



*EU Environmental Policy Briefing**

Member States Set Out Their Negotiating Position on Renewable Energy

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The next few months will be crucial in determining the rigour and ambition of the new Directive on renewable energy. In the last week both the European Parliament and the Council have been trying to ensure they are in the best possible position to influence discussions. The European Parliament has brought forward its full plenary vote on the Directive (and other measures launched within January's energy package) to the first week of December. This is intended to avoid a deal being reached by Member States that does not duly take on board MEPs' amendments and concerns. Meanwhile, to inform ongoing debate in the Council, the French Presidency has presented a text formally setting out proposed amendments to the renewable energy Directive, aimed at reaching an accord with the European Parliament before the end of the year.

The Presidency text sets out clearly where Member State concerns lie, reiterating and clarifying many of the amendments leaked in earlier drafts. Major concern had previously been expressed regarding the proposed addition of review clauses requiring an assessment of progress towards the 2020 target by the end of 2014, and requiring a review of the inclusion of commercial aviation within the conceptualisation of energy. These amendments remain, although the former is now better worded and seems less likely to threaten the overall ambition of the Directive. The proposed review of the inclusion of aviation in the target remains; however, in their introductory text the Presidency specifically indicates that there is some division over this amendment. While some Member States view this amendment as essential others are apparently less insistent, considering it is essential that the 20 per cent renewable energy target by 2020 remain credible. It therefore appears that this controversial clause may be open to negotiation if key Member States can be persuaded – perhaps in light of the UK government's recent acceptance of aviation and shipping into national targets there may now be greater flexibility on this issue.

There are two other important areas of Council amendments on the sustainability of biofuels and mechanisms to transfer renewable energy credits from an over- to an under-achieving Member State. The former are discussed in detail below, the latter relates to the shift away from the use of certificates of origin as a mechanism by

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which Member States can trade excess renewable energy. Under the Council's proposed approach, guarantees of origin would be the mechanism by which customers can identify the proportion of their energy supply that is renewable and its origin. Meanwhile, so-called statistical transfers between Member States would be the mechanism by which a specified amount of energy from renewable sources would be exchanged between Member States.

Sustainability of Biofuels

The European Parliament is seeking to extend the coverage of the sustainability criteria to all biomass for energy. In contrast Member States are still focusing exclusively on liquid biofuels, although they are asking that the Commission bring forward proposals on the broader biomass sector by the end of 2009. It is crucial that the whole of the bioenergy sector is properly addressed to ensure efforts to promote solid biomass are properly regulated; as solid biomass potentially poses many of the same challenges as biofuels, in terms of sustainability, land uptake etc.

Member States have proposed improvements to the sustainability criteria put forward by the Commission; although they are pulling back from more ambitious standards previously developed by Council working groups. While the European Parliament's latest draft is calling for a 45 per cent greenhouse gas saving from the use of biofuels for transport, the Council text calls for a 35 per cent reduction initially, rising to 50 per cent from 2017. The definition of high biodiversity value land from which it is considered biofuel raw materials should not be taken has been amended. This still focuses upon primary forest, highly biodiverse grassland and areas designated for nature protection. The latter, however, now relates to areas set out in law, international agreements or drawn up by international organisations such as IUCN.

Important improvements have been made by Member States to provisions for the verification of the sustainability of biofuels contributing towards the EU target. In relation to verification Member States have added requirements that operators must submit reliable information, subjected to an 'adequate standard of independent auditing', to Member States. The audit should verify that the systems used are accurate, reliable and fraud resistant, evaluating the frequency and methodology of sampling and the robustness of data. This information should include the assessment of compliance with sustainability criteria and measures taken for soil, water and air protection and the restoration of degraded land. The Commission is asked to establish a list of the information required to prove compliance that will need to be submitted by operators to Member States. Verification and rigorous, consistent reporting systems are essential if the sustainability standards for biofuels are to be in any way relied upon. Previously, this had been left to the whim of each Member State.

Member States are also seeking to significantly strengthen the reporting on and review of impacts and implications associated with biofuel use. Under proposals the Commission would be required to report every two years on: third countries and Member States that represent significant sources of raw material for biofuels; and on national measures taken with respect to sustainability. They would also have to report biennially on social sustainability, particularly whether countries have ratified and implemented key international conventions on labour – this is a step away from developing social criteria as originally proposed by the Council's working committees. The Commission would also be required to report in 2012 on the

effectiveness of the approach to sustainability criteria and whether mandatory requirements related to air, soil and water might be added. Finally, in 2014 the Commission would have to review: the minimum greenhouse gas emission savings applied to the different technologies; the availability of first and second generation biofuels with high levels of greenhouse gas savings; the impact on the availability of foodstuffs; progress towards the target; and the commercial availability of electric, hybrid and hydrogen powered vehicles.

A further new proposal is that a ‘transparency platform’ will be developed on which will be published information on sustainability of biofuels, submitted by economic operators to the Member States. Additionally, all the reports developed by the Commission to evaluate the impacts of biofuel use in Europe will be presented. This represents a major strengthening of provisions on public information and is clearly designed to allay fears that biofuels will be exploited without due consideration and oversight of their impacts.

Much has been made in the environmental press of amendments to default values for greenhouse gas savings to be applied to biofuels produced from different raw materials - based on as yet unpublished work by the Joint Research Centre (JRC). Analysis of the figures shows that the majority of amendments represent relatively small changes, perhaps analogous to incremental improvements in technology. There are, however, relatively significant increases in the level of savings being attributed to sugar beet ethanol and wheat ethanol. Importantly, the increase in sugar beet takes the proportion of greenhouse gas savings to 52 per cent, above the thresholds proposed for savings by both the Parliament and Council, and thereby making sugar beet ethanol eligible within the terms of the Directive.

References

1. Note from the Presidency on the climate and energy package, preparation for the informal trilogue, 24 October 2008, 14673/08

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