, the following paragraph is inserted:*

'8a. By 31 December 2015 the Commission shall submit a report on the positive and negative environmental and economic impacts of biofuels produced from waste, residues, co-products or non-land using feedstocks. The environmental impacts to be assessed shall include greenhouse gas emissions, biodiversity, water, and soil fertility. The potential or forfeited benefits of using these feedstocks for other purposes, in particular the manufacture of products, shall be taken into account. The economic impacts to be assessed shall include production costs, the opportunity cost of using the feedstocks for other purposes and the life-cycle energy return on investment that may be obtained from using the feedstocks to produce advanced biofuels and bioliquids.'

[Am. 109]

10. Article 25(4) is deleted.

11. The following Article is inserted:

'Article 25b

Exercise of the delegation

1. The powers to adopt delegated acts are conferred on the Commission subject to the conditions laid down in this Article.
2. The delegation of power referred to in Article 3(4)(d), Article 5(5), the third subparagraph of Article 17(3)(c), and Article 19(1), (5), (6) and (7) shall be conferred on the Commission for an indeterminate period of time from [the date of entry into force of this Directive].

3. The delegation of power referred to in Article 3(4)(d), Article 5(5), the third subparagraph of Article 17(3)(c), Articles 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 Article 3(4)(d), Article 5(5), the third subparagraph of Article 17(3)(c), Articles 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 2 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 2 months at the initiative of the European Parliament or the Council.'

12. The annexes are amended as set out in Annex II to this Directive.

Article 3

Review

The Commission shall, before 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. The report shall, if appropriate, be accompanied by a legislative proposal based on the best available scientific evidence, for introducing estimated indirect land-use change emissions factors into the appropriate sustainability criteria to be applied from 1 January 2021. ~~and~~

The report shall also include a review of the effectiveness of the incentives provided for biofuels from non-land using feedstocks and non-food crops under Article 3(4)(d) of Directive 2009/28/EC. ***It shall include an assessment of the availability of such biofuels and of their environmental, economic and social impacts. It shall inter alia asses the impact of biofuel production on the availability of wood as a resource and on sectors using biomass.***

The report shall, if appropriate, be accompanied by a legislative proposal for establishing appropriate sustainability criteria for biofuels from non-land using feedstocks and non-food crops.

Investors shall take into account the fact that biofuel production technologies are still under development and further measures to mitigate negative impacts may be adopted at a later stage.

[Am. 111]

Article 4

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [twelve months after entry into force of this Directive] at the latest. They shall forthwith communicate to the Commission the text of those provisions.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 5

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 6

This Directive is addressed to the Member States.

Done at ...

For the European Parliament

The President

For the Council

The President

ANNEX I

The annexes to Directive 98/70/EC are amended as follows:

(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_l , shall be calculated by dividing total emissions equally over 20 years. For the calculation of these emissions the following rule shall be applied:

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

where

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

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

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

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

- (b) points 8 and 9 are deleted.

(2) The following Annex is added:

'Annex V

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

| Feedstock group | Estimated indirect land-use change emissions (gCO ₂ eq/MJ) |
|-------------------------------------|---|
| Cereals and other starch rich crops | 12 |
| Sugars | 13 |
| Oil crops | 55 |

Part B. Biofuels for which the estimated indirect land-use change emissions are considered to be zero

Biofuels produced from the following feedstock categories will be considered to have estimated indirect land-use change emissions of zero:

- (a) feedstocks which are not included under Part A of this Annex.
- (b) feedstocks whose production has led to direct land-use change, i.e. a change from one of the following IPCC land cover categories; forest land, grassland, wetlands, settlements, or other land, to cropland or perennial cropland¹. In such a case a "direct land-use change emission value (el) should have been calculated in accordance to Part C, point 7 of Annex IV.'

¹ Perennial crops are defined as multi-annual crops whose stem is usually not annually harvested such as short rotation coppice and oil palm as defined in (2010/C 160/02).

ANNEX II

The annexes to Directive 2009/28/EC are amended as follows:

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

(a) point 7 is replaced by the following:

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

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

where

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

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

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

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

(b) points 8 and 9 are deleted.

(2) — The following Annex VIII is added:

'Annex VIII

Part A. Estimated indirect land use change emissions from biofuel and bioliquid feedstocks

| Feedstock group | Estimated indirect land use change emissions (gCO ₂ eq/MJ) |
|-------------------------------------|---|
| Cereals and other starch rich crops | 12 |
| Sugars | 13 |
| Oil crops | 55 |

Part B. Biofuels and bioliquids for which the estimated indirect land use change emissions are considered to be zero

Biofuels and bioliquids produced from the following feedstock categories will be considered to have estimated indirect land use change emissions of zero:

~~(a) feedstocks which are not included under Part A of this Annex.~~

~~(b) feedstocks whose production has led to direct land use change, i.e. a change from one of the following IPCC land cover categories; forest land, grassland, wetlands, settlements, or other land, to cropland or perennial cropland[†]. In such a case a "direct land use change emission value (el) should have been calculated in accordance to Part C, paragraph 7 of Annex V."~~

[Am. 164]

(3) The following Annex IX is added:

'Annex IX

Part A. Feedstocks *from waste and residues* whose contribution towards the target referred to in Article 3(4) shall be considered to be ~~four times~~ *equal to* their energy content *and which contribute towards the 2,5 % target referred to in point (d) of the second subparagraph of Article 3(4)*

~~(a) Algae.~~

[†] ~~Perennial crops are defined as multi-annual crops whose stem is usually not annually harvested such as short rotation coppice and oil palm as defined in (2010/C 160/02)~~

- (b) Biomass fraction of mixed municipal waste, but not separated household waste subject to recycling targets *or separate collection* under Article 11(1) and (2)(a) of Directive 2008/98/EC; *derogations may be granted by Member States for separate biowaste where processes allow the production of both compost and biofuels.*
- (c) ~~Biomass~~ **Biodegradable** fraction of industrial, *retail and wholesale* waste, *but not waste subject to separate collection under Article 11(1) of Directive 2008/98/EC, and provided that the waste hierarchy and the principle of cascading use are respected.*
- (d) Straw.
- (e) Animal manure and sewage sludge.
- ~~(f) Palm oil mill effluent and empty palm fruit bunches.~~
- (g) Tall oil pitch.

- (h) Crude glycerine.
- (i) Bagasse.
- (j) Grape marcs and wine lees.
- (k) Nut shells.
- (l) Husks.
- (m) Cobs
- (n) Bark, branches, leaves, saw dust and cutter shavings.

(na) Ligno-cellulosic material except saw logs and veneer logs.

Part B. Feedstocks ***from waste and residues*** whose contribution towards the target referred to in Article 3(4) shall be considered to be twice their energy content

- (a) Used cooking oil.

(b) Animal fats classified as category I and II in accordance with Regulation (EC) No 1774/2002 of the European Parliament and of the Council*.

~~(c) Non food cellulosic material.~~

~~(d) Ligno-cellulosic material except saw logs and veneer logs.~~

Part C. Feedstocks whose contribution towards the target referred to in Article 3(4) shall be considered to be four times their energy content and which contribute towards the 2,5 % target referred to in point (d) of the second subparagraph of Article 3(4)

(a) *Algae (autotrophic).*

(b) *Renewable liquids and gaseous fuels of non-biological origin.*

(c) *Carbon Capture and Utilisation for transport purposes.*

(d) *Bacteria.*

* Regulation (EC) No 1774/2002 of the European Parliament and of the Council of 3 October 2002 laying down health rules concerning animal by-products not intended for human consumption (OJ L 273, 10.10.2002, p. 1).'