



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 30 April 2014**

**9381/14**

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**Interinstitutional File:  
2012/0288 (COD)**

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**ENER 174  
ENV 422  
CLIMA 43  
ENT 116  
TRANS 248  
AGRI 337  
POLGEN 57  
CODEC 1197**

**NOTE**

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From : General Secretariat of the Council

To : Delegations

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No. Cion prop. : 15189/12 ENV 789 ENER 417 ENT 257 TRANS 346 AGRI 686 POLGEN 170  
CODEC 2432 + ADD 1-2

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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**)

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With a view to the meeting of the Ad hoc Working Party on ILUC on 6 May 2014, delegations will find in Annex a Presidency compromise proposal on the above, based on the text in Annex to 16546/13.<sup>1</sup>

The compromise proposal contains two main elements:

1. Additional, factual wording in a new recital 6a, to reflect **considerations on estimated ILUC emissions and their origin** (under point 2 in the Annex).
2. A **stronger encouragement for advanced biofuels**, while leaving **flexibility for Member States** (under points 1, 3 and 4 in the Annex):

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<sup>1</sup> Compared to 16546/13, **underlining in bold** indicates new proposed changes to the Commission's proposal.

3. The text to amend Article 3(4)(e) of Directive 2009/28/EC contains an aspirational provision ("shall aim to ensure"), putting an obligation of best endeavours onto Member States so that a minimum proportion of biofuels and other fuels produced from feedstocks listed in Part A of Annex IX ("advanced biofuels") is consumed on their territory. Member States would be required to set a national target for such biofuels, with a reference value of 0.5 % in energy content (i.e. before their contribution to the targets referred to in Article 3(4) of Directive 2009/28/EC is counted twice their energy content) of transport fuels as an orientation. Member States could set a lower target than the reference value, based on three broad categories of objective reasons, which are modelled on Article 4(1), second subparagraph, of the earlier Biofuels Directive 2003/30/EC. The transposition Article 4(2) of the present proposal would include an obligation for Member States to inform the Commission of their national targets, and to indicate the reasons for setting a lower target. The Commission would publish the national targets, together with the reasons given as appropriate.

In order to assess possibilities for taking this file forward, the Presidency asks delegations to indicate their positions at the upcoming meeting of the Ad hoc Working Party on ILUC, and in particular if they can support the suggested approach contained in the annexed proposal as part of an overall compromise package together with the rest of the text as in 16546/13.

**1. Amended recital 6:**

6. Liquid renewable fuels are likely to be required by the transport sector in order to reduce its greenhouse gas emissions. Advanced biofuels, such as those made from wastes and algae, provide high greenhouse gas savings with low risk of causing indirect land use change and do not compete directly for agricultural land for the food and feed markets. It is appropriate, therefore, to encourage greater production of such advanced biofuels as these are currently not commercially available in large quantities, in part due to competition for public subsidies with established food crop based biofuel technologies. **Member States should promote the consumption of such biofuels through setting specific sub-targets at national level within the obligation to ensure that the share of energy from renewable energy sources in all forms of transport in 2020 is at least 10% of their final energy consumption. Such advanced biofuels and their promotion are expected to continue to play an important role for the decarbonisation of transport and the development of low-carbon transport technologies beyond that date. [...]**

**2. New recital 6a:**

- 6a. Distinctions in the estimated indirect land use change emissions arise from the different data inputs and key assumptions on agricultural developments such as trends in agricultural yields and productivity, co-product allocation and observed global land use change and deforestation rates, which are not under control of the biofuel producers. While most biofuel feedstocks are being produced in the EU, the estimated indirect land-use change emissions are mostly expected to take place outside the EU, where the additional production is likely to be realised at the lowest cost. In particular, assumptions with regards to the conversion of tropical forests and peat land drainage outside the European Union strongly influence the estimated indirect land use change emissions associated with biodiesel production from oil crops, and as such it is most important to ensure that such data and assumptions are reviewed in line with the latest available information on land conversion and deforestation, including capturing any progress made in these areas through ongoing international programmes.**

**3. Amended Article 3(4)(e) of Directive 2009/28/EC:**

**'(e) [...] Member States shall aim to ensure that a minimum proportion of biofuels, and other fuels produced from feedstocks listed in Part A of Annex IX is consumed on their territory. To that effect, each Member State shall set a national target. A reference value for this target is 0.5 % in energy content of the share of energy from renewable sources in all forms of transport in 2020 referred to in the first subparagraph, to be met with biofuels produced from feedstocks, and other fuels listed in Part A of Annex IX.**

**Member States may set a national target lower than the reference value of 0.5%, based on one or more of the following grounds:**

**(i) objective factors such as the limited potential for the sustainable production of biofuels from feedstocks and other fuels listed in Part A of Annex IX, or limited availability of such biofuels at cost-efficient prices on the market, taking into account the assessment contained in the Commission report referred to in Article 3(1)\*;**

**(ii) the specific technical or climatic characteristics of the national market for transport fuels; or**

**(iii) national policies allocating comparable resources to incentivising the use of electricity from renewable energy sources in transport.**

**The Commission shall publish the national targets of the Member States and, when applicable, the grounds for differentiation of their national target as compared to the reference value, notified in accordance with Article 4(2).'<sup>\*</sup>**

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\* to be understood as Article 3(1) and Article 4(2) of ILUC Directive respectively.

**4. Amended Article 4(2):**

2. Member States shall communicate to the Commission the text of the main **measures** of national law which they adopt in the field covered by this Directive. **On that occasion, Member States shall inform the Commission on their national targets set in accordance with Article 3(4)(e) of Directive 2009/28/EC and, as appropriate, on a differentiation of their national target as compared to the reference value referred to therein, and the grounds therefor.**