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RECOMMENDATION FOR SECOND READING

on the Council common position for adopting a European Parliament and Council directive on the promotion of the use of biofuels for transport (12695/1/2002 – C5-0585/2002 – 2001/0265(COD))

Committee on Industry, External Trade, Research and Energy

Rapporteur: María del Pilar Ayuso González

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

At the sitting of 4 July 2002 Parliament adopted its position at first reading on the proposal for a European Parliament and Council directive on the promotion of the use of biofuels for transport (COM(2001) 547 – 2001/0265(COD)).

At the sitting of 5 December 2002 the President of Parliament announced that the common position had been received and referred to the Committee on Industry, External Trade, Research and Energy (12695/1/2002 – C5-0585/2002).

The committee had appointed María del Pilar Ayuso González rapporteur at its meeting of 24 January 2002.

The committee considered the common position and draft recommendation for second reading at its meetings of 3 December 2002, 22 January 2003 and 20 February 2003.

At the last meeting it adopted the draft legislative resolution by 43 votes to 5, with 2 abstentions.

The following were present for the vote: Peter Michael Mombaur, acting chairman; Yves Piétrasanta, vice-chairman; Jaime Valdivielso de Cué, vice-chairman; María del Pilar Ayuso González, rapporteur; Gordon J. Adam (for Gary Titley), Konstantinos Alyssandrakis, Niall Andrews (for Seán Ó Neachtain), Per-Arne Arvidsson (for Marjo Matikainen-Kallström), Sir Robert Atkins, Luis Berenguer Fuster, Gérard Caudron, Giles Bryan Chichester, Nicholas Clegg, Dorette Corbey (for Massimo Carraro), Willy C.E.H. De Clercq, Marie-Hélène Descamps (for Dominique Vlasto), Harlem Désir, Jan Dhaene (for Caroline Lucas), Concepció Ferrer, Francesco Fiori (for Guido Bodrato), Norbert Glante, Alfred Gomolka (for Konrad K. Schwaiger), Michel Hansenne, Hans Karlsson, Bashir Khanbhai, Efstratios Korakas (for Roseline Vachetta, pursuant to Rule 153(2)), Dimitrios Koulourianos (for Fausto Bertinotti), Bernd Lange (for Erika Mann), Werner Langen, Rolf Linkohr, Eryl Margaret McNally, Elizabeth Montfort, Bill Newton Dunn (for Colette Flesch), Reino Paasilinna, Paolo Pastorelli, John Purvis, Bernhard Rapkay (for Carlos Westendorp y Cabeza), Imelda Mary Read, Mechtild Rothe, Christian Foldberg Røvsing, Paul Rübig, Umberto Scapagnini, Ilka Schröder, Esko Olavi Seppänen, Maurizio Turco (for Marco Cappato), Claude Turmes, W.G. van Velzen, Alejo Vidal-Quadras Roca, Myrsini Zorba and Olga Zrihen Zaari.

The recommendation for second reading was tabled on 24 February 2003.

DRAFT LEGISLATIVE RESOLUTION

European Parliament legislative resolution on the Council common position for adopting a European Parliament and Council directive on the promotion of the use of biofuels for transport (12695/1/2002 – C5-0585/2002 – 2001/0265(COD))

(Codecision procedure: second reading)

The European Parliament,

- having regard to the Council common position (12695/1/2002 – C5-0585/2002),
 - having regard to its position at first reading¹ on the Commission proposal to Parliament and the Council (COM(2001) 547²),
 - having regard to the Commission's amended proposal (COM(2002) 508³),
 - having regard to Article 251(2) of the EC Treaty,
 - having regard to Rule 80 of its Rules of Procedure,
 - having regard to the recommendation for second reading of the Committee on Industry, External Trade, Research and Energy (A5-0057/2003),
1. Amends the common position as follows;
 2. Instructs its President to forward its position to the Council and Commission.

¹ Not yet published in OJ.

² OJ C 103 E, 30.4.2002, p. 205.

³ OJ C 331 E, 31.12.2002, pp. 291-300.

Amendment 1
Recital 9

(9) Captive fleets offer the potential of using a higher concentration of biofuels. In some cities captive fleets are already operating on pure biofuels and, in some cases, this has helped to improve air quality in urban areas.

(9) Captive fleets offer the potential of using a higher concentration of biofuels. In some cities captive fleets are already operating on pure biofuels and, in some cases, this has helped to improve air quality in urban areas. ***Member States shall give priority to promoting the use of biofuels in public transport modes.***

Justification

This is part of Amendment 42, adopted at first reading as Article 3(3a). It would be better for those Member States that have not developed active policies in the biofuels field to do so in the public transport sector initially. This is a transport mode where the authorities can have a direct influence, where immediate improvements can be obtained in air quality in cities and which, in addition, is a highly visible platform for promotion and publicity.

Amendment 2
Recital 13

(13) New types of fuel should conform to recognised technical standards if they are to be accepted to a greater extent by customers and vehicle manufacturers and hence penetrate the market. Technical standards also form the basis for requirements concerning emissions and the monitoring of emissions. New types of fuel may find it difficult to meet current technical standards, which, to a large extent, have been developed for conventional fossil fuels. The Commission and standardisation bodies should monitor developments and actively adapt and develop standards so that new types of fuel can be introduced, whilst maintaining environmental performance requirements.

(13) New types of fuel should conform to recognised technical standards if they are to be accepted to a greater extent by customers and vehicle manufacturers and hence penetrate the market. Technical standards also form the basis for requirements concerning emissions and the monitoring of emissions. New types of fuel may find it difficult to meet current technical standards, which, to a large extent, have been developed for conventional fossil fuels. The Commission and standardisation bodies should monitor developments and actively adapt and develop standards, ***particularly volatility limits***, so that new types of fuel can be introduced, whilst maintaining environmental performance requirements.

Justification

This is part of Amendment 17, adopted at first reading. Although bioethanol has a lower volatility than gasoline, direct blends of bioethanol with gasoline produce an increase in the volatility of the final fuel which may exceed the limits laid down in Directive 98/70/EC, particularly in countries with high temperatures.

Amendment 3 Recital 15

(15) Promoting the use of biofuels in keeping with sustainable farming and forestry practices laid down in the rules governing the Common Agricultural Policy could create new opportunities for sustainable rural development in a more market-orientated Common Agriculture Policy geared more to the European market and to respect for flourishing country life and multifunctional agriculture, and could open a new market for innovative agricultural products.

(15) Promoting the use of biofuels in keeping with sustainable farming and forestry practices laid down in the rules governing the Common Agricultural Policy could create new opportunities for sustainable rural development in a more market-orientated Common Agriculture Policy geared more to the European market and to respect for flourishing country life and multifunctional agriculture, and could open a new market for innovative agricultural products. ***New possibilities would also be opened up for the applicant countries.***

Justification

This is part of Amendment 19, adopted at first reading. It is self-explanatory.

Amendment 4 Recital 22

(22) Promotion of the production and use of biofuels ***could contribute*** to a reduction in energy import dependency and in emissions of greenhouse gases. In addition, biofuels, in pure form or as a blend, may in

(22) Promotion of the production and use of biofuels ***contributes*** to a reduction in energy import dependency and in emissions of greenhouse gases. In addition, biofuels, in pure form or as a blend, may in

principle be used in existing motor vehicles and use the current motor vehicle fuel distribution system. The blending of biofuel with fossil fuels could facilitate a potential cost reduction in the distribution system in the Community.

principle be used in existing motor vehicles and use the current motor vehicle fuel distribution system. The blending of biofuel with fossil fuels could facilitate a potential cost reduction in the distribution system in the Community.

Justification

The amendment is self-explanatory. This is a change proposed by the Council, with 'contributes' replacing 'could contribute'. Clearly, biofuels do contribute to reducing energy dependency in that they replace oil-based fuels. They also reduce greenhouse gas emissions when used in place of gasoline and biodiesel.

The extent of such reductions in emissions depends on the production process (according to the Commission, emissions are between 40% and 80% of those from oil-based products). Life cycle analysis of biofuels demonstrates a balance clearly in their favour.

Amendment 5 Recital 23

(23) Since the objective of the proposed action, namely the introduction of general principles ***providing for*** a minimum percentage of biofuels ***to be marketed and distributed***, cannot be sufficiently achieved by the Member States by reason of the scale of the action, and can therefore be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. 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 that objective.

(23) Since the objective of the proposed action, namely the introduction of general principles ***promoting the marketing and distribution of*** a minimum percentage of biofuels, cannot be sufficiently achieved by the Member States by reason of the scale of the action, and can therefore be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. 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 that objective.

Justification

This is a change put forward by the Council. The amendment aims to restore the Commission's original text. As Article 1 clearly states, the directive's objective is to promote the use of biofuels in transport.

Amendment 6 Article 1

This Directive aims at promoting the use of biofuels or other renewable fuels to replace diesel or petrol for transport purposes in each Member State, with a view to contributing to ***objectives such as*** meeting climate change commitments, environmentally-friendly security of supply and promoting renewable energy sources.

This Directive aims at promoting the use of biofuels or other renewable fuels to replace diesel or petrol for transport purposes in each Member State, with a view to contributing to meeting climate change commitments, environmentally-friendly security of supply and promoting renewable energy sources.

Justification

The Council has modified the text adopted by Parliament. This amendment continues the process of improving the wording of the text.

Amendment 7 Article 2, paragraph 2 i a (new)

(i a) "Pure vegetable oil from oil plants" produced through pressing, extraction or comparable procedures, crude or refined but chemically unmodified, when compatible with the type of engines involved and the corresponding emissions requirements.

Justification

The Council acknowledges the value of pure plant biofuels in recital 12 of its common position. It therefore seems consistent to include pure plant biofuels in the list of products to be considered biofuels in Article 2.

Amendment 8

Article 4, paragraph 1, subparagraph 1

1. Member States shall report to the Commission, before 1 July each year, on the total sales of transport fuel and the share of biofuels, pure or blended, and other renewable fuels placed on the market for the preceding year. Where appropriate, Member States shall report on any exceptional conditions in the supply of crude oil or oil products that have affected the marketing of biofuels.

1. Member States shall report to the Commission, before 1 July each year, on ***the measures adopted to ensure compliance with the objectives laid down in Article 3(1)(b)***, the total sales of transport fuel and the share of biofuels, pure or blended, and other renewable fuels placed on the market for the preceding year. Where appropriate, Member States shall report on any exceptional conditions in the supply of crude oil or oil products that have affected the marketing of biofuels.

Justification

This is part of Amendment 45, adopted by Parliament at first reading. The proposed measure will facilitate the Commission's task of monitoring the development of the biofuels market, the measures put forward by the various Member States and their effectiveness.

Amendment 9

Article 4, paragraph 1, subparagraph 2

In their first report following the entry into force of this Directive, Member States shall indicate the level of their national indicative targets for the first phase. In the report covering the year 2006, Member States shall indicate their national

In their first report following the entry into force of this Directive, Member States shall ***evaluate the national potential for biofuel production and shall indicate what national resources are allocated to the production of biomass for energy uses***

indicative targets for the second phase.

other than transport, and the level of their national indicative targets for the first phase. In the report covering the year 2006, Member States shall indicate their national indicative targets for the second phase.

Justification

This amendment was not adopted at first reading. However, we consider it necessary to table it because of the changes made by the Council in the subsequent paragraphs of Article 4. If the Member States believe that restricted national resources and the production of biomass for uses other than transport constitute obstacles which justify differentiating the national targets from those set out in this directive, they should provide information on these points as early as possible.

Amendment 10

Article 4, paragraph 1, subparagraph 3, points (a) and (b)

In these reports, differentiation of the national targets, as compared to the reference values referred to in Article 3(1)(b), shall be motivated ***and could*** be based on the following elements:

(a) ***objective factors such as*** the limited national potential for production of biofuels from ***agricultural products and/or waste, the national resources allocated to the production of biomass for energy uses other than transport and the specific characteristics of the national market for transport fuels;***

(b) ***national policies consistent with the objectives of the energy sector in the European Union (security of supply, competitiveness and protection of the environment), related to the transport sector and aiming at objectives similar to those pursued by this Directive (meeting climate-change commitments; contributing to security of supply in an environment-friendly way; promoting renewable energy***

In these reports, differentiation of the national targets, as compared to the reference values referred to in Article 3(1)(b), shall be motivated. ***Such differences have to*** be based on the following elements:

(a) the limited national potential for production of biofuels from biomass ***and***

(b) ***the national resources allocated to the production of biomass for energy uses other than transport.***

sources).

Justification

It is not very clear what the Council means by the expression 'the specific characteristics of the national market for transport fuels'. The same applies to paragraph (b) of the text of the common position.

The aim of the proposed amendment is to make the wording of the directive clearer and more consistent. We believe that the text deleted by the amendment is confused and unclear. In addition, it should be made clear that Member States wishing to deviate, in setting their indicative targets, from the values proposed in the directive must meet the conditions laid down in (a) and (b).

The term 'biomass' provides greater clarity.

Amendment 11

Article 4, paragraph 2, subparagraph 3

On the basis of this report, the Commission shall submit, where appropriate, proposals to the European Parliament and the Council on the adaptation of the system of targets, as laid down in Article 3(1). If this report concludes that the indicative targets are not likely to be achieved for reasons that are unjustified and/or do not relate to new scientific evidence, these proposals shall address national targets, including **possible** mandatory targets, in the appropriate form.

On the basis of this report, the Commission shall submit, where appropriate, proposals to the European Parliament and the Council on the adaptation of the system of targets, as laid down in Article 3(1). If this report concludes that the indicative targets are not likely to be achieved for reasons that are unjustified and/or do not relate to new scientific evidence, these proposals shall address national targets, including mandatory targets, in the appropriate form.

Justification

This is an amendment of a change made by the Council. It would be desirable for the Commission to put forward mandatory targets if the failure to meet the targets is due to 'reasons that are unjustified and/or do not relate to new scientific evidence'.

EXPLANATORY STATEMENT

On 7 November 2001, the Commission adopted an action plan and a package of measures to promote the use of alternative fuels between now and 2020. These consist of a communication on alternative fuels for road transportation and two proposals for directives, one on the promotion of the use of biofuels for transport and the other 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.

Currently the biofuels most used are bioethanol and biodiesel. Both have very similar level of profitability, but cannot yet compete with oil-based fuels. The same problem applies to the remaining biofuels, but to a greater extent. The above-mentioned proposals aim to establish a stable legal framework providing investors with security, so that biofuel production and combustion technologies can attain a certain degree of technological maturity and compete with gasoline and diesel.

Advantages of biofuels

First, biofuels contribute to reducing overdependence on oil-based fuels, which is a cause for concern as regards both the environment and security of supply. The EU's external energy dependence could reach 70% within 20 to 30 years. Oil currently continues to be the main energy source, and natural gas is gaining market share.

Second, biofuels are environment friendly. Biofuels emit between 40% and 80% fewer greenhouse gases compared to fossil fuels. The wide percentage variation is a result of the raw material used, the production process, the type of biofuel and the subsequent engine combustion. Biofuels are in many cases manufactured from organic waste. This makes it possible to use waste materials which would normally be thrown away in order to produce energy.

Third, biofuels offer new sources of income for farms via a sustainable and multifunctional agriculture of the kind the common agricultural policy purports to promote, while the manufacture of these fuels also creates jobs. On this subject, the Commission has already announced its intention to present a proposal on special aid for energy crops to reduce carbon dioxide emissions.

Difficulties in developing biofuels

Directive 98/70/EC relating to the quality of petrol and diesel fuels lays down the technical specifications which these fuels must meet. The specifications in force until now referred to carburettor vehicles. New injection vehicles equipped with catalysers are much less sensitive to gasoline volatility and it is therefore feasible that the Commission will propose changes in this area in the near future.

Following negotiations on amending this directive, the deadline for revising the specifications is now 31 December 2005.

Parliament: first reading

Parliament adopted several amendments of an environmental nature, the inclusion of biohydrogen, the elimination of the blending targets, the need to label blends of over 5% and the binding nature of the targets. Similarly, one of the amendments adopted authorised temporary derogations for those Member States duly demonstrating that they had difficulties in reaching the targets.

Parliament's position is clear. However, because there are two clearly linked directives, problems have multiplied. This directive for the promotion of biofuels is important, since it will establish a fixed timetable for the medium term; but in the short term it is essential to have a directive enabling the Member States to allow tax exemptions.

The problem is that the tax directive must be unanimously approved by the Ecofin Council; some delegations to the Council have already expressed their intention to block that directive until the targets are made indicative. As a result, the two directives will have to be adopted simultaneously.

The Council's common position

The text reaching us now originates in the compromise proposal drafted in June by the Spanish Presidency. Biohydrogen is one of the biofuels included in the calculations for the targets, and some of the environmental amendments put forward by Parliament have been accepted. In addition, the targets for blending a minimum proportion of biofuels have been removed and the requirement that blends of over 5% be labelled in service stations has been accepted.

The Council has not accepted Parliament's other demands, including, notably, the temporary two-year derogations. The Council has removed the annexes, included the list of biofuels in the text and made the targets indicative.

The timetable approved by the Council only contains two figures: 2% of the total of fuels placed on the market by 2005 and 5.75% by 2010. In addition, the Council has included a clause under which those Member States that are already implementing policies with similar objectives (security of supply, the environment, etc.) will be able to set targets which differ from those put forward in the directive.

Finally, a clause providing for revision of the targets is included, setting out the possibility of having mandatory national targets in future (Article 4(2)).

Assessment of the Council's common position

The Council's common position demonstrates a failure of will in some Member States in the realm of biofuels and alternative fuels. These problems were also observed three years ago in negotiations concerning the directive for the promotion of renewable energy sources (Directive 2001/77/EC).

We would like to encourage mandatory targets, but this does not seem to be the most practical option at the moment. If achieving the targets is made mandatory, the tax directive will remain blocked in Council because of the opposition of some Member States, and that

directive is essential in the short term. Without it, those Member States wishing to promote biofuels will have no clear, fixed legal framework enabling them to authorise corresponding special tax exemptions for biofuels and biofuel blends.

Paradoxically, no Member State opposes the text agreed for the tax directive; it could be adopted immediately. But the veto of some Member States is being maintained in order to obtain concessions in the directive we are examining. This situation does not seem either fair or justifiable.

Separate mention should be made of the inclusion of 'synthetic biofuels' in the indicative list of products considered to be biofuels. These are fuels produced by the gasification of biofuels. The blend is then transformed into liquid biofuel, which is suitable for blending with conventional fuels.

This is an innovative production method, known as the Fischer-Tropsch process. In any event, provided the raw materials are derived from biomass, we have no objection to it.

Amendments tabled

To summarise, the Council has (1) made the targets non-mandatory, (2) shortened the timetable, restricting it to two stages, and (3) introduced a clause under which some Member States will be able to set differentiated (i.e. lower) targets instead of those set out in the directive.

We understand and, up to a certain point, agree with some of the Council's arguments regarding reducing the directive's 'impact'. However, we believe that Amendments 8, 9 and 10 ought to be accepted by the Member States.

Amendments 8 and 9 ensure effective monitoring by the Commission of the progress being made in the Member States. In addition, the content of Amendment 9 is consistent with the common position text, which states that (1) limited agricultural potential for production of biofuels and (2) the production of biomass for energy uses other than transport form obstacles to developing the biofuels market.

Amendment 10 makes further clarifications to the meaning of the text and eliminates some phrases which, in our opinion, are not relevant. Additionally, we understand that some Member States may have problems in implementing the directive because of the above-mentioned factors.

Amendment 11 aims to strengthen the clause concerning revision of the directive after 2007. If failure to meet the targets is due to 'reasons that are unjustified and/or do not relate to new scientific evidence' then the targets should certainly be mandatory.

We believe that these four amendments are fundamental, since they clarify and reinforce the text of the directive, and we hope that they will be acceptable to the Council. Finally, we are maintaining the most important point: the indicative nature of the targets.

With regard to Amendments 1, 2, 3, 4, 5 and 6, they merely add to the text phrases taken from

the first reading which we consider important. The most significant of them is Amendment 6, since it applies to one of the articles.