

Copa and Cogeca position on the
recast of directive 2009/28/EC on the
promotion of the use of energy from
renewable resources (COM(2016)767
FINAL) in view of the trialogues





Copa and Cogeca position¹ on the recast of directive 2009/28/EC on the promotion of the use of energy from renewable resources (COM(2016)767 final) in view of the trialogues

AN AMBITIOUS RELATIVE SHARE OF AGRICULTURAL AND FOREST BIOMASS IN THE EU'S RENEWABLE ENERGY SOURCES MIX

- The Commission's initial proposal on the recast of Directive 2009/28/EC provides an EU framework that is less favourable to the contribution of biomass in the renewable energy sources (RES) mix by reducing the market share of biomass and increasing its costs in comparison to Directive 2009/28/EC. The risks for investors in this sector will increase in the period after 2020.
- The EP proposes to amend the Commission's initial proposal by referring to the principle of market distortion and cascading use of biomass, with the bioenergy outlet as the last stage of the cascading system.

→ Position

Biomass is the main source of renewable energy in the EU. The relative share of this main and regular (not intermittent) source of supply must not be reduced between now and 2030 to the benefit of non-biological sources transformed into electricity. Indeed, agriculture and forestry have potential to produce additional quantities of sustainable biomass in the EU between now and 2030. Consequently, Copa and Cogeca recommend a stable long-term policy guaranteeing existing and future investment in the bioenergy sector as well as greater consistency between the different EU policies. They support the EP's ambition to increase the general European objective to promote renewable energy sources and to set a binding target for the promotion of renewable energy sources in the transport sector applicable to Member States.

Regulating cascading use raises numerous questions relating to implementation, verification and control. National and regional circumstances vary considerably in terms of resources, industry development capacity, markets and energy systems. Regulating cascading use could hamper innovation and the effectiveness of resources by generating sub-optimal value cycles, distorting the market and increasing costs and the administrative burden for operators. Copa and Cogeca therefore reject the references to market distortion and cascading use introduced in the EP's report.

¹ Initial position paper [BI\(17\)1775 \(rev.5\)](#)





CROP-BASED BIOFUELS

Priority demands

I. Reject the increase of the weighting of energy content (multipliers) in all forms of transport

- The Council proposes that the consumption of electricity produced from renewable energy sources (RES) by electric road vehicles and railway transport be multiplied by 5 and 2 respectively. The Council gives Member States the possibility to count the consumption of biofuels and biogas produced from the feedstocks listed in Annex IX twice in the incorporation obligation of at least 14%.
- The EP proposes that the consumption of electricity produced from RES by electric road vehicles be multiplied by 2.5 in the target for RES in transport of at least 12%.
- The Council and EP maintain the Commission's initial proposal to multiply the contribution of renewable fuels supplied in the aviation and maritime sector by 1.2 in the incorporation obligation.



→ Position

Copa and Cogeca hold the view that RES consumption multipliers are not an appropriate way of promoting renewable energy sources in the transport sector. Multipliers would undoubtedly result in fuel suppliers being partially exempted from their obligation to replace fossil fuels with renewable energy sources. Consequently, greenhouse gas emissions would not decrease and the share of renewable energy sources in the transport sector would not succeed in reaching the minimum level of 14%. Multipliers amount to statistical trickery, constituting a kind of virtual inclusion of renewable energy sources. In fact, they deceive citizens about the real level of incorporation of renewable energy sources, which would be lower than the target set, and about greenhouse gas emission reductions in the transport sector, which is a major emitter and continues to see its emissions increase. After 2020, the non-ETS sectors (transport, households, agriculture) will have to reduce their greenhouse gas emissions by 30% compared with 2005. Failure to reduce greenhouse gas emissions in the transport sector will have to be compensated for by households and other non-ETS sectors, such as agriculture, which will have to bear the costs and in which room for progress is limited.

In reality, multipliers would call into question the climate and environmental objectives, reducing the availability of renewable energy sources for the transport sector, and increasing the EU's energy dependence and the transport sector's greenhouse gas emissions. Multipliers threaten the development of renewable energy sources because they do not form a reliable basis on which to stimulate investment. Besides this, there cannot be a return on the amount of investment required to develop new technologies commercially with reduced volumes.

In addition, electricity consumption multipliers in railway transport are all the more inappropriate considering that rail electrification is neither a recent nor new technology.



Moreover, identical double counting for all biofuels and biogas produced from the feedstocks listed in Annex IX would threaten investment and the development of advanced biofuels besides crop-based biofuels. Indeed, identical double counting does not take into account the varying production costs in the different sectors and would reduce the size of the market (see point 2.2 a)). Therefore, Copa and Cogeca reject all multipliers.



II. RES in transport target and/or renewable energy sources (RES) incorporation obligation applicable to fuel suppliers, including for crop-based biofuels at a level equal to or above 14%

- The Council proposes an incorporation obligation on fuel suppliers of at least 14%. This includes crop-based biofuels and allows Member States to reduce the level if the national cap on crop-based biofuels is below 7%.
- The EP proposes an incorporation obligation on fuel suppliers of at least 10%, which does not include crop-based biofuels, and a 12% target to promote renewable energy sources in the transport sector.
- The Commission proposes an incorporation obligation on fuel suppliers of at least 6.8%, which does not include crop-based biofuels.

→ Position

According to the EP's proposal, the market share that would remain for crop-based biofuels would be of 2% at most in 2030. The impact of this would be even more negative than the EC's initial proposal (see point 2.1 c) below) and would in no way protect existing investments until 2030 as the EP claims.

Copa and Cogeca have demanded an incorporation obligation on fuel suppliers of at least 15%. This should include crop-based biofuels (see [BI\(17\)1775 \(rev.5\)](#)). Copa and Cogeca therefore fully support the Council's joint position, provided that multipliers are rejected (see point 2.1 a)) and that Member States are not given the option to reduce the 7% cap on crop-based biofuels (see point 2.1 c)).



III. Capping crop-based biofuels by 7% until 2030. Reject the trajectory to phase out crop-based biofuels

- The Council proposes a stable cap on crop-based biofuels of 7% until 2030, but gives Member States the option to reduce it.
- The EP proposes capping crop-based biofuels at the 2017 level, with a maximum of 7% and a minimum of 2%.
- The Commission proposes to phase out crop-based biofuels from 7% in 2021 to 3.8% in 2030. The Commission, supported by the Council and the EP, proposes to authorise differentiation of crop-based biofuels at national level.





→ Position

The EU will be unable to do without liquid fuels post 2020. Indeed, in the measures aiming to accelerate the transition towards lower or zero emission vehicles announced by the European Commission at the beginning of November 2017, the European Commission states that the change in the composition of the vehicle fleet will be gradual and that at least 80% of new vehicles will contain an internal combustion engine. The EU will therefore continue to depend on liquid fuels beyond 2020. The removal of agricultural biofuels that are certified as sustainable from the liquid fuel mix in 2030 is unjustifiable as they would be replaced by fossil fuels, which emit more greenhouse gases. Public support should therefore be maintained for crop-based biofuels after 2020 as they are a very effective way of decarbonising transport. In contrast, a renewable electricity consumption multiplier for electric vehicles would enable the target for RES in transport and/or the incorporation obligation to be reached artificially, depending on the share of the electric vehicle market (see point 2.1 a)).

The maximum 7% share of crop-based biofuels which was decided on by the Council and EP in the compromise on Directive (EU) No 2015/1513 must remain unchanged at EU level until 2030. Given the tensions on the livestock feed protein market, crop-based biofuels that provide high-quality protein and fodder co-products must be given preference (see GOL(18)585rev.2).

Differentiation between the different European crop-based biofuel sectors as part of renationalisation of the promotion of the use of conventional biofuels as proposed by the Commission must be rejected because of its negative impact on European farmers' ambition to provide sustainable solutions to fight against climate change.

IV. Palm oil not taken into account in the RES incorporation obligation level for fuel suppliers

- The EP proposes to set the contribution of palm oil to biofuels at 0% from 2021 and to allow Member States to distinguish between biofuels based on other sustainability criteria.

→ Position

The proportion of palm oil and its derivatives in biodiesel and petrol has increased steadily (see Annex 1). While cold resistance standards previously limited the share of palm oil in biodiesel obtained from conventional esterification technology, new vegetable oil hydrotreating technology makes it possible to depart from them. As a result, palm oil is able to gradually reach the cap on crop-based biofuels and to contribute to achieving the objective to promote renewable energy sources in the transport sector set by this directive, both for diesel and petrol. This will leave less room for biofuels of European origin. That is why Copa and Cogeca support the EP's proposal to set at zero the consumption of palm oil in the calculation of palm oil's contribution to the cap as well as to the EU's RES objective. This does not equate to a physical ban on using palm oil as a source of renewable energy in the EU.

Secondary demands

I. Sub-target and cap for biofuels, and list of feedstocks eligible for the production of advanced biofuels

- The Council proposes a binding sub-target of at least 1% for advanced biofuels (Annex IX, Part A), increasing to at least 3% by 2030.
- The Commission proposes a sub-target to promote advanced biofuels of 0.5% in 2021, gradually increasing to at least 3.6% by 2030. The EP supports this.
- The Council and the EP propose to remove molasses from point c), Part B of Annex IX of the EC's initial proposal. The EP supports a 1.7% cap for other biofuels produced from the feedstocks listed in Part B of Annex IX proposed by the EC. The Council, on the other hand, gives Member States the option to set this cap themselves.

→ Position

No Member State must be allowed to go under the 2021 baseline. The EC's initial proposal for a sub-target of 0.5% in 2021 is unrealistic as this is not binding for Member States within the framework of Article 2.2 e) of Directive 2015/1513/EC. Advanced biofuel production costs vary depending on the sector. For this reason, a single identical binding target is not sufficient to promote all advanced biofuels as the sector with the lowest production costs will gain the market shares. Other more appropriate incentives need to be implemented, such as tax measures, investment aid and concrete measures supporting the development of the bioeconomy in Europe.

The contribution of advanced biofuels produced from feedstock will also depend on the list of feedstocks drawn up in Annex IX. Copa and Cogeca demand that animal fats classed in categories 1 and 2 in accordance with Regulation (EC) No 1069/2009 be included in Part A and thus removed from Part B of Annex IX. They ask that residues from olive oil extraction be included in Part A of Annex IX and that palm oil mill effluent and empty palm fruit bunches (g) be removed, in line with their position above (point 1.2 d)). Bagasse (point j) of Annex IX, Part A) should be removed due to its use in cogeneration installations. Copa and Cogeca demand that molasses (which are widely available in the EU due to the end of the sugar quotas) and starch B and C be added to Part B of Annex IX for the production of other biofuels. Otherwise, other biofuels will only be produced from waste vegetable oil. As a result of the extension of the list of feedstocks eligible for the production of other biofuels in Part B of Annex IX, Copa and Cogeca request to increase the cap by 1.7%.

Copa and Cogeca can support a binding sub-target of 1% by 2025, increasing to 3.6% in 2030, for the contribution of advanced biofuels produced from feedstocks listed in Part A of Annex IX, provided that the multiplier of 2 is removed for the feedstocks listed in Annex IX (see point 2.1 a)).





II. Recognise the role of renewable electricity in the production of biofuels

- The EP amends the EC's initial proposal, allowing renewable electricity obtained through long-term electricity purchase agreements to still be considered as renewable electricity.
- The Commission proposes to change the accounting rules for renewable electricity in biofuel production.

→ Position

Biofuel producers should continue to be authorised to include the total share of certified and renewable electricity purchased in greenhouse gas emission calculations, regardless of whether the electricity comes from an off-grid or on-grid installation. The Commission's proposal, which aims to change this, would affect the main biofuel producers that already use a large share of renewable electricity in their production processes. Copa and Cogeca support the European Parliament's position which allows renewable electricity obtained through long-term electricity purchase agreements to still be considered as renewable electricity. This approach would also help to reduce the imports of products derived from fossil CO₂.

III. Promote carbon capture and the replacement of carbon derived from fossil energy in the method for calculating greenhouse gas emissions (Annex V c) point 15)

- The Council and the EP amend the EC's initial proposal to allow for the replacement of carbon derived from fossil energy to be taken into account in the method used to calculate greenhouse gas emissions.
- The Commission suggests removing the replacement of carbon derived from fossil energy from the method used to calculate greenhouse gas emissions (Annex V.C.15).

→ Position

Copa and Cogeca support the EP's amendment to Annex V.C.15 which re-establishes the provisions of Annex V.C.15 of Directive 2009/28/EC. This maintains the incentive to capture carbon and replace carbon derived from fossil energy, regardless of the sector. It also helps to retain existing investment in the ethanol sector.

IV. Take into account the N₂O value from the latest IPCC report in the method used to calculate greenhouse gas emissions

- The Commission proposes a value of 298 CO₂ equivalent for N₂O in point 4 of Annex V.C.4.
- The Council and the EP have kept the EC's initial proposal.

→ Position

Copa and Cogeca ask for the value from the latest IPCC report of 265 instead of 298 to be taken into account.

V. Definition of “non-food cellulosic material”

The definition in Article 2 point q), initially proposed by the EC, is only partially changed by the Council. This is problematic as the Council only clarifies the definition of secondary crops in relation to herbaceous perennial crops. The EP’s amendment no. 93 does not resolve the problem. In addition to the Council’s position, Copa and Cogeca demand that the words “mainly composed of cellulose and hemicellulose” be removed and replaced with the words “partly composed of cellulose and hemicellulose”. They also request that the words “with a low starch content” be removed. Otherwise, the development of biomethane will be called into question in the Member States. Use of secondary crops needs to be authorised in the production of biogas.

HEATING AND COOLING

- The Commission and Council put forward a target to increase the share of renewable energy sources in the heating and cooling sector by 1% annually; the EP proposes 2%.

→ *Position*

Copa and Cogeca support the EP’s position which is more ambitious than that of the Council and the EC’s initial proposal. Copa and Cogeca also underline the importance of promoting agricultural and forest biomass in the heating/cooling sectors.

Ambitious European policy in the heating and cooling sector would generate greater mobilisation of agricultural and forest biomass in the majority of Member States, creating jobs and value in the EU’s rural areas. This approach would ensure consistency between EU energy, climate and agricultural policies and would support investments in the bioeconomy; one of the difficulties the bioeconomy has is establishing mass supply chains.

SUSTAINABILITY OF FOREST BIOMASS

- In Article 26(5), the Commission proposes, both at national and forest holding level, a risk-based approach focusing on five criteria.
- The Council proposes to delete one criterion at both levels (v) harvesting does not exceed the long-term production capacity of the forest) and makes some improvements to the wording of the other criteria.
- The European Parliament includes an additional criterion at forest holding level (vi) environmental and nature regulations or measures are in place and in line with the relevant Union environmental and nature standards) and adds additional elements to the criteria proposed by the Commission.





→ Position

Copa and Cogeca support the Council's approach to the sustainability requirements for forest biomass for bioenergy included in the so-called risk-based approach. Having a simple and clear set of requirements as part of a risk-based system is the only acceptable way to incorporate the sustainability of forest biomass into EU legislation.

However, this should not lead to any shift in the applicability of the subsidiarity principle to forests and forest management in the EU.

Copa and Cogeca do not accept the inclusion of vague wording in sustainability requirements iv) and v), nor the completely new requirement vi). In particular, requirement vi) "environmental and nature regulations or measures are in place and in line with the relevant Union environmental and nature standards", proposed by the European Parliament, is highly problematic as it is superficial compared with the other requirements, is vague in its wording and could impose unnecessary administrative and legislative burdens. Moreover, it should be noted that requirements iv) and v) were not part of the Commission Impact Assessment. It is therefore unnecessary to include them in the new EU legislation addressing bioenergy sustainability.

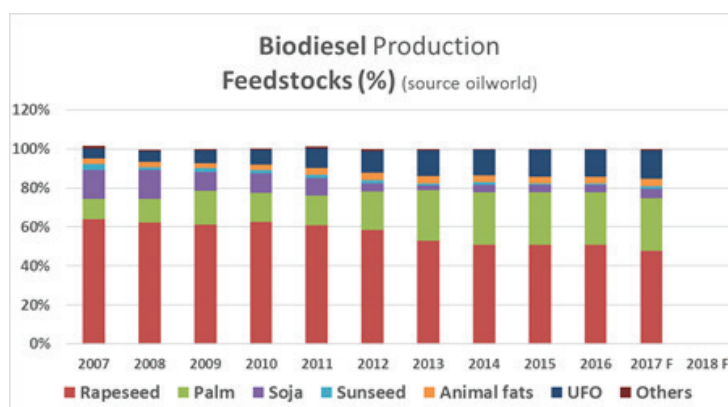
It should be reiterated that sustainable forest management (SFM) principles, developed according to pan-European principles commonly agreed upon by the Forest Europe process, have been incorporated in Member States' forest and nature conservation legislation. In addition, SFM is subject to market-based certification schemes.

Moreover, in order to comply with the principle of subsidiarity and guarantee Member State competence, it is important that the Commission's provisions remain limited to developing guidance on demonstrating compliance with the sustainability requirements, in line with the Council's position.

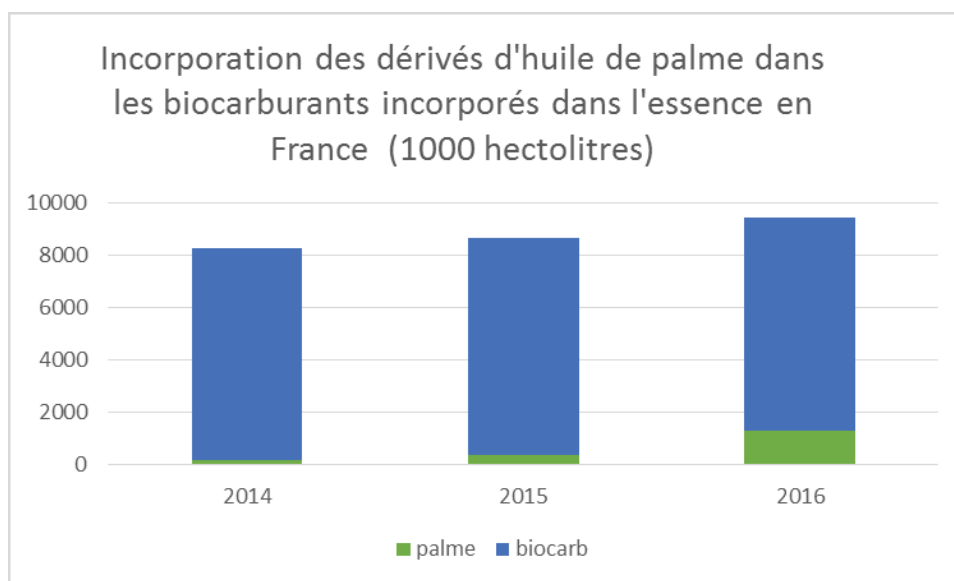


ANNEX 1

A) PERCENTAGE OF FEEDSTOCKS USED IN BIODIESEL IN THE EU



B) VOLUME (1000 HECTOLITRES) OF PALM OIL DERIVATIVES IN BIOFUELS INCORPORATED INTO PETROL IN FRANCE OVER THE PERIOD 2014-2016



In 2016, hydrotreated palm oil derivatives represented 10% of the volume of biofuels incorporated into petrol in France.

Source: Syndicat National des Producteurs d'Alcool agricole (SNPA/France, Association of French Alcohol Producers)

1000 hectolitres	2014	2015	2016
Proportion of petrol from hydrotreated palm oil	137	278	915
Conversion into bioethanol equivalent to take into account the LHV (X 1.42)	196	397	1,307
Total volume of biofuel incorporated into petrol	8,246	8,647	9,451

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