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Comments on European Commission proposals for RED II, M2017/00114/Ee

SPBI submits the following written comments on the European Commission's proposal for a new Renewable Directive, RED II; COM (2016) 767 final; 2016/0382 (COD)

Three years is not enough security for investors

It is excellent that the Commission is trying to create a predictability for investments in both the renewable sector and in the existing business. However, SPBI believes that the Commission's credibility in this question is low.

In 2009 the Commission presented biofuel as such a key tool for the transition to a low-carbon society, that the targets were set twice in partially divergent goals; 6% reduction of carbon dioxide emissions from the fuel mix in the Fuel Quality Directive (FQD) and 10% of renewable in the transport sector in the Renewable Energy Directive (RED).

After criticism from the European NGOs, the Commission began to falter, and since then it has gradually changed its mind, and currently is opposing to crop-based biofuels. The resistance began after two to three years, after the introduction of the directives, but before the principles for the calculation of the FQD were adjusted. When the Commission refers to long-term investment in the current proposition, they use a period of three years.

SPBI strongly believes that the government must urge the Commission and Parliament to understand that long-term in this context is 10 - 20 years. Talking about three years as long-term is incomprehensible in this context.

To establish the Commission's position as a credible one, SPBI recommends the government to pursue the former perception of biofuels, from the aspect of protecting the investments made in production capacity to be maintained over the planning period until 2030. Especially when considering the scientific uncertainty about the effects of the indirect land use change, and that a reduction would not affect already executed land use changes.

SPBI has observed that the discussion on sustainability and the use of biomass for energy purposes has begun, and if NGO's will get the same sympathy for their views this time, the question is if anyone dares to invest in the new production of advanced biofuels. To achieve the mandatory requirements on advanced biofuels that are placed on the fuel supplier in Art 25th, investments are necessary.

7% limits and down to 3.8% for crop-based biofuels

The world consumption of biofuels is almost 100% crop-based. Because of the limitation of crop-based biofuels, the use of it will fall in the 2020's, and the consequence will be an increased use of fossil fuels. Even though the investments in the various tracks of biofuels from other raw materials goes expeditious, there is a high degree of uncertainty, which most likely leads to significant competition for current volumes, particularly considering the introduction of the quota system proposed by the Commission.

Considering the Swedish Government's ambition until 2030, this part of the proposition is without a doubt problematic. With the knowledge, we have today, it will practically be impossible to achieve the ambition that is expressed in both the FFF-Investigation and the Environmental Policy Formulation without crop-based biofuels.

Per preliminary data the SBPI has got from other Member States, there are discussions to use the restriction downwardly of crop-based biofuels. If then Sweden chooses not to put a limit on crop-based biofuels, other than what it takes to reach the target, SPBI assesses there is a risk that the demand for crop-based biofuels will be reduced so much within the EU that it is not possible to keep such production facilities running for Sweden's demand only. Furthermore, it is likely that the Commission will have views about a country that deliberately deviates from the approved route.

In SPBI's opinion, the government must get the Commission and Parliament to:

- Either abandon the upper limits and replace it with a transparent and a revisable analytical method in which operators in the market can show how much the reduction capacity of the finished propellant is.
- Alternatively, raise or maintain the existing upper level.

Low-ILUC

In previous discussions on a directive proposition for the so-called ILUC Directive (2015/1513 / EU among others), the possibility has been stated of using low-ILUC tracks for the raw materials that do not fall within the scope of Annex IX and thus can be classified as advanced.

In the case of, or in parallel with, the goal of using materials that do not qualify as advanced, the government should work towards a framework around the low-ILUC-biofuels.

National freedom beyond limit

The conditions to produce or obtain raw materials to production of biofuels varies widely between countries. Unless a legal framework can be decided for ensuring the sustainability and GHG reducibility of biofuels, the government must work to achieve the greatest possible freedom for the use of sustainable biofuels from raw materials other than those in Annex IX list.

To avoid multiple steering instruments

– risk of three simultaneous instruments/obligation/reduction system with three penalties

The way the government has chosen to implement Article 7a of the Fuel Quality Directive means that the reduction duty with related fines will be introduced. Art 7a will not be extended beyond 2020 in Red II directive but in the implementation work of the government of Sweden has not set an end date for a reduction in duty under Art 7

The government proceeds with the introduction of a reduction duty as a steering instrument for increased use of biofuels with related penalties before the end of December 2018. The EU Commission has in its proposition for new Renewables Directive proposed the introduction of a quota of biofuels in the energy requirement (Article 25) defined as advanced biofuels with an associated penalty.

Sweden may, therefore, be in a situation with three steering instruments for different types of reduction duty and quota duties with three distinct penalty levels with different scope and methods of calculation. In a situation with a lack of biofuels during the 2020s, an operator suffers a triple penalty, practically unable to meet the requirements. This will also lead to higher consumer prices of motor fuel that can damage the Swedish business sector and competitiveness. This is an unreasonable situation. The government must eliminate these complex rules with multiple instruments in their future work.

Governance

According to the Governance rules, the Member States shall set their targets by 2030. If SPBI has understood it correctly, the MS can increase the level of ambition but not decrease. Given the uncertain availability of advanced biofuels, one must be careful to set goals that can not be met.

In the assessment of the availability of biofuels within the EU, one must make the assessments based on both crop-based and advanced biofuels. A low figure of quota obligations under Art 25 require large volumes of advanced biofuels, which today does not exist.

The EU fuels in road and rail (Art 25) is approximately 3,300 TWh compared with Sweden´s about 79 TWh. At a requirement of 1.5% advanced biofuels (2021) which is the same for all in the EU, requires 50 TWh of advanced biofuels. These volumes are not available today.

Since 2021 is only four years ahead now, and the RED II Directive is not even ready, SPBI assesses that there will not be enough investments to produce advanced biofuels to the extent that will be required.

If Sweden decides to have a higher level of ambition in their energy and climate plans, other countries may reduce their ambitions. Then there is no climate gain while Sweden has chosen to take on the increased cost instead of another member country.

Quotas requirement

– EU collective means strong demand for advanced biofuels

SPBI notes that a compulsory quota at EU level creates a strong demand for advanced biofuels. With the restrictive approach of the Commission, towards different types of commodities there is a risk of deficiency. The government should act so that any system for quota obligations will protect shortages caused by lack of raw material. A deficiency may well lead to a "chicken race" of products where the country has the most profitable means of control are getting the most volume. This benefits neither the climate or economic efficiency.

The extent of the RED II

In preparing the Directive, one must consider that the bases are comparable between the EU Member States, for example, which volumes that are included.

SPBI perceive the different reduction and quota obligation systems have different scope.

- Art 7: includes road, working machines (so-called off road), shipping rated for inland waterway transport, agriculture, forestry, recreational boats, and electricity for the vehicles.
- Reduction duty as government office is preparing?
- Quota obligation under Art 25: Road and railway, not machines

Art 25

SPBI request the calculation of the 25 species to be clarified. The SPBI concerns are:

- a) The denominator: the energy content of fuels for road and rail, such as gasoline, diesel, natural gas, biofuels, biogas, e-fuels, fossil residual oils and electricity
- b) The numerator: biofuels from raw materials in Annex IX, biogas, e-fuels and electricity to road vehicles. NOTE! No electricity to train in the numerator but in the denominator.
- Max 1.7% contribution in the numerator may come from raw materials in Annex IX, Part B.
- Aviation & Marine is counted x 1.2 in the numerator but is not included in the denominator.

SPBI doubts whether there is consistency between what is included in the denominator and numerator. This must be clarified.

Impact assessment of the opportunity to achieve the 7a requirement – with new fossil comparator

SPBI would like to draw attention to the fact that the RED II proposes an amendment to the fossil fuel comparator from 83.8 to 94 g CO₂ eq / MJ. This may have implications for the possibilities to meet art 7a til 2020. Possible, there will simultaneously be made changes in how to calculate the greenhouse gas performance of biofuels. SPBI has not yet studied this in detail.

The waste heat from refineries

The use of waste heat for reducing the primary use of energy is something that should be rewarded whether the waste heat is a fossil or renewable origin. The alternative to the use of waste heat in the Swedish refineries is that heat spills into the sea, and the new energy source needs to be used instead.

The government must ensure that the use of waste heat can be used in climate work regardless of origin.

State aid rules are necessary

As the use and the feasibility of different steering instruments is dependent on state aid rules, the possible changes that these will undergo are also of value. Today's energy and environmental guidelines are scheduled to change in 2020; this is an area that must be monitored carefully and will determine whether the targets can be reached or not.

Narrower list in Annex IX

– the fast track for new raw materials?

The number of commodities included in Annex IX list has been narrowed. Meanwhile one is expecting a large volume of advanced biofuels to be produced. SPBI therefore believes therefore that the work to find acceptable raw materials must proceed. If a new commodity is found, it must be easy to add it to the Annex IX list. A framework for evaluation and how to make additions to the list faster than waiting for the next update must, therefore, be drawn up.

The move from MS to fuel trader

SPBI notes that in one stroke the Commission has moved the responsibility from the Member State to the operator in the market. This increases the risk for the operator considerably.

The government must, therefore, work for a straightforward and simple directive so that the uncertainty and thus the political risk is minimised.

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