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**A5-0218/2002**

4 June 2002

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## **REPORT**

on the proposal for a Council directive amending Directive 92/81/EEC with regard to the possibility of applying a reduced rate of excise duty on certain mineral oils containing biofuels and on biofuels  
(COM(2001) 547 – C5-0030/2002 – 2001/0266(CNS))

Committee on Economic and Monetary Affairs

Rapporteur: Miquel Mayol i Raynal

### ***Symbols for procedures***

- \* Consultation procedure  
*majority of the votes cast*
- \*\*I Cooperation procedure (first reading)  
*majority of the votes cast*
- \*\*II Cooperation procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\* Assent procedure  
*majority of Parliament's component Members except in cases  
covered by Articles 105, 107, 161 and 300 of the EC Treaty and  
Article 7 of the EU Treaty*
- \*\*\*I Codecision procedure (first reading)  
*majority of the votes cast*
- \*\*\*II Codecision procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\*III Codecision procedure (third reading)  
*majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission)

### ***Amendments to a legislative text***

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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## PROCEDURAL PAGE

By letter of 18 January 2002 the Council consulted Parliament, pursuant to Article 93 of the EC Treaty, on the proposal for a Council directive on amending Directive 92/81/EEC with regard to the possibility of applying a reduced rate of excise duty on certain mineral oils containing biofuels and on biofuels (COM(2001) 547 – 2001/0266(CNS)).

At the sitting of 4 February 2002 the President of Parliament announced that he had referred this proposal to the Committee on Economic and Monetary Affairs as the committee responsible and the Committee on Agriculture and Rural Development, the Committee on the Environment, Public Health and Consumer Policy, the Committee on Industry, External Trade, Research and Energy and the Committee on Regional Policy, Transport and Tourism for their opinions (C5-0030/2002).

The Committee on Economic and Monetary Affairs had appointed Miquel Mayol i Raynal rapporteur at its meeting of 18 December 2001.

It considered the Commission proposal and the draft report at its meetings of 25 February 2002, 23 April 2002, 22 May 2002 and 4 June 2002.

At the latter meeting it adopted the draft legislative resolution by unanimously.

The following were present for the vote: Christa Randzio-Plath, chairman; José Manuel García-Margallo y Marfil, Philippe A.R. Herzog and John Purvis, vice-chairmen; Miquel Mayol i Raynal, rapporteur; Luis Berenguer Fuster (for Pervenche Berès), Hans Udo Bullmann, Benedetto Della Vedova, Bert Doorn (for Astrid Lulling), Jonathan Evans, Enrico Ferri (for Generoso Andria, pursuant to Rule 153(2)), Ingo Friedrich, Carles-Alfred Gasòliba i Böhm, Lutz Goepel (for Mónica Ridruejo), Lisbeth Grönfeldt Bergman, Mary Honeyball, Brice Hortefeux, Pierre Jonckheer (for Alain Lipietz), Othmar Karas, Giorgos Katiforis, Piia-Noora Kauppi, Christoph Werner Konrad, Thomas Mann (for Renato Brunetta), Ioannis Marinos, David W. Martin, Hans-Peter Mayer, Ioannis Patakis, Fernando Pérez Royo, Mikko Pesälä (for Christopher Huhne), Alexander Radwan, Peter William Skinner, Ieke van den Burg (for Robert Goebbels) and Theresa Villiers.

The opinions of the Committee on Agriculture and Rural Development, the Committee on the Environment, Public Health and Consumer Policy and the Committee on Industry, External Trade, Research and Energy are attached; the Committee on Regional Policy, Transport and Tourism decided on 22 January 2002 not to deliver an opinion.

The report was tabled on 4 June 2002.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.

## DRAFT LEGISLATIVE RESOLUTION

**European Parliament legislative resolution on the proposal for a Council directive on amending Directive 92/81/EEC with regard to the possibility of applying a reduced rate of excise duty on certain mineral oils containing biofuels and on biofuels (COM(2001) 547 – C5-0030/2002 – 2001/0266(CNS))**

### **(Consultation procedure)**

*The European Parliament,*

- having regard to the Commission proposal to the Council (COM(2001) 547<sup>1</sup>),
  - having been consulted by the Council pursuant to Article 93 of the EC Treaty (C5-0030/2002),
  - having regard to Rule 67 of its Rules of Procedure,
  - having regard to the report of the Committee on Economic and Monetary Affairs and the opinions of the Committee on Agriculture and Rural Development, the Committee on the Environment, Public Health and Consumer Policy and the Committee on Industry, External Trade, Research and Energy (A5-0218/2002),
1. Approves the Commission proposal as amended;
  2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;
  3. Calls on the Council to notify Parliament should it intend to depart from the text approved by Parliament;
  4. Asks to be consulted again if the Council intends to amend the Commission proposal substantially;
  5. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission

Amendments by Parliament

Amendment 1  
Recital 2a (new)

***(2a) The Commission White Paper on European transport policy (COM(2001)370) expects CO<sub>2</sub> emissions from transport to rise by 50% between 1990 and 2010, to around 1113 billion tonnes, the main responsibility resting***

<sup>1</sup> OJ C 103 E 30.4.2002, p. 217.

*with road transport, which accounts for 84% of transport-related CO<sub>2</sub> emissions. From an ecological point of view, the White Paper therefore calls for dependence on oil (currently 98%) in the transport sector to be reduced by using alternative fuels such as biofuels.*

*Justification*

*CO<sub>2</sub> emissions in the transport sectors can be expected to increase sharply. Biofuels are CO<sub>2</sub>-neutral and help protect the climate.*

Amendment 2

Recital 4

(4)The Communication of the Commission entitled ‘A Sustainable Europe for a Better World: A European Union Strategy for Sustainable Development ’(3 ), highlights the important role of alternative fuels, including biofuels, in tackling climate change and in the development of clean energies.

(4)The Communication of the Commission entitled ‘A Sustainable Europe for a Better World: A European Union Strategy for Sustainable Development ’(3 ), highlights the important role of alternative fuels, including biofuels, in tackling climate change and in the development of clean energies. ***In this connection, consideration should also be given to pure, cold-pressed vegetable oil, such as rapeseed oil, which does not undergo any chemical change and can thus be produced in an environmentally friendly way, and whose by-products also contain protein and can be used as animal feed.***

*Justification*

*The use of pure vegetable oil offers many advantages, including environmentally friendly, often local production, diversification of the landscape and the possibility of using by-products as animal feed, of which there is a major shortage in the EU.*

Amendment 3

Recital 4 a (new)

***(4a) With a view to fulfilling the objectives in respect of sustainable development and environmental protection, the policy choices made with regard to the promotion of biofuels should minimise the harmful effects on agriculture, employment and land***

*use.*

*Justification*

*Self-explanatory.*

Amendment 4  
Recital 4a (new)

***(4a) World oil consumption is estimated at around 115 million barrels a day in 2020, as compared with around 77 million barrels a day in 2000. The transport sector will account for 71% of final demand for oil in 2020. The Commission also expects the European Union's dependence on oil imports to rise from its current rate of 75% to over 85% in 2020. (The European Union's oil supply, COM(2000) 631.***

*Justification*

*The security of energy supply is extremely important in the European Union. Biofuels can be produced in the EU and contribute to a secure energy supply.*

Amendment 5  
Recital 7

(7) It is therefore desirable to establish a Community framework for reducing excise duties so as to promote biofuels, thereby contributing to the better functioning of the internal market and affording Member States and economic operators a sufficient degree of legal certainty.

(7) It is therefore desirable to establish a Community framework for reducing ***and providing an exemption from*** excise duties so as to promote biofuels, thereby ***complying with the objectives of promoting the use of biofuels,*** contributing to the better functioning of the internal market and affording Member States and economic operators a sufficient degree of legal certainty.



*Justification*

*The amendment to Directive 92/81/EEC must be considered in conjunction with the proposal on the promotion of the use of biofuels. Pure biofuels are currently competitive only if they are exempt from tax.*

Amendment 6  
Recital 7 a (new)

***7 a. Where more favourable national taxation framework conditions already exist or have already been submitted before 1 January 2003, these shall be kept in place until the quantitative objectives for biofuels produced in the EU proposed in this directive have been achieved.***

*Justification*

*The use of biofuels should be stimulated where possible without this resulting in competition disputes between the Member States.*

Amendment 7  
Recital 10 a (new)

***(10a) At present not all the biofuels available on the market meet strict environmental efficiency criteria. In some cases their production is linked to very high energy input and greenhouse gas emissions. However, technological advances in this area can only lead to improvements. Consequently research and technological development in the field of the sustainability of biofuels must be promoted.***

*Justification*

*In the long term the use of biofuels only makes any sense if not too much energy is used or greenhouse gases emitted in their production. Research in this area therefore needs to be supported.*

Amendment 8  
Recital 16 a (new)

***(16a) Article 4(3) of Directive 92/81 EEC of 19 October 1992 provides that 'the consumption of mineral oils within the curtilage of an establishment producing mineral oils shall not be considered a chargeable event giving rise to excise duty as long as the consumption is for the purpose of such production'; for reasons of equity, it should therefore be stipulated that the consumption of biofuels within the curtilage of an agricultural holding producing biofuels should not be regarded as a chargeable event giving rise to excise duty as long as the consumption is for the purpose of such production.***

*Justification*

*It is only right that the exemption applying to intermediate consumption in the oil sector should also apply to the biofuels sector.*

Amendment 9  
ARTICLE 1, POINT 3A (NEW)

Article 4, paragraph 3 (Directive 92/81/EEC)

***3a. Article 4(3) is amended as follows:***

The consumption of mineral oils within the

The consumption of mineral oils within the

curtilage of an establishment producing mineral oils shall not be considered a chargeable event giving rise to excise duty as long as the consumption is for the purpose of such production.

curtilage of an establishment producing mineral oils shall not be considered a chargeable event giving rise to excise duty as long as the consumption is for the purpose of such production.

***Similarly, the consumption of biofuels within the curtilage of agricultural holdings and agricultural trade organisations producing biofuels shall not be considered a chargeable event giving rise to excise duty as long as the consumption is for the purpose of such production.***

However, where such consumption is for purposes not related to that production and in particular for the propulsion of vehicles, this shall be considered a chargeable event giving rise to excise duty.

However, where such consumption is for purposes not related to that production and in particular for the propulsion of vehicles, this shall be considered a chargeable event giving rise to excise duty.

#### *Justification*

*It is only right that the exemption applying to intermediate consumption in the oil sector should also apply to the biofuels sector.*

#### Amendment 10

#### ARTICLE 1, POINT 4

Article 8 c, paragraph 2, first subparagraph (Directive 92/81/EEC)

2. The levels of taxation applied by Member States on the products made up of or containing biofuels referred to in Article 8b may be lower than the minimum rates specified in Directive 92/82/EEC.

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***Particularly low tax rates should be set for those fuels which meet particularly stringent environmental criteria.***

*Justification*

*In the long term, priority should be given throughout Europe to promoting those biofuels which show high efficiency, in other words, whose production involves the smallest possible greenhouse gas emissions and minimises other environmental damage.*

Amendment 11

ARTICLE 1, POINT 4

Article 8 c, paragraph 2 (Directive 92/81/EEC)

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***However, the level of taxation of these products, if intended for use, offered for sale or used as motor fuel, may not be lower than 50 % of the normal rate of excise duty applied by the Member State on corresponding fuels.***

“Level of taxation” shall mean the total amount of all indirect taxes charged, except value added tax, calculated directly or indirectly on the quantity of product consumed.

“Level of taxation” shall mean the total amount of all indirect taxes charged, except value added tax, calculated directly or indirectly on the quantity of product consumed.

*Justification*

*A rate of duty of under 50% can in certain cases be a very powerful incentive.*

Amendment 12

ARTICLE 1, PARAGRAPH 4

Article 8 c, paragraph 2, subparagraph 1 (Directive 92/81/EEC)

2. The levels of taxation applied by Member States on the products made up of or containing biofuels referred to in Article 8b

2. The levels of taxation applied by Member States on the products made up of or containing biofuels referred to in Article 8b may be lower than the minimum rates

may be lower than the minimum rates specified in Directive 92/82/EEC.

specified in Directive 92/82/EEC, **and a total tax exemption may be applied for unblended biofuels.**

*Justification*

*It must be possible for the Member States to ensure that biofuels can compete with mineral oils. Account must be taken of the far higher production costs of biofuels. The Commission proposals would put a brake on the necessary development initiatives and are already hindering investments made previously and pending investment decisions.*

Amendment 13  
ARTICLE 1, POINT 4  
Article 8 c, paragraph 3 (Directive 92/81/EEC)

**3. The Member States, which on 1 January 2001 totally exempted products solely made up of biofuels, may continue totally to exempt those products until 31 December 2003.** *Delete*

*Justification*

*The transition period is no longer necessary following the adoption of amendment 6 and 11, which allow for a full exoneration.*

Amendment 14  
ARTICLE 1, POINT 4  
Article 8 d (Directive 92/81/EEC)

Products made up of or containing biofuels referred to in Article 8b, used by **local** public passenger transport, including taxis, and by vehicles operated under the responsibility of a public authority may qualify, under fiscal control, for an

Products made up of or containing biofuels referred to in Article 8b, used by public passenger transport, including taxis, and by vehicles operated under the responsibility of a public authority may qualify, under fiscal control, for an additional reduction of a

additional reduction of a value equivalent to the reduction provided for Article 8b.

value equivalent to the reduction provided for Article 8b.

*Justification*

*Self-explanatory.*

Amendment 15  
ARTICLE 1, PARAGRAPH (4)  
Article 8g (Directive 92/81/EEC)

Member States shall communicate to the Commission the schedule of excise duty reductions applied in accordance with point IIa by 31 December 2002 and every twelve months thereafter.

Member States shall communicate to the Commission **and to the European Parliament** the schedule of excise duty reductions applied in accordance with point IIa by 31 December 2002 and every twelve months thereafter.

*Justification*

*It is vital that the European Parliament, as the EU institution which exercises the power of democratic supervision, is kept informed as well.*

Amendment 16  
ARTICLE 1, POINT 4  
Article 8 h (Directive 92/81/EEC)

No later than 31 December 2007 the Commission shall report to the Council on the fiscal, economic, agricultural, energy, industrial and environmental aspects of the reductions granted in accordance with this point IIa. Additional exemptions or reductions granted in favour of biofuels according to the procedure of Article 8(4) of Directive 92/81/EEC shall also be reviewed. The Commission shall, if necessary, put

No later 31 December 2007 the Commission shall report to the Council **and Parliament** on the fiscal, economic, agricultural, energy, industrial and environmental aspects of the reductions granted in accordance with this point IIa. Additional exemptions or reductions granted in favour of biofuels according to the procedure of Article 8(4) of Directive 92/81/EEC shall also be reviewed. The Commission shall, if necessary, put

forward proposals for their abolition,  
amendment or extension.’

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amendment or extension.”

*Justification*

*Self-explanatory.*

## EXPLANATORY STATEMENT

### ***Background***

Over the years biofuels have emerged as one of the key alternatives to fossil fuels. The oil crisis in the early 1970s highlighted the problem of dependence on external fuel supply. This, coupled with the more recent commitments to reduce greenhouse gas emissions, has given a new impetus to the search for alternatives to fossil fuels.

Thus in its Green Paper on a Strategy for the Security of Energy Supply the Commission introduced the objective of achieving 20% use of substitute fuels in road transport by the year 2020. A key recommendation for meeting this commitment related to the promotion of biofuels.

However, biofuels are rarely used at present, mainly because they are expensive to produce. The Commission estimates that the additional cost of biofuels is in the order of EUR 300 per 1000 litres of conventional fuel replaced. Thus, according to the Commission's calculations, it would take an oil price of around EUR 70/barrel to allow biofuels to break even with conventional diesel and gasoline. With the oil price at around USD 20/barrel in February 2002, the drawback in respect of biofuels is clear.

Tax reductions are crucial to overcoming this competitive handicap vis-à-vis traditional fuels. Indeed, the idea of favourable tax arrangements for biofuels is nothing new. Back in 1992, under the so-called Scrivener proposal, the Commission had suggested preferential tax arrangements for biofuels of agricultural origin. This proposal was not adopted by the Council. Member States may, however, submit individual applications to apply a reduced rate to biofuels. So far, six countries have secured a full or partial exemption for biofuels.

In order to implement its strategy, the Commission is proposing two directives. The first defines a 'mandatory blending' of biofuels in fuels for the transport sector, with fixed medium-term targets for the market share of biofuels as a percentage of sales of gasoline and petrol. The 2% target set for 2005 will increase each year, reaching 5.75% in 2010. The second directive is the 'biofuels taxation' directive, which amends the 1992 mineral oil directive in two ways: firstly, it places fuels produced from the biomass alongside 'mineral oil'; and secondly, it establishes preferential tax arrangements for those biofuels.

### ***The transparent and centralised approach versus the parallel and decentralised approach***

Whereas the Commission proposals treat biofuels as one of a number of alternatives to fossil fuels, the concept of biofuels actually covers a range of products and production options. In particular, a distinction should be made between two divergent approaches. On the one hand there is what your rapporteur would call the *pure plant oil* approach; on the other there is the *mixed biofuel/fossil fuel* approach.

The Commission clearly prefers the latter approach, which will tie in as smoothly as possible with the existing distribution and economic framework. In practical terms this means that those biofuels that are '100% compatible' and *can be blended* with gasoline and diesel will be preferred. However, from the production point of view this approach is more complicated, as it requires chemical changes and high energy input to make plant oil compatible with engine



fuel. This will lead to the development of large, centralised refining centres. Also, while this approach may use the existing distribution network, it will at the same time make it difficult for motorists to feel that they are contributing actively towards making car use more sustainable.

The *mixed biofuel/fossil* approach presents advantages in view of the medium-term objectives (5.75% market share by 2010) because introduction onto the market would be transparent for the end user and not require changes to car engines.

The *pure plant oil* approach is, technically speaking, less burdensome on the production side (no chemical processes and low-energy cold pressing) but requires a separate distribution network and modification of existing diesel engines (that can still run on diesel). Because of its non-toxic nature and its allowance for smaller refining units, this approach would probably bring the greatest long-term benefits in terms of regional development, environmental balance and job creation.

Furthermore, promoting pure plant oils will create enhanced environmental awareness among the population, along with greater environmental advantages, including the prevention of groundwater pollution. Furthermore, it will present a viable starting point for the transition to a future transport sector with pure energy forms. Agriculture also stands to gain from this. With tax exemptions in place it will be feasible to run buses, taxis and private cars exclusively on pure plant oil. Like other renewable energy forms, the production of plant oil is decentralised. In order to minimise the transportation of oil and concentrates it is more efficient to place production and use within the local community, which will then obtain the resultant economic benefits.

### ***Differentiated taxation approach***

While your rapporteur believes that in the long term the pure plant oil approach could reap the greatest economic, social and environmental benefits, he acknowledges that it alone will not enable the medium-term objectives to be reached. Both approaches should therefore be encouraged, but because of the greater initial obstacles that the pure plant oil approach faces, it should receive additional encouragement.

Your rapporteur agrees with the Commission proposal to allow Member States the option of introducing a 50% tax reduction on the whole biofuels product range. However, he also favours introducing differentiated tax arrangements within the biofuels category of products, based on the approaches described above. Thus biofuels produced in a more environmentally friendly way should be eligible for a greater tax reductions.

The Commission proposal introduces a range of new product codes in the definition of 'mineral oils' in order to apply to them the taxation rules set out in directive 92/81/EEC. Your rapporteur suggests creating a distinction within this product range by introducing **the pure plant oil** category (*edible oil*, CN codes 1507 to 1516) and the **chemically modified vegetable/animal oil** category (CN codes 1516 to 1518).

Finally, your rapporteur proposes applying differentiated tax arrangements to the **pure plant oil** category by amending Article 4(3) of the directive on total tax exemptions for oils consumed on the production site. He believes this could be an incentive for the use and

development of pure plant oils.

17 April 2002

## **OPINION OF THE COMMITTEE ON AGRICULTURE AND RURAL DEVELOPMENT**

for the Committee on Economic and Monetary Affairs

on the proposal for a Council directive amending Directive 92/81/EEC with regard to the possibility of applying a reduced rate of excise duty on certain mineral oils containing biofuels and on biofuels  
((2001) 547 – C5-0030/2002 – 2001/0266(CNS))

Draftsman: Dominique F.C. Souchet

### **PROCEDURE**

The Committee on Agriculture and Rural Development appointed Dominique F.C. Souchet draftsman at its meeting of 19 February 2002.

It considered the draft opinion at its meetings of 15 and 17 April 2002.

At the last meeting it adopted the following amendments unanimously.

The following were present for the vote: Joseph Daul, chairman; Friedrich-Wilhelm Graefe zu Baringdorf, Albert Jan Maat and María Rodríguez Ramos, vice-chairmen; Dominique F.C. Souchet, draftsman; Gordon J. Adam, Danielle Auroi, Alexandros Baltas (for Vincenzo Lavarra), Carlos Bautista Ojeda, Sergio Berlato, Niels Busk, Arlindo Cunha, Michl Ebner, Francesco Fiori, Jean-Claude Fruteau, Georges Garot, Lutz Goepel, Willi Görlach, Liam Hyland, Salvador Jové Peres, Hedwig Keppelhoff-Wiechert, Heinz Kindermann, Astrid Lulling (for Christos Folias), Xaver Mayer, Jan Mulder (for Giovanni Procacci), Karl Erik Olsson, Neil Parish, Ioannis Patakis (for Dimitrios Koulourianos), Mikko Pesälä, Christa Prets (for María Izquierdo Rojo), Encarnación Redondo Jiménez, Agnes Schierhuber, Robert William Sturdy and Eurig Wyn (for Giorgio Celli).

## SHORT JUSTIFICATION

### GENERAL

The development of biofuels is part of a twofold approach:

- firstly, a strategy to reduce the European Union's energy dependence vis-à-vis a small number of oil exporting countries, in particular in the Middle East;
- secondly, the commitments made by European countries that have signed the Kyoto Protocol to reduce greenhouse gas emissions.

Against this background, the Commission's Green Paper 'Towards the European Strategy for the security of energy supply' proposes the objective of 20% substitution by alternative fuels in the road transport sector by the year 2020.

This is a very ambitious objective: the car manufacturing and oil sectors have built up vast experience and huge volumes of production over a century using petrol only solutions, which makes it difficult for innovations to penetrate the market when they come from outside these sectors. The Member States are therefore justified in using tax differentials designed to make other options competitive, at least during their start-up phase.

There is no doubt that this is start-up aid because, although it is true that biofuels are currently handicapped by an additional cost of €0.30 per litre, this handicap is likely to reduce in the years ahead: the oil price will rise as oil becomes scarcer and the exploitation of oilfields more expensive because of access difficulties, and biofuels will become cheaper as the cost of the agricultural raw materials falls and economies of scale and the learning curve bring benefits to the biofuels sector.

In addition to this start-up aid, there are three arguments in favour of permanent tax differentials for biofuels compared to fossil fuels, to which they can provide an alternative in the road transport sector:

- sustainability: biofuels are a renewable source of energy whereas fossil fuels are not. The consumption of non-renewable resources is an external factor, the cost of which should be charged to products derived from fossil fuels through an appropriate surtax.
- the contribution to combating the greenhouse effect: biofuels are neutral from the point of view of carbon dioxide emissions as the carbon they contain has first been taken out of the atmosphere by the crop through photosynthesis. The destocking of fossil carbon is an external cost which should be charged to the petroleum sector through an appropriate tax. This is the argument for tax relief on unleaded fuels, at a comparable fiscal cost, and which has speeded up their use.
- Community preference: biofuels produced from Community crops are 100% indigenous, thus helping not only to reduce the Union's energy dependence but also to provide an outlet for the Union's agricultural production. Moreover, biofuel production sectors have by-products that are rich in vegetable protein and could help make up the EU's substantial shortfall in this vital area.

Permanent differentiated tax treatment for biofuels will therefore merely restore economic reality by charging the oil sector the external costs currently borne by the economy. There is clearly no intention on the part of legislators to tax biofuels in exactly the same way as fossil fuels since most of the Member States refer to the excise duty in question as a 'tax on petroleum products', which does not cover biofuels; Directive 92/81/EEC, which the current proposal seeks to modify, relates to the 'harmonisation of excise duty on mineral oils', which does not concern biofuels either.

The aim is that the provisions applying to certain products which already enjoy more favourable tax treatment (LPG, NGV, unleaded petrol) or tax exemption (electric vehicles) because of their contribution to reducing the greenhouse effect, should also be applied to renewable sources of energy.

## **SUBSTANCE OF THE PROPOSAL**

The Commission proposes to amend Directive 92/81/EC, which harmonises the excise duty structure for certain mineral oils and specifies cases of compulsory exemption and cases where the Member States may apply reduced rates. The amendments proposed would authorise the Member States to cut excise duty by up to 50% by 31 December 2010 on products which are made up of, or contain, biofuels or products produced from biomass.

## **CONCLUSIONS**

As a whole, the Commission's tax proposal is a useful step forward which, combined with the requirement to market a minimum percentage of biofuels in fuel distribution for the road haulage sector, could help the EU achieve the objective of 20% biofuel substitution by 2020. However, your draftsman proposes a number of amendments to make this tax package even more effective.

## **AMENDMENTS**

The Committee on Agriculture and Rural Development calls on the Committee on Economic and Monetary Affairs, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Commission<sup>1</sup>

Amendments by Parliament

Amendment 1  
Recital 5 a (new)

***(5a) The biofuels production sectors have by-products that are rich in vegetable protein which can be used for animal feed helping to reduce the EU's substantial shortfall in this area.***

*Justification*

*The production of protein fodder crops as by-products of biofuels (oil cake in the case of vegetable oils and spent grain in the case of cereal-based ethanol) is a substantial benefit as the EU's shortfall, of 75% of its requirements, has been further exacerbated by the ban on meat and bone meal in animal feed.*

Amendment 2  
Recital 6

(6) The relative prices of energy products are key factors in the Community's environmental protection, energy and transport policies. As biofuels are subject to taxation under Council Directive 92/81/EEC of 19 October 1992 on the harmonisation of the structures of excise duties on mineral oils, appropriate differentiation of excise rates would contribute to the development of the biofuel industry by lowering the high cost of producing biofuels as compared to fossil fuels.

(6) The relative prices of energy products are key factors in the Community's environmental protection, energy and transport policies. As biofuels are subject to taxation under Council Directive 92/81/EEC of 19 October 1992 on the harmonisation of the structures of excise duties on mineral oils, appropriate differentiation of excise rates would contribute to the development of the biofuel industry by lowering the high cost of producing biofuels as compared to fossil fuels, ***and by restoring economic reality by***

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<sup>1</sup> OJ C not yet published.

***making the oil sector bear the external costs chargeable to it.***

*Justification*

*The concept of external costs should be mentioned in this recital because it is this that is the justification for the principle of differentiated tax treatment for renewable fuels.*

Amendment 3  
Recital 12

(12) Special measures are required for local public passenger transport, including taxis, and public authority-operated vehicles. ***A transitory period should be allowed in favour of unblended biofuels, which have been totally exempted from excise duty since 1 January 2001.***

(12) Special measures are required for local public passenger transport, including taxis, and public authority-operated vehicles.

*Justification*

*It must continue to be possible for pure biofuels to be fully tax-exempt to ensure that they are competitive vis-à-vis petroleum products.*

Amendment 4  
Recital 12 a (new)

***(12a) In view of the importance of biofuels for the environment, consumers and producers and in order to ensure that they are competitive vis-à-vis petroleum products, pure biofuels which were fully tax-exempt before 1 January 2001 should continue to be exempt.***

*Justification*

*A time limit would be at odds with efforts to step up the production and use of biodiesel and would undermine measures being taken by the Member States.*

Amendment 5  
Recital 14

(14) The duration of reductions in excise rates should be **limited** so as to **enable their application to be monitored..**

(14) The duration of reductions in excise rates should be **unlimited** so as to **encourage the necessary development initiatives.**

*Justification*

*Limiting the duration of preferential rates of excise duty would slow down investment and investment decisions in the pipeline.*

Amendment 6  
Recital 15

**(15) A multiannual programme of a maximum length of six years is sufficient for planning investment projects in the sectors concerned.**

**deleted**

*Justification*

*As external costs in the oil sector are not of limited duration, the principle of differentiated tax treatment of renewable fuels must be valid permanently. This recital should therefore be deleted.*

Amendment 7  
Recital 16

(16) Certain biofuels, if intended for use as motor fuel or heating fuel, **should be** treated as mineral oils in order to bring them within the scope of Council Directive 92/12/EEC of 25 February 1992 on the general arrangements for products subject to excise duty and on the holding,

(16) **It has become the practice for** certain biofuels, if intended for use as motor fuel or heating fuel, **to be** treated as mineral oils in order to bring them within the scope of Council Directive 92/12/EEC of 25 February 1992 on the general arrangements for products subject to excise duty and on



movement and monitoring of such products. ***Implementing measures should define at Community level what is to be understood by a product intended for use as motor fuel or heating fuel.***

the holding, movement and monitoring of such products.

#### *Justification*

*It is not correct to say that biofuels, which are renewables, must be treated as mineral oils, the sole purpose of this broader definition of mineral oils was to widen the tax base.*

Amendment 8  
Recital 16 a (new)

***(16a) Article 4(3) of Directive 92/81 EEC of 19 October 1992 provides that 'the consumption of mineral oils within the curtilage of an establishment producing mineral oils shall not be considered a chargeable event giving rise to excise duty as long as the consumption is for the purpose of such production'; for reasons of equity, it should therefore be stipulated that the consumption of biofuels within the curtilage of an agricultural holding producing biofuels should not be regarded as a chargeable event giving rise to excise duty as long as the consumption is for the purpose of such production.***

*Justification*

*It is only right that the exemption applying to intermediate consumption in the oil sector should also apply to the biofuels sector.*

Amendment 9  
ARTICLE 1, POINT 3A (NEW)

Article 4, paragraph 3 (Directive 92/81/EEC)

***3a. Article 4(3) is amended as follows:***

The consumption of mineral oils within the curtilage of an establishment producing mineral oils shall not be considered a chargeable event giving rise to excise duty as long as the consumption is for the purpose of such production.

The consumption of mineral oils within the curtilage of an establishment producing mineral oils shall not be considered a chargeable event giving rise to excise duty as long as the consumption is for the purpose of such production.

***Similarly, the consumption of biofuels within the curtilage of agricultural holdings and agricultural trade organisations producing biofuels shall not***

***be considered a chargeable event giving rise to excise duty as long as the consumption is for the purpose of such production.***

However, where such consumption is for purposes not related to that production and in particular for the propulsion of vehicles, this shall be considered a chargeable event giving rise to excise duty.

However, where such consumption is for purposes not related to that production and in particular for the propulsion of vehicles, this shall be considered a chargeable event giving rise to excise duty.

#### *Justification*

*It is only right that the exemption applying to intermediate consumption in the oil sector should also apply to the biofuels sector.*

#### Amendment 10 ARTICLE 1, POINT 4 - IIA

#### Article 8b

***From 1 January 2002 to 31 December 2010***, Member States may, ***without prejudice to Article 8f***, apply a reduced rate of excise duty under fiscal control on the taxable products referred to in Article 2 where such products are made up of, or contain, one or more of the following biofuels:

Member States may apply a reduced rate of excise duty under fiscal control on the taxable products referred to in Article 2 where such products are made up of, or contain, one or more of the following biofuels ***or grant an exemption in the case of pure biofuels, on condition that these biofuels have been produced in the European Union from a raw material of European origin:***

### *Justification*

*There is no particular reason to limit differentiated tax treatment in time as the external costs in the oil sector will continue after 2010. It should also be stipulated that biofuels must be of European Union origin otherwise the EU would not be able to count any resulting greenhouse gas reductions towards its efforts to meet its Kyoto commitments, moreover this directive would not contribute to the objective of reducing energy dependence and dependence on fodder proteins.*

*Limiting the duration of the preferential rate of excise duty is inconsistent with the need to increase biofuels' share of the total market. It would slow down the necessary development initiatives and would block investment and investment decisions in the pipeline.*

### Amendment 11

#### ARTICLE 1 POINT 4

#### Ila. Reductions for biofuels

#### Article 8c, point 2 (Directive 92/81/EEC)

2. The levels of taxation applied by Member States on the products made up of or containing biofuels referred to in Article 8b may be lower than the minimum rates specified in Directive 92/82/EEC.

***However, the level of taxation of these products, if intended for use, offered for sale or used as motor fuel, may not be lower than 50% of the normal rate of excise duty applied by the Member State on corresponding fuels.***

“Level of taxation” shall mean the total amount of all indirect taxes charged, except value added tax, calculated directly or indirectly on the quantity of product consumed.

2. The levels of taxation applied by Member States on the products made up of or containing biofuels referred to in Article 8b may be lower than the minimum rates specified in Directive 92/82/EEC ***or provide for full tax exemption in the case of pure biofuels.***

“Level of taxation” shall mean the total amount of all indirect taxes charged, except value added tax, calculated directly or indirectly on the quantity of product consumed.

### *Justification*

*The Member States must be able to ensure that biofuels can compete with mineral oils. A way must be found to take account of the disproportionately higher production costs of biofuels. The Commission's proposals would slow down the necessary development initiatives and stand in the way of investments already made and investment decisions in the pipeline.*

Amendment 12  
ARTICLE 1 POINT 4  
IIa. Reductions for biofuels  
Article 8d, point 3 (Directive 92/81/EEC)

3. The Member States, which on 1 January 2001 totally exempted products solely made up of biofuels, may continue totally to exempt those products ***until 31 December 2003***.

3. The Member States, which on 1 January 2001 totally exempted products solely made up of biofuels, may continue totally to exempt those products.

*Justification*

*A time limit would undermine the efforts of the Member States and impede investments already made and in the pipeline. In order to meet the objectives of this Directive and take account of the associated environmental, energy, agricultural and labour market policy aspects, it must continue to be possible to allow full tax exemption.*

Amendment 13  
ARTICLE 1, POINT 4 - IIA

Article 8e

The reduction in excise duty applied by Member States ***shall be*** adjusted to take account of changes in raw material prices ***to avoid over-compensating for the extra costs involved in the manufacture of biofuels in the event of a sustained rise in the price of crude oil.***  
***Adjustments shall be made according to the variation in crude oil prices over the previous twelve months. The price variations shall be calculated using the 'Brent dated' monthly average oil price.***

The reduction in excise duty applied by Member States ***may be*** adjusted to take account of changes in ***oil and agricultural*** raw material prices, ***industrial costs and the economic value attributed to external costs in the oil sector, to ensure that these reductions reflect economic reality as far as possible by making the oil sector bear the external costs chargeable to it.***

### *Justification*

*There is no reason to require Member States to apply such indexing as they may prefer fixed rates of excise duty; however, if they wish to apply a formula of this kind, it is not only the oil price that has to be taken into account but all the parameters for comparing the oil and biofuels sectors.*

23 May 2002

## **OPINION OF THE COMMITTEE ON THE ENVIRONMENT, PUBLIC HEALTH AND CONSUMER POLICY**

for the Committee on Economic and Monetary Affairs

on the proposal for a Council directive amending Directive 92/81/EEC with regard to the possibility of applying a reduced rate of excise duty on certain mineral oils containing biofuels and on biofuels  
(COM(2001) 547 – C5-0030/2002 – 2001/0266(CNS))

Draftsman: Hans Kronberger

### **PROCEDURE**

The Committee on the Environment, Public Health and Consumer Policy appointed Hans Kronberger draftsman at its meeting of 19 February 2002.

It considered the draft opinion at its meetings of 22 April 2002 and 23 May 2002.

At the latter meeting it adopted the following amendments by 10 votes to 7, with no abstentions.

The following were present for the vote: Caroline F. Jackson, chairman; Mauro Nobilia and Anneli Hulthén, vice-chairmen; Hans Kronberger, draftsman; and María del Pilar Ayuso González, Hans Blokland, John Bowis, Dorette Corbey, Avril Doyle, Marialiese Flemming, Bernd Lange, Paul A.A.J.G. Lannoye (for Hiltrud Breyer), Peter Liese, Eluned Morgan (for David Robert Bowe), Emilia Franziska Müller, Riitta Myller and Dagmar Roth-Behrendt.

## SHORT JUSTIFICATION

### I. Background

Biofuels can be produced in many different ways and offer a particularly environmentally friendly alternative to fossil fuels. The Commission also stresses in its communication (COM(2001) 547) that 'in principle biofuels offer an ideal alternative since, when based on EU-grown crops, they are practically 100% indigenous and CO<sub>2</sub> neutral since their carbon content is captured from the atmosphere'.

The use of biofuels would above all help to cut damaging CO<sub>2</sub> emissions in the transport sector and meet the commitments laid down in the Kyoto Protocol. In its White Paper on European transport policy (COM(2001) 370), the Commission estimates that CO<sub>2</sub> emissions from transport can be expected to increase by around 50% between 1990 and 2010, with most of the blame being placed on road transport. The White Paper on European transport policy therefore calls for dependence on oil to be reduced by using biofuels. Around 2-2.5 tonnes CO<sub>2</sub> /1000 l could be saved through using biofuels (COM(2001) 547).

With regard to the security of energy supply, the Commission expects the EU's dependence on oil imports to increase from its current level of 75% to over 85% by 2020 (COM(2000) 631). The transport sector will account for 71% of final demand for oil in 2020. Shortfalls in supply in recent years have already shown how unstable crude oil prices are and how quickly high prices for crude oil can lead to economic and social problems. Biofuels provide an opportunity for diversification and can thereby help to stabilise the situation and contribute to security of supply.

Biofuels also offer new sources of income in agriculture. Commission studies indicate a rate of economic impact ranging from 16 to 26 employees per Ktoe/year. This will open up new possibilities in the applicant countries. However, clear guidelines will need to be given for the sustainable production of raw materials for biofuels as part of the common agricultural policy so that ecological benefits can also be guaranteed at the level of production.

The Commission itself notes in its communication (COM(2001) 547) that 'there is no doubt that promotion of the use of biofuels in the EU is desired at political level for the reasons of sustainable development, CO<sub>2</sub> reduction, security of supply and the additional positive influence on rural development and agriculture policy'.

### II. Remarks

The Commission communication on alternative fuels for road transportation and on a set of measures to promote the use of biofuels (COM(2001) 547) contains two proposals: the proposal for a directive on the promotion of the use of biofuels for transport and the proposal for a directive amending Directive 92/81/EEC. The amendment to Directive 92/81/EEC is intended to create a Community legal framework for reducing excise duty on biofuels together with an instrument aimed at gradually expanding the share of biofuels in line with the targets set.

The Commission's proposed amendment to Directive 92/81/EEC provides for a possible 50%



reduction in excise duty on biofuels. However, the higher production costs for biofuels currently make a complete tax exemption necessary in order to ensure that the use of pure biofuels can remain competitive and provide an incentive for their wider use. A restrictive reduction of up to 50% in the rate of excise duty would slow down the development of the biofuel market and make it unprofitable to produce pure biofuels. Member States which have already introduced more favourable tax provisions and corresponding programmes should be able to continue them with a view to the desired expansion in biofuel production. Bearing in mind the targets set, there should either be no time limit or at least a suitable guaranteed period of nine years.

The Commission is proposing that excise duty reductions be adjusted in line with developments in crude oil prices so as to avoid over-compensating for the extra cost of production. However, this adjustment should be based on the variables which influence the production costs of biofuels. Each Member State should therefore use indicators for adjusting excise duty reductions which adequately and objectively reflect the costs of biofuel production. An analysis should also be carried out of the actual situation as regards biofuels in the individual Member States and in the European Union as a whole, which would serve as the basis for further measures.

## AMENDMENTS

The Committee on the Environment, Public Health and Consumer Policy calls on the Committee on Economic and Monetary Affairs, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Commission<sup>1</sup>

Amendments by Parliament

Amendment 1  
Recital 2a (new)

***(2a) The Commission White Paper on European transport policy (COM(2001)370) expects CO<sub>2</sub> emissions from transport to rise by 50% between 1990 and 2010, to around 1113 billion tonnes, the main responsibility resting with road transport, which accounts for 84% of transport-related CO<sub>2</sub> emissions. From an ecological point of view, the White Paper therefore calls for dependence on oil (currently 98%) in the transport sector to be reduced by using***

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<sup>1</sup> OJ C .

*alternative fuels such as biofuels.*

*Justification*

*CO<sub>2</sub> emissions in the transport sectors can be expected to increase sharply. Biofuels are CO<sub>2</sub>-neutral and help protect the climate.*

Amendment 2  
Recital 4a (new)

***(4a) World oil consumption is estimated at around 115 million barrels a day in 2020, as compared with around 77 million barrels a day in 2000. The transport sector will account for 71% of final demand for oil in 2020. The Commission also expects the European Union's dependence on oil imports to rise from its current rate of 75% to over 85% in 2020. (The European Union's oil supply, COM(2000) 631.***

*Justification*

*The security of energy supply is extremely important in the European Union. Biofuels can be produced in the EU and contribute to a secure energy supply.*

Amendment 3  
Recital 5 a (new)

***(5a) The increased use of biofuels must be accompanied by a careful analysis of the environmental impact in relation to the cultivation, processing and consumption of raw materials. Increased use appears desirable only if the environmental impact presents clear advantages by comparison with the use of traditional fuels. In particular, a study should be carried out into land use, more intensive agriculture,***

*the relationship with an alternative sustainable land use, the protection of water, energy efficiency, greenhouse gas potential, combustion characteristics and particle formation.*

*Justification*

*Self-explanatory.*

Amendment 4  
Recital 6 b (new)

*(6b) With a view to fulfilling the objectives in respect of sustainable development and in particular slowing down the climate change, there is a need to differentiate pricing on fuels in order to internalise their ecological, social and economic cost. The long-term change in the Community should be supported by a short-term review of the existing legal framework.*

*Justification*

*Increased use of biofuels is vital for the EU because of reducing GHG emissions, increasing self-sufficiency, and because of their positive social and economic impact on society. The current proposals for promoting biofuels are sufficient for the short term. In the long term there is a need to improve the pricing mechanism in order to promote sustainability in the energy and transport industries.*

Amendment 5  
Recital 7

(7) It is therefore desirable to establish a Community framework for reducing excise duties so as to promote biofuels, thereby contributing to the better functioning of the internal market and affording Member

(7) It is therefore desirable to establish a Community framework for reducing **and providing an exemption from** excise duties so as to promote biofuels, thereby **complying with the objectives of**

States and economic operators a sufficient degree of legal certainty.

***promoting the use of biofuels***, contributing to the better functioning of the internal market and affording Member States and economic operators a sufficient degree of legal certainty.

#### *Justification*

*The amendment to Directive 92/81/EEC must be considered in conjunction with the proposal on the promotion of the use of biofuels. Pure biofuels are currently competitive only if they are exempt from tax.*

Amendment 6  
Recital 8a (new)

***(8a) The Commission White Paper 'Energy for the future: renewable sources of energy' (COM(97) 599) sets the overall aim of doubling renewable sources of energy from their current share of 6% to 12% by the year 2010. Moreover, the Commission stresses in its White Paper that an increased use of liquid biofuels in line with the White Paper's targets can be achieved only with the help of significant tax relief and subsidised raw material production. The Commission further proposes in the White Paper that obtaining a market share of 2% for liquid biofuels could still be considered a pilot phase.***

#### *Justification*

*The legal framework must tally with the objectives of the White Paper 'Energy for the future: renewable sources of energy'.*

Amendment 7  
Recital 11a (new)

***(11a) Member States which already have more favourable national tax conditions may maintain them until the target quantity set for the production of biofuels has been reached.***

*Justification*

*It must be possible to maintain incentives such as more favourable national tax conditions in order to expand biofuel production in line with the targets set.*

Amendment 8  
Recital 12

(12) Special measures are required for local public passenger transport, including taxis, and public authority-operated vehicles. ***A transitory period should be allowed in favour of unblended biofuels, which have been totally exempted from excise duty since 1 January 2001.***

(12) Special measures are required for local public passenger transport, including taxis, and public authority-operated vehicles.

*Justification*

*It must remain possible to provide a tax exemption for unblended biofuels in order to ensure that biofuels can compete with mineral oils.*

Amendment 9  
Recital 12 a (new)

***(12a) Bearing in mind the importance of biofuels for the environment, consumers and producers and in order to enable them to compete with mineral oils, unblended***

***biofuels, which have been totally exempted from excise duty since 1 January 2001, may continue to be exempted.***

*Justification*

*A time limit would stand in the way of efforts to boost the production and use of biodiesel and undo the work undertaken by the Member States.*

Amendment 10  
Recital 13

(13) Excise differentiation measures achieved under fiscal control may be supplemented by additional exemptions or reductions according to the procedure under Article 8(4) of Directive 92/81/EEC. ***No later than 31 December 2007***, the Commission ***should report to the Council on these*** additional measures.

(13) Excise differentiation measures achieved under fiscal control may be supplemented by additional exemptions or reductions according to the procedure under Article 8(4) of Directive 92/81/EEC. ***As from 1 January 2003***, the Commission ***is to produce a report every two years, examine the extent to which the targets set have been reached and, where appropriate, propose*** additional measures.

*Justification*

*Such a study will make it possible to take corresponding countermeasures in good time if the desired development does not take place.*

Amendment 11  
Recital 14

(14) The duration of reductions in excise rates should be limited ***so as to enable their application to be monitored.***

(14) The duration of reductions in excise rates should ***not*** be limited, ***since the environmental benefits of biofuels are permanent.***

*Justification*

*The externalities linked to the oil industry are permanent, and tax differentiation for biofuels should also be permanent.*

Amendment 12

Recital 15

***(15) A multiannual programme of a maximum length of six years is sufficient for planning investment projects in the sectors concerned.***

***Deleted***

*Justification*

*The externalities linked to the oil industry are permanent, and tax differentiation for biofuels should also be permanent.*

Amendment 13

ARTICLE 1, PARAGRAPH 4

Article 8b, introductory sentence (Directive 92/81/EEC)

***From 1 January 2002 to 31 December 2010***, Member States may, without prejudice to Article 8f, apply ***a reduced*** rate of excise duty under fiscal control on the taxable products referred to in Article 2 where such products are made up of, or contain, one or more of the following biofuels:

Member States may, without prejudice to Article 8f, apply ***unrestricted or restricted tax exemptions or reductions in the*** rate of excise duty under fiscal control on the taxable products referred to in Article 2 where such products are made up of, or contain, one or more of the following biofuels, ***and may apply a tax exemption in the case of unblended biofuels:***

*Justification*

*A complete exemption from tax is currently indispensable in some cases in order to guarantee the competitiveness of biofuels and increase their share in accordance with the targets.*

Amendment 14

ARTICLE 1, PARAGRAPH 4

Article 8 c, paragraph 2, subparagraph 1 (Directive 92/81/EEC)

2. The levels of taxation applied by Member States on the products made up of or containing biofuels referred to in Article 8b may be lower than the minimum rates specified in Directive 92/82/EEC.

2. The levels of taxation applied by Member States on the products made up of or containing biofuels referred to in Article 8b may be lower than the minimum rates specified in Directive 92/82/EEC, **and a total tax exemption may be applied for unblended biofuels.**

*Justification*

*It must be possible for the Member States to ensure that biofuels can compete with mineral oils. Account must be taken of the far higher production costs of biofuels. The Commission proposals would put a brake on the necessary development initiatives and are already hindering investments made previously and pending investment decisions.*

Amendment 15

ARTICLE 1, PARAGRAPH 4

Article 8c, paragraph 2, subparagraph 2 (Directive 92/81/EEC)

***However, the level of taxation of these products, if intended for use, offered for sale or used as motor fuel, may not be lower than 50% of the normal rate of***

***Deleted***



*excise duty applied by the Member State  
on corresponding fuels.*

*Justification*

*Pure biofuels are currently competitive only if they are totally exempted from tax.*

Amendment 16  
ARTICLE 1, PARAGRAPH 4

Article 8c, paragraph 3 (Directive 92/81/EEC)

3. The Member States, which on 1 January 2001 totally exempted products solely made up of biofuels, may continue totally to exempt those products *until 31 December 2003*.

3. The Member States, which on 1 January 2001 totally exempted products solely made up of biofuels, may continue totally to exempt those products.

*Justification*

*A total exemption from tax is currently indispensable to ensure that the use of pure biofuels remains competitive.*

Amendment 17  
ARTICLE 1, PARAGRAPH 4 (new)

Article 8c, paragraph 3a (new) (Directive 92/81/EEC)

***3a. The Commission shall produce a study examining the market and competition situation of biofuels on the fuel market and the raw materials needed for production in the European Union and in the individual Member States and shall forward it to the European Parliament before 1 January 2003.***

*Justification*

*The Commission should study the market and competition situation of biofuels before any measures are taken.*

Amendment 18  
ARTICLE 1, PARAGRAPH 4

Article 8e (Directive 92/81/EEC)

The reduction in excise duty applied by Member States shall be adjusted to ***take account of changes in raw material prices to*** avoid over-compensating for the extra costs involved in the manufacture of biofuels ***in the event of a sustained rise in the price of crude oil.***

***Adjustments shall be made according to the variation in crude oil prices over the previous twelve months. The price variations shall be calculated using the 'Brent dated' monthly average oil price.***

The reduction in excise duty applied by Member States shall be adjusted to avoid over-compensating for the extra costs involved in the manufacture of biofuels.

***Member States shall select corresponding indicators which are to be used, where necessary, to adjust the reduction in excise duty and shall inform the Commission thereof before any such adjustment is made.***

***These indicators shall adequately and objectively reflect those variables which have an influence on biofuel production in the Member State concerned.***

*Justification*

*Any adjustment in the reduction in excise duty for biofuels must take account of the factors which determine the production costs for biofuels.*

Amendment 19  
ARTICLE 1, PARAGRAPH 4

Article 8f, paragraph 1 (Directive 92/81/EEC)

1. The reduction provided for in Article 8b may be granted under a multiannual programme by means of an authorisation issued by an administrative authority to an economic operator for more than one calendar year. The reduction authorised may not be applied for a period of more than **six** consecutive years. This period may be renewed.

The reduction provided for in Article 8b may be granted under a multiannual programme by means of an authorisation issued by an administrative authority to an economic operator for more than one calendar year. The reduction authorised may not be applied for a period of more than **nine** consecutive years. This period may be renewed.

*Justification*

*Long-term investment safety must be guaranteed. An appropriate period should be provided.*

Amendment 20  
ARTICLE 1, PARAGRAPH 4

Article 8h (Directive 92/81/EEC)

***No later 31 December 2007*** the Commission shall report to the Council on the fiscal, economic, agricultural, energy, industrial ***and*** environmental aspects of the reductions granted in accordance with this point IIa. Additional exemptions or reductions granted in favour of biofuels according to the procedure of Article 8(4) of Directive 92/81/EEC shall also be reviewed. The Commission shall, if necessary, put forward proposals for their abolition, amendment or extension.”

***Before 1 January 2003 and every two years thereafter***, the Commission shall report to the ***European Parliament and the Council*** on the fiscal, economic, agricultural, energy, industrial, environmental ***and competition-related*** aspects of the reductions ***and exemptions*** granted in accordance with this point IIa. Additional exemptions or reductions granted in favour of biofuels according to the procedure of Article 8(4) of Directive 92/81/EEC shall also be reviewed. The Commission shall, if necessary, put forward proposals for their abolition, amendment or extension.”

*Justification*

*The market situation of biofuels should be studied before any amendments are made.*

Amendment 21  
ARTICLE 1, PARAGRAPH 4  
Article 8h a (new) (Directive 92/81/EEC)

***No later than 31 December 2007 the Commission shall submit a communication to the European Parliament and the Council on the differentiated pricing on fuels in order to internalise their ecological, social and economic cost. The Commission shall, if necessary, put forward proposals for this purpose.***

*Justification*

*Increased use of biofuels is vital for the EU because of reducing GHG emissions, increasing self-sufficiency, and because of their positive social and economic impact on society. The current proposals for promoting biofuels are sufficient for the short term. In the long term there is a need to improve the pricing mechanism in order to promote sustainability in the energy and transport industries.*

24 April 2002

## **OPINION OF THE COMMITTEE ON INDUSTRY, EXTERNAL TRADE, RESEARCH AND ENERGY**

for the Committee on Economic and Monetary Affairs

on the proposal for a Council directive amending Directive 92/81/EEC with regard to the possibility of applying a reduced rate of excise duty on certain mineral oils containing biofuels and on biofuels  
(COM(2001) 547 – C5-0030/2002 – 2001/0266(CNS))

Draftsman: Jaime Valdivielso de Cué

### **PROCEDURE**

The Committee on Industry, External Trade, Research and Energy appointed Jaime Valdivielso de Cué draftsman at its meeting of 24 January 2002.

It considered the draft opinion at its meetings of 19 March 2002 and 23 April 2002.

At the latter meeting it adopted the following amendments by 40 votes to 1.

The following were present for the vote: Carlos Westendorp y Cabeza, chairman; Peter Michael Mombaur, vice-chairman; Yves Piétrasanta, vice-chairman; Jaime Valdivielso de Cué, vice-chairman and draftsman; Gordon J. Adam (for Massimo Carraro), Nuala Ahern, Konstantinos Alyssandrakis, Sir Robert Atkins, Luis Berenguer Fuster, Freddy Blak (for Roseline Vachetta), Gérard Caudron, Giles Bryan Chichester, Nicholas Clegg, Concepció Ferrer, Norbert Glante, Michel Hansenne, Malcolm Harbour (for Angelika Niebler), Hans Karlsson, Bashir Khanbhai, Werner Langen, Rolf Linkohr, Caroline Lucas, Eryl Margaret McNally, Erika Mann, Marjo Matikainen-Kallström, William Francis Newton Dunn (for Willy C.E.H. De Clercq), Josu Ortuondo Larrea (for Claude Turmes), Paolo Pastorelli, Elly Plooij-van Gorsel, Samuli Pohjamo (for Colette Flesch), Godelieve Quisthoudt-Rowohl, Daniela Raschhofer, Carlos Ripoll i Martínez Bedoya (for John Purvis, pursuant to Rule 153(2)), Mechtild Rothe, Paul Rübig, Esko Olavi Seppänen, Gary Titley, W.G. van Velzen, Alejo Vidal-Quadras Roca, Dominique Vlasto and Olga Zrihen Zaari.

## SHORT JUSTIFICATION

### 1. Introduction

This proposal for a directive allows Member States to reduce excise duties, under fiscal control, in proportion to the percentage of biofuel incorporated in the fuel or end product. It will thus establish a new framework of taxation for biofuels and provide a vital accompaniment to the proposed directive on the promotion of the use of biofuels for transport.

Biofuels offer an alternative based on crops grown in the EU and are CO<sub>2</sub> neutral since their carbon content is captured from the atmosphere. Recent work indicates that the development of biofuels will also have a positive impact, chiefly on employment, the environment and agriculture.

That said, biofuels are costly to produce. For instance, according to the figures supplied by the Commission, if the price of a barrel of crude oil is USD 20 the per-litre cost price of pure biodiesel (i.e. of 100% agricultural origin) is approximately EUR 0.35 higher than that of fossil diesel oil. With the price of crude oil at USD 35 per barrel this price difference would fall to EUR 0.20. The Green Paper entitled ‘Towards a European strategy for the security of energy supply’<sup>1</sup> highlighted the key role of tax instruments in reducing the price differential between biofuels and rival products.

As matters stand there is no Community tax framework for energy products other than mineral oils or for taxes other than excise duties and VAT. As regards excise duties, the existing Community system for the taxation of mineral oils is based on two directives, one (92/81/EEC) on the harmonisation of the structures of excise duties on mineral oils, the other (92/82/EEC)<sup>2</sup> on the approximation of the rates of excise duties on mineral oils. The two Directives set a *minimum* rate of tax for each mineral oil according to its use (motor fuel, industrial and commercial use or heating). In practice, however, excise duty is often far in excess of the minimum Community rates and differs enormously from one Member State to another.

### 2. The existing Community tax framework

One of the implications of Directive 92/81/EEC is that, on being added to petrol, mineral oils become a motor fuel subject to the current rate of excise duty on petrol in the Member State concerned. Member States are allowed two possibilities by Directive 92/81/EEC of implementing measures to reduce or exempt excise duties on biofuels.

Firstly, under Article 8(2)(d) of the aforementioned Directive, Member States may apply total or partial exemptions or reductions to the rate of duty in the field of *pilot projects* for the technological development of more environmentally-friendly products and in particular in relation to fuels from renewable resources.

Secondly, provision has been made for a derogation under Article 8(4) of Directive, which stipulates that ‘the Council, acting unanimously on a proposal from the Commission, may

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<sup>1</sup> COM(2000) 769 final of 29 November 2000.

<sup>2</sup> OJ L 316, 31.10.1992, p. 19. Directive last amended by Directive 94/74/EC (OJ L 365, 31.12.1994, p. 46).

authorise any Member State to introduce further exemptions or reductions for specific policy considerations’.

In contrast, in September 2000 the Court of First Instance ruled against those Member States which were allowing tax reductions or exemptions for biofuels under the pilot project scenario. In its judgment<sup>1</sup> the Court ruled that the legal basis for the tax derogation for ethyl-tertiary-butyl-ether (ETBE) was not relevant because the manufacture of ETBE in France had gone beyond the aforementioned pilot project phase.

### **3. The Commission proposal**

Faced with the prospect of an ever-increasing number of individual applications for excise reduction measures, this Directive will introduce the amendments to Directive 92/81/EEC required to establish a stable legal framework enabling different rates of excise duty to be applied in an appropriate manner by allowing Member States to reduce excise duties on biofuels. The proposed proportional reduction in tax will mean that the higher the percentage of biofuel, the greater the value of the potential reduction in excise duty on the end product.

However, the actual amount of tax may not be less than 50% of the normal rate of excise duty for the corresponding propellant. This limit will create problems for Member States with more generous exemptions and reductions in place, such as Sweden. Such schemes ought not to be jeopardised by the adoption of this Directive, whose very aim lies in promoting the use of biofuels.

In short, placing the aforementioned 50% lower limit on the reduction in taxation will serve to penalise indirectly those fuels whose biofuel component accounts for more than half of their overall composition, since they will have to undergo far more complex administrative procedures in order to enjoy similar benefits.

Lastly, mitigating the loss of Member State budget resources cannot serve as an argument, since the Directive under consideration here does not oblige Member States to reduce the rate of excise duty on biofuels. Member States will be allowed to apply a reduced rate only if this does not prejudice the outcome of any future State aid procedure initiated at Community level.

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<sup>1</sup> CFI judgment of 27 September 2000, Case T-184/97, BP Chemicals v Commission.

## AMENDMENTS

The Committee on Industry, External Trade, Research and Energy calls on the Committee on Economic and Monetary Affairs, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Commission<sup>1</sup>

Amendments by Parliament

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### Amendment 1 ARTICLE 1, PARAGRAPH (4)

Article 8c, paragraph 2 (Directive 92/81/EEC)

2. The levels of taxation applied by Member States on the products made up of or containing biofuels referred to in Article 8b may be lower than the minimum rates specified in Directive 92/82/EEC.

***However, the level of taxation of these products, if intended for use, offered for sale or used as motor fuel, may not be lower than 50% of the normal rate of excise duty applied by the Member State on corresponding fuels.***

“Level of taxation” shall mean the total amount of all indirect taxes charged, except value added tax, calculated directly or indirectly on the quantity of product consumed.

2. The levels of taxation applied by Member States on the products made up of or containing biofuels referred to in Article 8b may be lower than the minimum rates specified in Directive 92/82/EEC.

“Level of taxation” shall mean the total amount of all indirect taxes charged, except value added tax, calculated directly or indirectly on the quantity of product consumed.

*(This amendment applies throughout the text. Adopting it will necessitate corresponding changes throughout.)*

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<sup>1</sup> OJ C not yet published.



### *Justification*

*The very aim of this Directive lies in promoting the use of biofuels for transport by enabling Member States to apply a reduced rate of excise duty in proportion to the percentage of biofuel blended into the fuel or end product.*

*Introducing a reduction ceiling of 50% of the normal rate of excise duty applied by the Member State on corresponding fuels is out of step with this aim and will cause difficulties for those Member States where a higher percentage of bio-ethanol is already being used and the reduction in excise duty exceeds 50%.*

*Since it will be for the Member States themselves to decide whether or not to avail themselves of this option as set out in the Directive, the Commission is wrong to argue that the 50% limit is being introduced to mitigate the loss of Member State budget resources.*

*Furthermore, this Directive in no way prejudices the outcome of any future State aid procedure initiated in accordance with Articles 87 and 88 of the Treaty.*

*Consequently the Directive ought to allow for a full exemption to be applied to biofuels used in their pure form.*

### Amendment 2

#### ARTICLE 1, PARAGRAPH (4)

#### Article 8g (Directive 92/81/EEC)

Member States shall communicate to the Commission the schedule of excise duty reductions applied in accordance with point IIa by 31 December 2002 and every twelve months thereafter.

Member States shall communicate to the Commission **and to the European Parliament** the schedule of excise duty reductions applied in accordance with point IIa by 31 December 2002 and every twelve months thereafter.

### *Justification*

*It is vital that the European Parliament, as the EU institution which exercises the power of democratic supervision, is kept informed as well.*

Amendment 3  
ARTICLE 1, PARAGRAPH (4)

Article 8h (Directive 92/81/EEC)

No later 31 December 2007 the Commission shall report to the Council on the fiscal, economic, agricultural, energy, industrial and environmental aspects of the reductions granted in accordance with this point IIa. Additional exemptions or reductions granted in favour of biofuels according to the procedure of Article 8(4) of Directive 92/81/EEC shall also be reviewed. The Commission shall, if necessary, put forward proposals for their abolition, amendment or extension.”

No later 31 December 2007 the Commission shall report to the Council **and to the *European Parliament*** on the fiscal, economic, agricultural, energy, industrial and environmental aspects of the reductions granted in accordance with this point IIa. Additional exemptions or reductions granted in favour of biofuels according to the procedure of Article 8(4) of Directive 92/81/EEC shall also be reviewed. The Commission shall, if necessary, put forward proposals for their abolition, amendment or extension.”

*Justification*

*See justification to Amendment 2.*