

The Bioenergy Sustainability Policy Review in the Renewable Energy Directive

Position Paper

Sustainably sourced biomass and its efficient use for energy applications are paramount to any climate mitigation strategy. By the next decade, the EU must halve its greenhouse gas emissions and slash its fossil fuel dependency and biomass has an essential role to play in this transition.

Consistent with the IPCC special report in 2018, the European Commission's models at the basis of the Fit for 55 Package, include in each scenario an increased utilisation of bioenergy by 2030.

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

Risk Based Approach: Combining Efficiency and Sustainability

WHAT IS A RISK BASED APPROACH TO REGULATION?

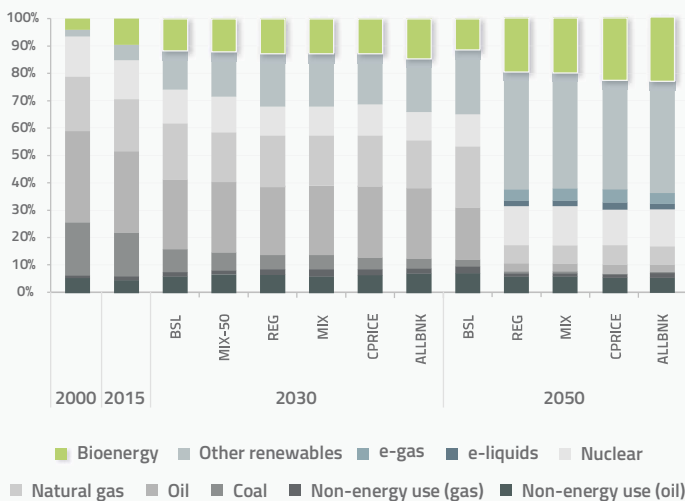
The key element of risk-based frameworks for allocating resources is that the starting point is risks not rules. Risk-based frameworks require regulators to begin identifying the risks that it is seeking to manage, not the rules it has to enforce.

(OECD, 2010)

When revising the sustainability criteria, the EU must maintain the Risk-Based Approach (RBA) as the core principle of biomass sustainability compliance. As recognised by the OECD, the RBA produces mutually beneficial outcomes. On the one side, market operators can rely on a more efficient and effective regulatory framework that is more pragmatic and can reduce their cost-compliance; on the other side, RBA also ensures a minimisation risk on environmental impact.

Timing is Key: Reducing Cost Compliance

In order to operationalise the new sustainability criteria, it will be important that there is a phasing in of the requirements and no retroactive changes that would disrupt the existing investments. Disruptions cause uncertainty for investors and the market, which can increase costs and can deter the necessary investment. There needs to be adequate time for the market to comply with the new requirements, and in parallel, for the tools to verify this compliance to be developed, evaluated, and mainstreamed so that smaller market actors can fully participate without suffering disproportionate consequences.



Source: 2030 Climate Target Plan, Impact Assessment

Recognising the need for an increased bioenergy input in the next ten years, the European Commission decided that a strengthened sustainability policy will be needed to minimise risks on biodiversity. From a governance perspective, it is regrettable that the revision process for biomass sustainability policy began prior to the criteria being implemented by most Member States. This precludes any opportunity for a productive feedback period during which the impacts of the changes made in REDII could be evaluated and for the sustainability criteria to be refined in order to optimise the legislation. This lack of a feedback period will consequently increase administrative costs and undermine the principle of legal certainty which is essential to the rule of law.

Six Changes to Ensure a Balanced and Successful Bioenergy Sustainability Framework

With all this in mind, Bioenergy Europe considers that there are six changes that should be made to the European Commission's proposal to guarantee its successful operationalisation and outcome.

01



Support for installations producing electricity-only from forest biomass to 2030 should be maintained. Aid stemming from support schemes established after that date should still be granted in cases where there is no commercial demand for heating, where it is necessary for the security of the energy supply, the stability of the grid, to prevent the risk of re-carbonisation, in Just Transition territories or where a plant can demonstrate it is a feasible candidate to become a BECCS project. *[Article 1(2)]*

02



When drafting their support schemes Member States should strive to **avoid any undue raw material market distortions.** While an EU determined regulation on cascading would not be the right policy tool to prevent such distortions from happening (as recognised in 2018), Member States could benefit from an updated cascading guidance document. *[Article 1(2)]*

03



The exemption threshold for biomass could be lowered from 20 to 10 MW. Lowering the threshold from 20 MW to 10 MW would certify the sustainability of a larger portion of biomass but avoids placing regulatory burdens and disproportionate cost compliance on the smallest actors with scarce administrative capacity. However, as time and digitalisation will be key to bringing down cost compliance, the exemption threshold should only be lowered to 10 MW starting in 2027. *[Article 1(18)]*

04



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 inclusion of these areas under the risk-based approach in Article 29(6) would better serve this purpose. The definitions of these areas should be unambiguous and based on existing classifications existing at the international level in agreement with the definitions and mapping used in Member States. *[Article 1(18)]*

05



Forestry is, and should remain, the competence of Member States. Provisions regulating specifics of sustainable forest management should not be covered by European energy legislation, but rather in accordance with the principle of subsidiarity, be addressed by national, regional, or local authorities-including those of third countries. Minimising biodiversity and soil quality impacts are key objectives, but requirements must work for all different forest types, irrespective of where in the world the biomass originates. For this reason, definitions should be based on existing and widely accepted definitions that can be applied locally. The tools to achieve them should be detailed at the national, regional, or local level to ensure the effectiveness of policy actions. *[Article 1(18)]*

06



There should be no retroactive application of measures, including on the GHG savings criteria, to protect legal certainty and ensure businesses trust in the energy transition. For it to be successful, the EU needs a sustainable growth of bioenergy. Regulatory uncertainty will not contribute to this objective. Retroactive introduction of GHG savings criteria will lead to the closure of existing plants and the slowing down or even the possible reversal in the energy transition. *[Article 1(18)]*