

Proposal for a Directive of the European Parliament and of the Council on the promotion of the use of biofuels for transport

(2002/C 103 E/13)

(Text with EEA relevance)

COM(2001) 547 final — 2001/0265(COD)

(Submitted by the Commission on 17 December 2001)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175(1) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the Economic and Social Committee,

Having regard to the opinion of the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty,

Whereas:

(1) The European Council meeting at Gothenburg on 15 and 16 June 2001 adopted a Community strategy for sustainable development consisting in a set of measures, which include the development of biofuels.

(2) Natural resources, and their prudent and rational utilisation as referred to in Article 174(1) of the Treaty, include oil, natural gas and solid fuels, which are essential sources of energy but also the leading sources of carbon dioxide emissions.

(3) The transport sector accounts for more than 30 % of final energy consumption in the Community and is expanding — a trend which is bound to increase, along with carbon dioxide emissions.

(4) Greater use of biofuels for transport forms a part of the package of measures needed to comply with the Kyoto Protocol, and of any policy package to meet further commitments.

(5) Increased use of biofuels for transport is one of the tools with which the Community can influence the global fuel market for transport and hence the security of energy supply in the medium and long term.

(6) Promoting the use of biofuels in keeping with good farming practices will create new opportunities for sustainable rural development in a more market-orientated common agriculture policy.

(7) In its resolutions of 8 June 1998 ⁽¹⁾ and of 5 December 2000 the Council endorsed the Commission's Strategy and Action Plan for Renewable Energy Sources and requested specific measures in the biofuels sector.

(8) In its resolution of 18 June 1998 ⁽²⁾ the European Parliament called for an increase in the market share of biofuels to 2 % over five years through a package of measures, including tax exemption and the establishment of a compulsory rate of biofuels for oil companies.

(9) The optimum method for increasing the share of biofuels in the national markets depends on the availability of resources and raw materials, on national policies to promote biofuels and on tax arrangements, and should therefore be left as far as possible to the policies of the oil companies and other parties concerned.

(10) National policies to promote the use of biofuels should not lead to prohibition of the free movement of fuels that meet the harmonised environmental specifications as laid down in Community legislation.

(11) However, it will be difficult to increase the proportion of biofuel sold above a certain level without measures to blend it in fossil fuel. Therefore, Member States should aim at a minimum blending of 1 % of biofuel into the mineral oil marketed in the Community. This percentage will be adapted on the basis of the shares obtained by biofuels among the various fuels marketed in the Member States and based on further detailed studies.

(12) 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.

⁽¹⁾ OJ C 198, 24.6.1998, p. 1.

⁽²⁾ OJ C 210, 6.7.1998, p. 215.

- (13) Provision should be made for the possibility of rapidly adapting the list of biofuels, the percentage of renewable contents, and the schedule for introducing biofuels in the transport fuel market, to technical progress and to the results of an environmental impact assessment of the first stage of introduction.
- (14) Since the measures necessary for the implementation of this Directive are measures of general scope within the meaning of Article 2 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁽¹⁾, they should be adopted by use of the regulatory procedure provided for in Article 5 of that Decision,

(b) as biofuels blended in mineral oil derivatives taking into account the appropriate European norms describing the technical specifications for transport fuels (EN 228 and EN 590);

(c) as liquids derived from biofuels, such as ETBE (ethyl-tertio-butyl-ether), where the percentage of biofuel is specified in Part A of the Annex.

3. Member States shall monitor the effect of the use of biofuels in diesel blends above 5 % by non-adapted vehicles and shall, where appropriate, take measures to ensure compliance with the relevant Community legislation on emission standards.

HAVE ADOPTED THIS DIRECTIVE:

Article 1

This Directive sets a minimum percentage of biofuels to replace diesel or gasoline for transport purposes in each Member State.

Article 2

1. For the purpose of this Directive, the following definitions shall apply:
- (a) 'biofuels' means liquid or gaseous fuel for transport produced from biomass;
- (b) 'biomass' means the biodegradable fraction of products, waste and residues from agriculture (including vegetal and animal substances), forestry and related industries, as well as the biodegradable fraction of industrial and municipal waste;
- (c) 'energy content' means the lower caloric value of a fuel.
2. The products listed in Part A of the Annex shall be considered biofuels.

Article 3

1. Member States shall ensure that the minimum proportion of biofuels sold on their markets is 2 %, calculated on the basis of energy content, of all gasoline and diesel sold for transport purposes on their markets by 31 December 2005 and that this share increases, aiming towards a minimum level of blending, in accordance with the schedule set out in Part B of the Annex.
2. Biofuels may be made available in any of the following forms:

- (a) as pure biofuels;

Article 4

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 in such sales for the preceding year.

2. By 31 December 2006 at the latest, the Commission shall report to the European Parliament and to the Council on the progress made in the use of biofuels in the Member States, on the economical aspects and on the environmental impact of further increasing the share of biofuels. On the basis of this report, the Commission will propose, where appropriate, an adaptation of the system of targets as laid down in Article 3.

Article 5

1. The Annex may be adapted to technical progress in accordance with the procedure referred to in Article 6(2).
2. The schedule of Part B of the Annex may be adapted in accordance with the procedure referred to in Article 6(2), on the basis of technical development of biofuel technologies, market penetration and applications in means of transport.

Article 6

1. The Commission shall be assisted by the committee instituted by Article 4(2) of Council Decision 1999/21/EC Euratom⁽²⁾.
2. Where reference is made to this paragraph, the regulatory procedure laid down in Article 5 of Decision 1999/468/EC shall apply, in compliance with Article 7 and Article 8 thereof.
3. The period provided for in Article 5(6) of Decision 1999/468/EC shall be three months.

⁽¹⁾ OJ L 184, 17.7.1999, p. 23.

⁽²⁾ OJ L 7, 13.1.1999, p. 16.

Article 7

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 2004 at the latest. They shall forthwith inform the Commission thereof.

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

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

Article 8

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

Article 9

This Directive is addressed to the Member States.

ANNEX

A. LIST OF BIOFUELS AND PERCENTAGE OF RENEWABLE CONTENTS

'Bioethanol': ethanol produced from biomass and/or the biodegradable fraction of waste, to be used as biofuel;

'Biodiesel': a diesel quality liquid fuel produced from biomass or used fried oils, to be used as biofuel;

'Biogas': a fuel gas produced by the anaerobic fermentation of biomass and/or the biodegradable fraction of waste that can be purified to natural gas quality, to be used as biofuel;

'Biomethanol': methanol produced from biomass and/or the biodegradable fraction of waste, to be used as biofuel;

'Biodimethylether': dimethylether produced from biomass and/or the biodegradable fraction of waste, to be used as biofuel;

'Biooil': a pyrolysis oil fuel produced from biomass, to be used as biofuel.

'BioETBE (ethyl-tertio-butyl-ether)': ETBE produced on the basis of bioethanol.

The percentage of volume bioETBE that is calculated as biofuel is 45 %.

B. MINIMUM AMOUNT OF SOLD BIOFUEL AS A PERCENTAGE OF SOLD GASOLINE AND DIESEL

Year	%	Of which as a minimum in the form of blending (%)
2005	2	—
2006	2.75	—
2007	3.5	—
2008	4.25	—
2009	5	1
2010	5.75	1.75