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Subject:	Proposal for a Directive of the European Parliament and of the Council amending Directive 98/70/EC relating to the quality of petrol and diesel fuels and amending Directive 2009/28/EC on the promotion of the use of energy from renewable sources **(first reading)** – Orientation debate = Contributions from Member States

Delegations will find in Annex a contribution from DK, CY, NL, PL, PT and SK to the orientation debate on the above-mentioned proposed Directive (ILUC).

This debate will be held during the Environment Council of 21 March 2013.

DENMARK

1. *Does the proposed Directive, amending the Fuel Quality and Renewable Energy Directives, adequately meet the objectives of addressing indirect land-use change emissions and of encouraging the transition to advanced biofuels?*

2. *Does the proposed Directive support the achievement across the Union of the existing EU energy and climate change objectives?*

Ad 1) Denmark welcomes the proposal and its intentions to lower the GHG-emissions from biofuels and the attempt to obtain rightful GHG-savings from biofuels. However, Denmark has serious doubts as to whether the proposal will fulfil the aim.

The main reasons for Denmark's reluctant position are that:

- Denmark considers the introduction of **ILUC-factors** of outmost importance, so that the reflected GHG-value of the biofuels is accurate and reflects the total emissions from the biofuels. Denmark regrets that the Commission considers the scientific material for the introduction of crop specific ILUC-factors to be insufficient. Denmark finds that due to the seriousness of the ILUC issue, which means that some biofuels are not sustainable, and considering the considerable amount of already existing scientific material on ILUC, **the Commissions reporting obligation should be advanced to 2014 in order to introduce solid scientifically based ILUC-factors as soon as possible.**

- Until it is possible to introduce ILUC-factors a cap as the **5 % cap** suggested by the Commission seems like a viable short term option. However, Danish initial modelling show that the effect of the 5 % cap in the RED will be considerably reduced unless a similar cap is introduced in the fuel quality directive (due to the lack of possibilities for significant reductions in flaring and venting and high uncertain as to the estimated number of electric vehicles in EU in 2020). **Denmark would therefore suggest that the proposed cap is also introduced in the FQD.** The detail of the cap remains to be defined, but various possibilities exist. As previously mentioned Denmark finds that the cap is a less attractive alternative to the introduction of ILUC-factors. Initial modelling done by Denmark shows that with a 5 % cap in RED will only have very limited effect and hence there will still be an ILUC-issue as well as a risk for negative influence on the food prices. **Denmark would therefore - in addition to proposal to include the cap in the FQD - propose that the size of the cap is reduced to 4 % in order to secure a solid GHG-reduction and a minimal risk of biofuels influence on food prices.**

- The Commissions attempt to create a **market for advanced biofuels** and in particular a market for biofuels based on low ILUC risk feedstocks is valued, though Denmark believes that the incentives of the proposal are not powerful enough to create the market needed for driving the technological development.
  Denmark would therefore propose to strengthen the Commission's proposal and create investor security by introducing a mandatory blending obligation for biofuels covered by annex IX part A at 2 %. In Denmark's view this will provide the instrument needed for at swift introduction of advance biofuel covered by part A. These biofuels will typically be bioethanol of which there exist no commercial volumes on the market today or in the near future without help from the EU.

  Concerns have been expressed as to whether there will be **sufficient amounts of advance biofuel available in 2020**. This topic is of course also of concern to Denmark. Denmark has been supporting research and development of advance biofuel for some years. The essence of dialogues with major private industries and stakeholders that are operating in this field is that - provided the above mentioned investor security is in place - the 2 % goal is a very realistic aim. It is of course very difficult to predict the **price of a fuel in 2020** that is not commercially on the market today. Nevertheless, based on existing knowledge of the market for advanced bioethanol and on talks with the major players in this market we estimate, based on a number of assumptions, that a liter of E10, at the pump will have a price increase on less than one Eurocent.

Ad 2) Denmark has serious doubts as to whether the proposal will lower the GHG-emissions from biofuels and obtain rightful accounting of GHG-savings from biofuels. Hence it does not sufficiently support the achievement across the Union of the existing EU energy and climate change objectives.

CYPRUS

1. ***Does the proposed Directive, amending the Fuel Quality and Renewable Energy directives, adequately meet the objectives of addressing indirect land-use change emissions and of encouraging the transition to advanced biofuels?***

The proposal for a Directive amending Directives of Fuel Quality and renewable energy regulates to a great extend issues of emissions from indirect land use change and encourage the transition to advanced biofuels.

Taking into account the maximum percentages of biofuels that can be blended with conventional transport fuels pursuant to the applicable standards for petrol and diesel, which determine the quality standards of these fuels in Directive 98/70/EC, i.e. up to 10% bioethanol in petrol and 7% biodiesel to diesel, the goal to reduce greenhouse gas emissions in the life cycle of transport fuels by 6% by 2020 can only be achieved through the use of advanced biofuels that have zero emissions from indirect changes in overall land use and reduced greenhouse gas emissions.

Moreover, the development of advanced biofuels will contribute to achieving the target of 10% renewable energy in transport, since the share of these biofuels target will double or quadruple their energy content, while at the same time will not require the blending of biofuels with conventional fuels rates beyond the legal parameters. However, this will be achieved only if the market of advanced biofuels is adequately developed.

The measures laid down in the proposal are in the right direction, but are not enough for commercial development of advanced biofuels given the high investment costs and the economic recession prevailing in the EU. We believe that providing financial incentives such as funding research programs for the development of advanced biofuels, reducing the administrative burden of licensing for transfer of advanced biofuels from lab to plant scale, the funding of the initial investment, are measures that will help commercial development of advanced biofuels.

2. ***Does the proposed Directive support the achievement across the Union of the existing EU energy and climate change objectives?***

The proposal supports the achievement of the existing EU energy and climate targets, as it seeks to regulate two major issues: greenhouse gas emissions due to indirect land use changes and increased contribution of advanced biofuels target to the 10% target of renewables sources in transport.

The fuel for road transport accounts for 20% of greenhouse gas emissions of the EU. Reducing greenhouse gas emissions in the life cycle of these fuels, namely gasoline and diesel through blending with biofuels, particularly advanced biofuels that have reduced greenhouse gas emissions, contribute to achieving the goal set by the EU reduce greenhouse gas emissions by 20% by 2020.

Further penetration of renewable energy in the energy balance of the EU together with energy savings and energy efficiency will help reduce greenhouse gas emissions and simultaneously increase the energy security of the EU and reduce its dependence on imported fossil fuels. Therefore, the proposal supports the achievement of the objectives of the existing EU Energy and Climate legislation.

Regarding the obligation of achieving of 60% greenhouse emission saving from the use of biofuels and bioliquids produced in installations starting operation after 1st of July 2014, Cyprus believes that this obligation should be introduced later; i.e. for installations starting operation after 1st of January 2015. This is essential in order to safeguard the current investments of the production of biofuels and bioliquids.

THE NETHERLANDS

The Netherlands welcomes the opportunity offered by the Irish Presidency to send in written comments on the proposed ILUC- directive, ahead of the orientation debate at the Environment Council of the 21st of March. Please find below our comments.

The Netherlands welcomes the Commission's proposal to amend the Renewable Energy Directive and the Fuel Quality Directive. The proposal is seen by the Netherlands as a first step towards a balanced policy that minimizes the impact of indirect land use change (ILUC) from biofuel production.

One of the primary objectives of the European biofuels policy is to reduce greenhouse gas emissions in the transport sector. In order to ensure that this objective will be achieved, the Netherlands remains an advocate of the policy of ultimately including ILUC, by means of differentiated crop-specific ILUC factors, in the greenhouse gas balances of all biofuels and liquid biomass products.

The Netherlands hopes that the combination of some further research, using not only ILUC emission data but also monitoring data on developments in global land use and agricultural production and, a transition to biofuels with a low ILUC risk will result in the development of a mature, balanced and workable ILUC-averse biofuel policy.

The Netherlands supports the Commission's wish to promote greater sustainability and the use of advanced biofuels. However, the Netherlands believes that the proposal lacks clear conditions for the creation of a European level playing field and a pan-European system for reliably demonstrating the sustainable origin of these double- and quadruple-counting biofuels. Clarity regarding the availability of sufficient advanced biofuels is also lacking.

The multiple counting of advanced biofuels will only count towards the transport sub-target. This will lead to a perverse incentive to achieve the overall Renewable Energy target and to significant additional costs. The Netherlands is in favor of multiple counting of advanced biofuels towards the overall renewable energy target as well.

POLAND

Poland does not support limiting the possibility of reaching the target set for the share of energy from renewable sources in transport by 2020 with the use of biofuels produced from agricultural produce to 5%. The introduction of administrative constraints as proposed by the European Commission implies the risk of non-implementation of the objective set out in the provisions of Directive 2009/28/EC.

However, Poland supports actions aimed at promoting the development of new technologies in order to enable a greater use of raw materials in the production of biofuels, including waste, residue, cellulose and lignocellulosic material. Changes to EU policies relating to biofuel market development should be introduced gradually, taking into account the following aspects:

- protection of investments that have been completed or commenced, aimed at the 10% implementation by 2012, and which have yet to be amortized,
- changes in biofuel production technologies in order to ensure that the introduction of the next generation of fuels does not result in an excessive increase of market prices,
- resource base available in the EU, in order to ensure that the achievement of climate targets contributes to the development of entrepreneurship and job creation in the EU, instead of Europe becoming an outlet market for products imported from third countries
- establishing strong links between the production of biofuels in the EU and other equally important sectors of the economy, such as agriculture and animal feeds production.

In this context, Poland doubts whether a solution has been provided to the problem of an increasing pressure on environmentally valuable land in third countries. Furthermore, it seems that even the current proposal enhances adverse trends by promoting the use of biomass from third countries, in which the ILUC phenomenon takes place to a much greater extent.

The stringent requirements imposed by the Common Agricultural Policy and the policies for the protection of natural environment and wildlife, effectively reduce the occurrence of ILUC in the EU. Thus, the production of biofuels from produce grown in the EU is carried out in a manner respecting the principles of sustainable development.

Poland believes that new solutions should be based on the analysis of real threats stemming from the development of the biofuel market in the EU and focus on those areas that bring about real adverse phenomena. Therefore, additional emissions due to indirect land use change should be attributed primarily to these raw materials, which are grown in countries without requirements similar to those in place in the EU.

According to Poland, the proposal of creating a list of raw material for double and quadruple counting is a step in the right direction. However, the list of raw materials should be subject to a detailed analysis, and is should be clarified in order to include only those materials which do not currently have a wider application in the industry (and thus are treated as waste or residue). Poland endorses the EC proposals regarding an increased level of required reduction of greenhouse gas emission to 60% for installations that shall begin operation after 1 July 2014.

Poland attaches great importance to the development of a constructive framework in order to ensure a stable and sustainable development of renewable energy sources in transport, and believes that it is an important contribution to the climate and energy policy.

The EU climate and energy policy in relation to biofuels used in transport should be adjusted to the use of resources from the EU in the first place, and the criteria of sustainable development should not contribute to changes in land use in third countries.

PORTUGAL

1. Does the proposed Directive, amending the Fuel Quality and Renewable Energy Directives, adequately meet the objectives of addressing indirect land-use change emissions and of encouraging the transition to advanced biofuels?

Portugal welcomes the proposal put forward by the European Commission. We are engaged and available to further discuss this issue and to contribute to find adequate solutions for the concerns that have been raised. We hope that the final text of the Directive ensures the sustainability of the investment environment, promotes advanced biofuels and minimises the impacts of indirect land use change.

However, we would like to refer that we have not been provided with detailed data concerning assumptions and methodologies that were considered in calculating ILUC factors, so it is not possible to analyse whether the several sub products of agricultural activity related to the production of raw materials for biofuels were taken into account, or if those factors were fully attributed to biofuel. On the other hand, it seems to us that in some cases the motivations for the changes in land use (even indirectly), such as the increase in the area cultivated with soya bean, may be less related with biofuel production than with the growing need for protein for the food industry and animal feed, and this was not fully taken into account.

Portugal has strong reservations on the 5% limitation, and in this respect would like to have additional information on the social-economic impacts that were used for setting this target.

We also consider that conditions for the existence of a market for advanced biofuels, with adequate amounts and reasonable prices are not yet fulfilled, since advanced biofuels are still in demonstration stage and, therefore, far from the maturity stage needed to be competitive when compared with traditional biofuels.

The strategy chosen by the Commission to promote advanced biofuels may introduce distortions in the market, resulting in an increase in the price of fuels and, consequently, in a loss of competitiveness. On the other hand, it also penalizes investments already undertaken, which in 2009 were strongly encouraged by the EU, creating a double uncertainty regarding the possible recovery of the investment already made.

The 2x and 4x multiplication factors, which increase the competitiveness of advanced biofuels, already provides the necessary input to production, since it allows the market to take on these fuels, if the price does not overcome 2x or 4x the price of conventional biofuels. The restriction in the use of conventional biofuels to 5% however does not guarantee the availability of sustainable prices.

Portugal considers that another way to promote advanced biofuels will be through EU financing to projects developing such technologies and promoting their enterance into the market, through European funds and another financial schemes, such as NER 300.

2. Does the proposed Directive support the achievement across the Union of the existing EU energy and climate change objectives?

Portugal considers that this proposal is likely to render achieving the target of 10% of renewables in transports more challenging, potentially becoming more costly for Member States to fulfill its obligations. The fact that both Directives apply different multiplication factors for the contribution of a specific biofuel can introduce additional difficulties, delivering mixed signals to market agents.

Given that in RED the aim is to comply with the target of 10% of renewables in transports, and in FQD, the aim is to reach a 6% reduction in the greenhouse gas intensity of fuels, the double compliance will be more efficiently reached if rules are aligned, i.e, if both Directives use the same ILUC emission factors (and, eventually, the same multiplication factors) when measuring compliance. Currently, this is not the case. A Member State can comply with the transports target, using a lower percentage of biofuels (through the effect of multiple accounting) resulting in increased emissions of GEE when compared with the use of biofuels that do not take into account this multiple contabilization.

However, the financial support to advanced biofuels will be globally positive in addressing climate change, if it results in new biofuels production techniques or in the use of new raw materials at competitive prices.

SLOVAKIA

1. ***Does the proposed Directive, amending the Fuel Quality and Renewable Energy Directives, adequately meet the objectives of addressing indirect land-use change emissions and of encouraging the transition to advanced biofuels?***

SR agrees with the need to reduce emissions in the transport sector and the implementation of the Europe 2020 objectives. However, we do not think that the Directive in currently proposed form has the potential to facilitate the achievement of those objectives. Modification, with which it is possible to agree, is a new timetable for reducing greenhouse gas emissions from plants for first generation biofuels production. The restriction of limits in the proportion by which the conventional biofuels contribute to the Renewable Energy Directive objectives of 5 %, is considered as a policy change that may substantially affect the agricultural sector and therefore we cannot agree with it.

Problematic is also the availability of suitable raw materials for second and third generation biofuels. Technologies for their production are far from stable and commercial operation capable of producing hundreds of thousands of tons of second and third generation biofuels. We do not consider as the most appropriate the multiple counting of energy content of second and third generation biofuels, since the remaining volume can be replaced by fossil fuels, so the actual emissions saving is questionable. Such incentives may in turn lead to the further destruction of rainforests (waste from palm oil and palm residues), or intentional pollution of raw materials for the purpose of the economic benefit (used cooking oils).

The crucial reservation of SR is counting of ILUC factors for biofuels production in the Slovak Republic, which would affect the production of biofuels in Slovakia. The actual values are too high (especially for oil crops) and their counting is unjustified, since no change in land use due to the biofuels production occurs in Slovakia. ILUC values should be counted for biofuels made from raw materials from third countries which are grown on the areas resulting from indirect land use change.

SR does not agree with the proposal to adopt delegated acts by the Commission as these will not always be possible to implement to national legislation in requested period while creating the conditions for unexpected changes in the rules on the market.

2. ***Does the proposed Directive support the achievement across the Union of the existing EU energy and climate change objectives?***

SR is not convinced that the proposed directive in its current form contributes to the objectives set by the European climate and energy package. The main objective of this policy is to reduce greenhouse gas emissions, while trying to achieve this goal through the transition from conventional biofuels to the second and third generation biofuels, which have lower emissions production and the production of which also does not place demands on land. Problematic appears to us in particular the lack of technologies, but also the lack of materials for their production, as they are currently used in various industries. The support of these technologies by multiple counting of their energy content does not significantly reduce the emissions, because the missing energy content may be replaced by fossil fuels. It is therefore necessary to pay attention to multiple counting policy and related list of raw materials in order to prevent the emissions reduction target to be an excuse for even more environmental degradation, as we are witnessing today.