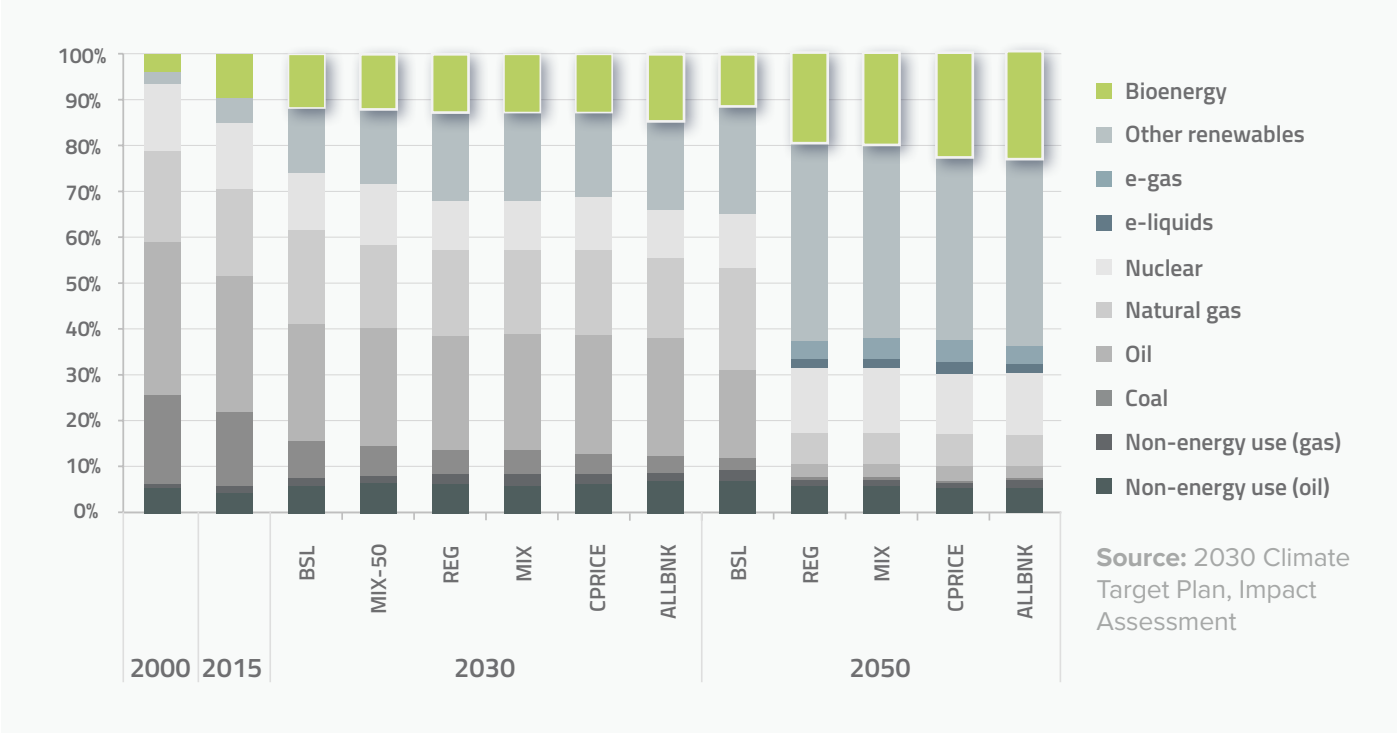
The State of the Revision of the Renewable Energy Directive

Position Paper

Following its commitment to achieve climate neutrality by 2050, the EU is working tirelessly to respond to the climate crisis which the entire world is facing. In this context, the European Council and the European Parliament have reacted with enthusiasm to the European Commission's proposal to revise the Renewable Energy Directive (REDIII), a fundamental tool for reaching this goal. Today, this revision is all the more relevant because not only does it address the climate crisis, but also needs to reflect the realities facing European energy in the wake of 24 February 2022, when Russia began its war against Ukraine.

Sustainably sourced biomass, and its efficient use in energy applications, are vital for any climate mitigation strategy. By the next decade, the EU must halve its greenhouse gas emissions and slash its fossil fuel dependency. Biomass has an essential role to play in this fundamental transition. Consistent with the IPCC special report of 2018, the Commission's models at the basis of the Fit-for-55 Package include in each scenario an increased utilisation of bioenergy by 2030.



Source: 2030 Climate Target Plan, Impact Assessment

Recognising the need for an increased bioenergy input in the next ten years, the Commission decided that a strengthened sustainability policy will be needed to minimise risks for biodiversity.

If the current review is to be successful in ensuring that biomass is sourced and used sustainably, it will be important to have realistic and workable proposals so that operationalisation of requirements can be guaranteed.

3 Essential Changes Necessary for a Balanced and Successful Framework

With all this in mind, Bioenergy Europe considers that there are 3 fundamental changes that should be made to REDIII to guarantee a successful revision that promotes more renewable energy:

01

The definition of primary woody biomass should not be used to determine whether biomass is sustainable or not, since it is not an indicator of quality or specific end-use. The idea that primary woody biomass is not sustainable directly contradicts sections of the 2021 JRC report on the use of woody biomass for energy production in the EU [1], and is based on a fundamental misunderstanding of how forestry and forest-based industries operate. Therefore, we ask EU policymakers to reject this proposal that would erase 20% of the EU's renewables in effect overnight.

02

The EU should strive to **avoid any undue raw material market distortions**, which is why **cascading should not be regulated at the European level**. The Council has recognised the importance of flexibility in its general approach, but the Parliament should go further and avoid a centralised regulation of this issue, because an EU-determined regulation on cascading would not be the right policy tool for preventing such distortions from happening (as recognised in 2018)[2].

03

There should be no retroactive application of measures, including vis-à-vis the greenhouse gases (GHG) savings criteria, in order to guarantee legal certainty and maintain business trust in the energy transition. While the Council does make some allowances for old investments, increased regulatory uncertainty will not contribute to greater investment in renewables. The retroactive introduction of GHG savings criteria will lead to the closure of existing plants and the slowing down of, or even the possible reversal of, the energy transition.

1. Joint Research Centre (JRC), 2021: The use of woody biomass for energy production in the EU
2. European Commission (EC), 2019: Guidance on cascading use of biomass with selected good practice examples on woody biomass

4 Important Additional Considerations to Improve the Framework

01

The establishment of no-go areas for carbon-rich and highly biodiverse environments can strengthen the biomass sustainability framework only if they can be effectively operationalised. The Council's inclusion of these areas under the risk-based approach in Article 29(6) is a good way to achieving this. The definitions of these areas should be unambiguous and rely on existing classifications already present at the international level, in agreement with the definitions and mapping used by Member States.

02

Forestry is, and should remain, the competence of Member States. EU energy legislation should not "reinvent the wheel" of forestry sustainability. Provisions regulating specifics of sustainable forest management should not be covered by Europe-wide energy legislation, but rather, in accordance with the principle of subsidiarity, be addressed by national, regional and local authorities – including those in third countries. Minimising biodiversity and soil quality impacts are key objectives, but requirements must work for all various forest types, irrespective of where in the world the biomass originates. For this reason, definitions should be based on existing and widely accepted guidelines that can be locally applied. The tools for achieving them should be detailed at the national, regional or local level to ensure the effectiveness and appropriateness of policy actions.

03

The exemption threshold for biomass should not be excessively lowered. Although a threshold lower than 20 MW would certify the sustainability of a larger portion of biomass, it would place regulatory burdens and disproportionate cost compliance upon the smallest actors who have little administrative capacity. The Council proposes to lower it to 10 MW and the Parliament to 7,5 MW, but both should consider that time and digitalisation will be necessary before cost compliance can be brought down. To increase our ambition while guaranteeing a workable framework, especially for SMEs and local authorities, we recommend lowering the threshold to 10 MW while keeping a simplified procedure for plants with 10-20 MW.

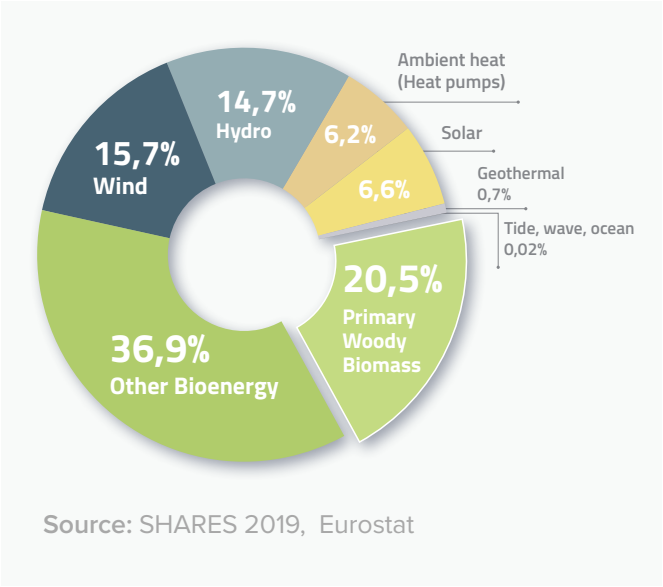
04

Support for installations producing electricity-only from forest biomass should be maintained until 2030. The Council's step in ensuring market stability by allowing the continuation of existing support, and the Parliament's provisions to allow existing plants to continue in operation even if the modifications for cogeneration are not possible due to the absence of infrastructure or demand, are positive steps forward. In addition to providing support to Just Transition territories, to installations with BECCS, and in situations where there is no commercial demand for heating, support schemes should be able to sustain biomass power-only generation where it is necessary for the security of the energy supply, the stability of the grid, to prevent re-carbonisation or where a plant can demonstrate it is a feasible candidate for becoming a BECCS project.

PRIMARY WOODY BIOMASS

There is a lot of woody biomass being generated that is not suitable for use in other wood-working industries – this is because wood can be split, bent, rotten or too small for commercial use. Wood that has these kinds of defects will be rejected by sawmills, and sometimes even by the pulp and paper industry, since they cannot produce a cost-effective good, or because of contamination risks. The Renewable Energy Directive **(REDII)** already ensures the sustainability of biomass being used for bioenergy through guaranteed biodiversity protection and carbon stock maintenance or growth, in accordance with the LULUCF Regulation. If this low-quality biomass is not used to produce bioenergy, then it further renders forests vulnerable to pest outbreaks, wildfires and other risks. To minimise these risks, legislation should allow the flexibility for foresters to be able to remove and sell low-quality biomass from their forests.

The report on the use of woody biomass for energy production in the EU (2021)[3] by the Joint Research Centre (JRC) touches upon this timely discussion and opposes a blanket ban on the use of primary woody biomass for bioenergy. The *"**possible regulation of forest bioenergy sources purely on the basis of wood feedstock categories** (e.g., only residues or thinnings, no stumps, etc.) was discussed in detail. It was concluded that, given the wide variety of situations across Member States, it **was difficult to univocally define and meaningfully implement such restrictions in an EU legislation – the risk would have been to complicate compliance without necessarily fostering further sustainability or biodiversity conservation**"* (JRC Report, 2021, page 92).



Source: SHARES 2019, Eurostat

The report also evaluates various pathways for using primary woody biomass for bioenergy and identifies 5 win-win pathways, that use primary woody biomass, which would also be banned by this proposal. While the report does identify 19 other pathways that result in at least some negative effects, this overview does not consider whether pathways are occurring, likely to occur (JRC Report, 2021, page 5) or are already illegal under REDII.

If adopted, the restrictions proposed by the Parliament's environment committee (ENVI) would cause significant disruptions to the EU's energy market, impacting up to 35,7% of the feedstock for bioenergy. This would result in 20,5% of the EU's renewable energy being declared unsustainable, thereby undoing several years' worth of successful uptake of renewables, and would take the EU back to where it was in 2016 when only 18% of its total energy was renewable. Another consequence of the ban on primary woody biomass would be to create severe market distortions in the secondary biomass market, thereby undermining the functioning of the cascading principle as the value of primary woody biomass falls and the price of residues and by-products skyrockets.

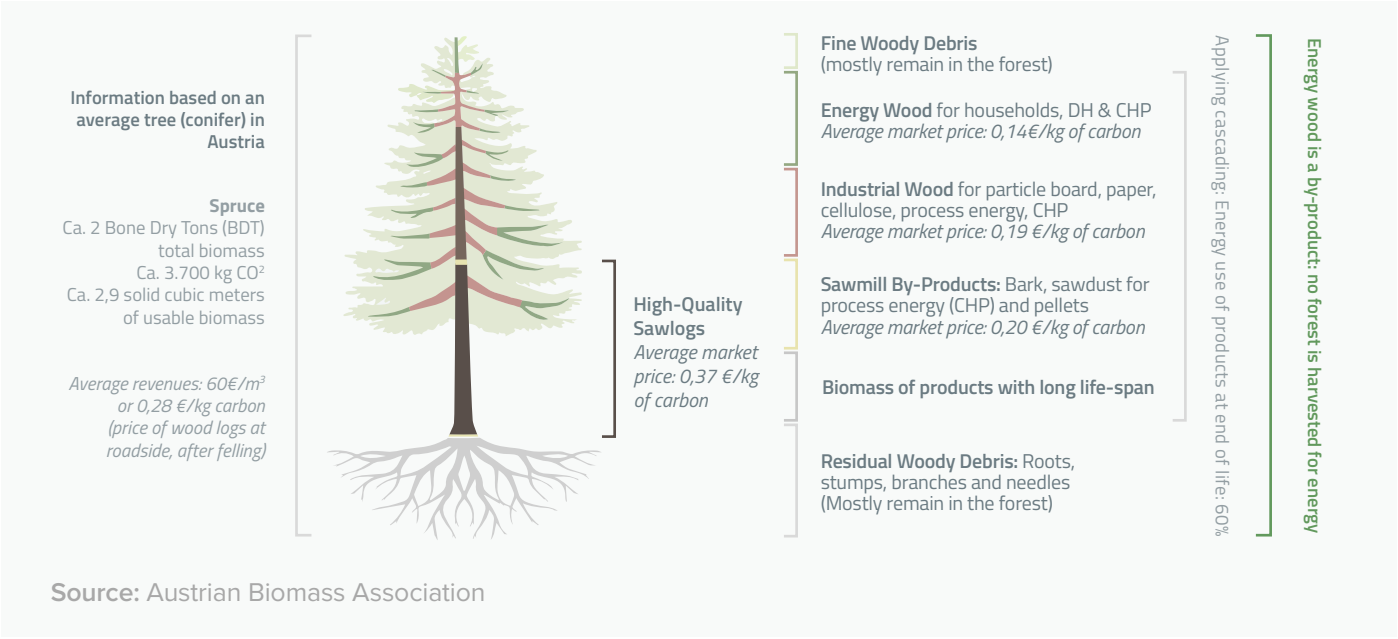
CASCADING USE OF BIOMASS

As underlined by the European Commission's Guidance (2018)[4], the cascading use of biomass refers to a resource-efficient and "circular" use. The cascading use of woody biomass is vital in the transition to a low-carbon economy. By using woody biomass as material throughout its life cycle, carbon continues to be stored. At the end of the product's life, especially for long-lived materials, the energy contained in the materials can be recovered. Since all biomaterials will one day break down and need to be discarded, bioenergy is the most effective way for generating value from that disposal process while also displacing fossil-based energy.

3. Joint Research Centre (JRC), 2021: The use of woody biomass for energy production in the EU
4. European Commission (EC), 2019: Guidance on cascading use of biomass with selected good practice examples on woody biomass

On top of this, heat and power generation and distribution based on biomass also reduces overall emissions. The guidance also acknowledges that where no other use for woody biomass is economically viable or environmentally appropriate, energy recovery helps to reduce energy generation from fossil fuels.

The cascading use of biomass is an essential principle that already forms the core of the contemporary bioresources' market. The highest quality material has the highest value and is used in timber production and in creating medium-lasting durable products. Consequently, the lowest quality material is the cheapest and is used for purposes such as bioenergy, because there are no other potential uses for this specific material.



Source: Austrian Biomass Association

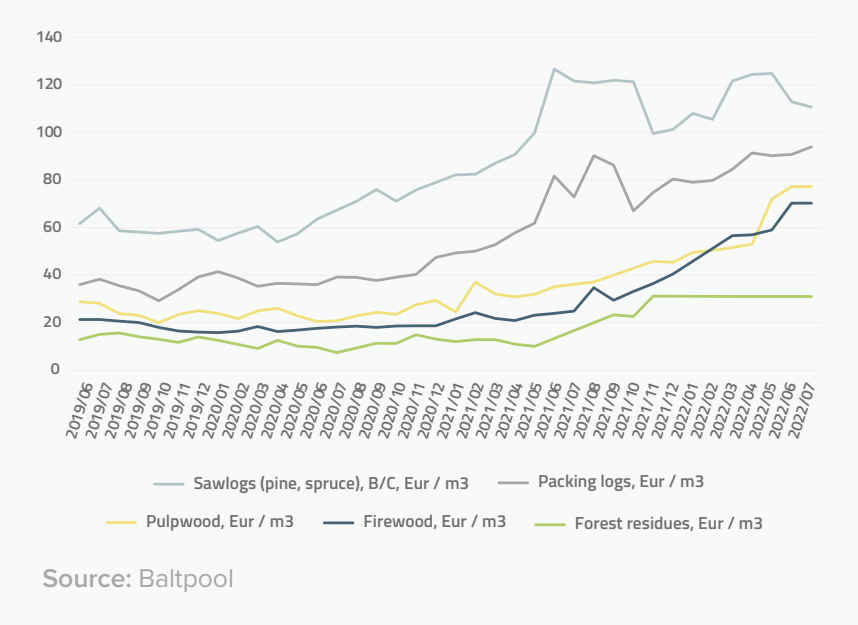
Bioenergy producers have neither the interest, nor the ability, to pay the prices necessary to acquire high-quality timber such as saw logs or veneer logs. The price of these materials is often several times higher than the price of low-quality wood. This existing economic cascading ensures that residues are used for bioenergy. However, the Parliament's proposal to introduce the cascading principle in an implementing act is an avoidable and risky intervention. Not only would this approach add unnecessary administrative costs to end-users, but would fail to take into account local factors.

Also, previous attempts to regulate cascading use through legislation have failed to deliver. Strict regulation of the cascading principle has been previously done at both the national and subnational level in the EU; but it has not always been maintained (a point in case, the Swedish Wood Fibre Act (1987:588), which defined cascading use, was finally repealed six years after its implementation). The Wood Fiber Law stipulated a permit process before any new processing capacity (e.g. a pulp & paper mill or a biomass-fuelled district heating plant) could be built. Licenses to build new capacity could involve different types of conditions, including things such as the percentage of feedstock being used which should be imported. The law failed in securing enough raw material supply for the forest industries, and moreover, it hampered the latter's further development. By not considering the diversity of wood assortments, this nurtured opportunistic behaviour and distorted incentives among market actors[5].

Looking at the example of the main timber-trading platform in the Baltic region, Baltpool, the different prices of various qualities of wood clearly demonstrate that using high-quality wood to produce energy would not be economically feasible, because sawlogs are 3-4 times more expensive than forest residues.

The best approach is to encourage Member States to consider cascading in the local context and for the EU to provide an updated guidance document to inform those decisions, instead of developing legislation that is too prescriptive.

5. IEA Bioenergy Task 40 Working Paper, 2016: Cascading of woody biomass: definitions, policies and effects on international trade



Source: Baltpool

The current guidance states that "cascading should respect not only national contexts but also regional and local ones in assessing the most economically viable use of biomass" and that "an assessment of the feasibility of cascading should take the qualitative and quantitative availabilities of biomass into account. It should also consider regional and local geographical characteristics and legislation, the existence and transparency of markets, the availability of finance and key actors and their willingness to commit in the short and long terms." As underlined in the JRC report, it is clearly stated that: "The forest-based industries and the energy production sector are intricately interlinked, displaying synergies as well as competition (see Cazzaniga et al. 2019a). Sawmilling by-products are used for wood pulp (for paper as well as textile fibres) and wood-based panels manufacturing as well as for energy production (see, e.g., Jonsson & Rinaldi 2017), while side-streams from chemical pulping are used in the chemical industry as well as for energy production (see Hurmekoski et al. 2018)". Having a delegated act that centralises all these decisions at EU level would be contrary to the principles of subsidiarity and resource efficiency, while greatly impacting the overall forest-based sector.

RETROACTIVE GHG SAVINGS

For a market economy to function effectively, investors and businesses must have a minimum level of trust in the legal system. If the regulatory environment is constantly changing, it will discourage investments and long-term planning due to high uncertainty. An unpredictable framework will deter investments and increase the risk of re-carbonisation and the reliance on fossil fuels instead. Looking at the current energy crisis, there hasn't been enough consideration of the long-term consequences that alternative suppliers of fossil gas will have on creating a lock-in effect, which would make the EU dependent on fossil fuels. Therefore, retroactive measures should always be avoided. In particular, the retroactive application of the GHG emissions saving standards requires new and higher levels of savings, and this could prevent investment and as well as lead recently set up sustainable projects to become insolvent. This would counteract the Green Deal's climate mitigation ambition as well as the aspiration to substantially increase the share of renewable energy.

Article 29 (10) previously required installations that would start operations between 1 January 2021 and 31 December 2025 to meet a greenhouse gas emissions savings threshold of 70%, and those that start operations after 1 January 2026 to have a greenhouse gas emissions savings threshold of 80%. The Parliament's position would now make these values apply to all installations regardless of whether they are new or existing. This is particularly problematic because changing the greenhouse gas emissions savings level is not only determined by the biomass sourcing policy, but also by plant efficiency and other criteria that cannot be easily adjusted. The Council's proposal makes important adjustments to safeguard existing investments, but even so, making this requirement retroactive jeopardises business decisions and undermines legal certainty.

> **To ensure stability and investor confidence in the biomass framework, as well as the ability of projects to deliver on climate goals, the 80% GHG emissions savings threshold should solely be applied to plants that start operations in 2026; and the 70% GHG emissions savings threshold should only be applied to plants that started operation in 2021.**