

Brussels, 13 June 2025
(OR. en)

10094/1/25
REV 1

ENER 238

NOTE

From: General Secretariat of the Council
To: Delegations

Subject: AOB for the meeting of the Transport, Telecommunications and Energy Council on 16 June 2025
Guaranteeing effective contribution of sustainable biofuels to the EU's energy and climate targets, while ensuring a level playing field and fair competition within the European biofuel sector
- Austria, Bulgaria, Czech Republic, Lithuania, Latvia and Portugal

AOB Energy Council – 16 June 2025

Guaranteeing effective contribution of sustainable biofuels to the EU's energy and climate targets, while ensuring a level playing field and fair competition within the European biofuel sector

Background paper from Austria, Bulgaria, Czech Republic, Lithuania, Latvia and Portugal

According to Article 25 of the Renewable Energy Directive (EU) 2001/2018 (RED III), Member States are required to impose an obligation on fuel suppliers to ensure that by 2030, the share of renewable fuels and renewable electricity supplied to the transport sector reaches at least 29%, or alternatively achieves a reduction in greenhouse gas intensity of at least 14.5%. Additionally, a sub-target must be established for advanced biofuels, biogas, and Renewable Fuels of Non-Biological Origin (RFNBOs), set at a minimum of 5.5% of the total energy supplied to the transport sector of which a share of at least 1 percentage point is from RFNBOs in 2030.

Advanced biofuels are considered to be a highly environmentally and climate-friendly option, as they are primarily produced from waste or residues. However, since the availability of these biofuels is limited and several Member States use higher multipliers to account them towards the RED transport target, advanced biofuels hold a high economic value and therefore a potential fraud risk.

The recent alleged fraud case involving a Hydrotreated Vegetable Oil (HVO) production facility where the sustainability certificate issued under the ISCC system (ISCC System GmbH) was revoked¹ — seems to confirm long-suspected fraudulent practices. Specifically, Proofs of sustainability (PoS) were issued that did not correspond to any actual physical deliveries of the biofuels on which the PoS were based. Fraud cases involving a Fatty Acid Methyl Ester (FAME) imported from third countries are also becoming more frequent.

Falsely declared raw materials—such as virgin palm oil reported as eligible feedstock for advanced biofuel production— could undermine the objective of promoting sustainable renewable energy and reducing greenhouse gas emissions.

Currently, the European market is flooded with extremely low-priced HVO and FAME labeled as advanced biofuels, making it very hard for European biofuel producers to remain competitive. This situation puts a well-established European industrial sector at serious risk.

As a beacon of rules based international trade the European Commission needs to ensure that all trade defence policies are used to uphold fair trading practices in third countries. This includes due process in cases of alleged misconduct.

The European Commission, Member States and economic operators are committed to a level-playing field encouraging fair competition to meet renewable energy and climate targets using advanced biofuels. Therefore, we urge the European Commission to take action on the following points:

Short-term measures:

- Ensure compliance of voluntary schemes with the recognition criteria established by the Commission under Article 30(4) of Directive (EU) 2018/2001, including possible withdrawal of recognition in cases of serious non-conformity.

¹ For further information see the case of Nabisy (German database for sustainable biofuels) user EU-BM-13-SSSt-10022652

- Support the request made by Ireland, Belgium, Germany, and the Netherlands in the Agenda of the Energy Council on 15 October 2024 to conduct further analysis addressing concerns related to Palm Oil Mill Effluent (POME), other palm oil derivatives, as well as Tall Oil (CTO) and Spent Bleaching Earth (SBE), within the scope of investigating potential biofuel import fraud, and to take appropriate measures.

Medium-term measures:

- Ensure a level playing field and fair competition within the European biofuel sector by including proportionate measures to both prevent fraud and—ultimately—secure competitive energy prices, by a revision of Regulation (EU) 2022/996. This revision shall include learnings from the alleged fraud case.
- Increase efforts to find solutions to existing problems related to the practical implementation of the Union Database (UDB) in close cooperation with Member States. This includes ensuring the full applicability of the UDB to all trading and processing steps along the supply chain of raw materials and biofuels before setting a starting point for its compulsory use, aiming for its earliest possible deployment.

Long-term measure:

- Ensure a level playing field and fair competition within the European biofuels sector through proportionate due diligence measures within the sustainability system of RED thereby ensuring competitive energy prices. The key requirements could be
 - a full functionality of the UDB-system, which shall be tech-enabled, risk-based, and verifiable;
 - ensure the functioning of the data-sharing platform involving regulators, certification bodies, and industry actors to flag suspicious activity (e.g., over-reporting of biofuels, circular trading of certificates); and
 - enhance the diversity of the voluntary certification schemes on the market to counteract monopolies and increase data transparency.
- Ensure that fair rules prevent low-compliance players from distorting the market.