



Adviesraad inzake beleidscoherentie
ten gunste van ontwikkeling
Conseil consultatif sur la cohérence
des politiques en faveur du développement

Opinion of the Advisory Council on Policy Coherence for Development

Belgian and European policies on biofuels

1. Introduction

01. The subject of this opinion is European and Belgian policymaking in the field of biofuels in transport, in the context of Belgium's National Energy-Climate Plan 2030 and the 2018/2001 Renewable Energies Directive (2021-2030)¹. This directive allows Member States to reduce and even eliminate the objectives to incorporate first generation biofuels into fuel, which have proven controversial from an environmental and social point of view.² The European Commission must include the full range of biofuels with a negative carbon balance over the whole life cycle in the "high risk of indirect land use change – ILUC" category of biofuels, constituting a gradual phasing out and eliminating them completely in the run up to 2030, whereas Belgium must take advantage of the new room for manoeuvre offered by this new legislation to exclude first generation biofuels from its National Energy-Climate Plan (NECP) 2030. There are other levers available to decarbonise the transport sector.

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¹ Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (recast), OJ 21.12.2018.

² Biofuels known as "first generation" are produced using cereals and other plants rich in starch, sugar beet and oilseed crops and using plants grown as main crops essentially for the production of energy on agricultural land. Ethanol (produced using plants rich in starch) may be blended into petrol whereas biodiesel (produced using oilseed plants) may be blended with diesel. Biofuels known as "advanced" or "second generation" are produced using waste, residues, cellulosic materials of non-food origin and lignocellulosic materials.

2. Presentation of the issue

02. The large-scale use, since 2003, of raw agricultural materials within the framework of the European policy to promote renewable energy has been encouraged in a context in which global demographic growth, changing consumption patterns in emerging countries and climate deregulation have served to increase volatility in agricultural raw materials markets and prompt increasing property speculation on arable land. The responsibility of European demand in agricultural goods for biofuels was singled out during episodes of food crises and land grabbing, two phenomena which undermine the right to food and nutritional security in developing countries. Furthermore, from a life cycle perspective and taking into account the indirect impact of land use change, several types of biofuels have a negative environmental impact where greenhouse gas (GHG) emissions are concerned, which stands at odds with the international sustainable development goals.

03. The increased price volatility for agricultural products on the global markets led to the global food crises of 2008 and 2011, which particularly affected poorer countries with food shortages; in other words, the signals sent to the markets by the United States and the European Union, following announcements of an increased use of biofuels in the energy mix and especially in transport, is one of the main causes of this volatility and the speculation that followed³. Against this backdrop, several international organisations denounced Europe's consumption of biofuels due to its role in the food price surges of 2008 and 2011. There is not necessarily a consensus about the precise extent of this contribution, taking into account the interdependence of various factors which play a role in increasing volatility, including fossil fuel prices (increasing the demand for biofuels and the price of agricultural inputs), speculation on raw agricultural material prices, and property speculation. However, a joint report from ten international agencies (including notably the FAO, the World Bank, the International Monetary Fund (IMF) and the Organisation for Economic Co-operation and Development (OECD)) released in 2011 on the volatility of food prices clearly indicates that the demand for agricultural commodities from the biofuels industry was a "significant factor" in the price volatility during these two crises.⁴

04. The use of agricultural land in developing countries with a view to supplying the European biofuels market contributed to the phenomenon of putting commercial pressure on natural resources and forcing out poor rural communities. According to a study on "biofuels and policy coherence for development" commissioned by the European Commission, "Energy markets are a significant driver in the overall trend of large scale land acquisition. A clear link can be established between the EU bioenergy policy and the strong interest of European companies to acquire agricultural land in developing countries, especially in Africa. This also entails that the

³ See in particular A. Eide, *The right to food and the impact of liquid biofuels (biofuels)*. (Food and Agriculture Organisation of the United Nations (FAO), Rome, 2008), p. 19; G. Fischer, E. Hitznyik, S. Prieler, M. Shah and H. van Velthuizen, *Biofuels and food security*, OPEC Fund for International Development (OFID) prepared by the International Institute for Applied Systems Analysis (IIASA) (2009); S. Bringezu, H. Schütz, M. O'Brien, L. Kauppi, R. W. Howarth, J. McNeely, *Towards sustainable production and use of resources: Assessing Biofuels*, United Nations Environment Programme (October 2009), chap. 4

⁴ FAO, *Price Volatility in Food and Agricultural Markets: Policy Responses*, Policy Report including contributions by FAO, IFAD, IMF, OECD, UNCTAD, WFP, the World Bank, the WTO, IFPRI and the UN HLTF, 2 June 2011.

development of conventional biofuel production has an impact on access to natural resources, such as land and water and often leads to an increase in land concentration to the detriment of smallholder farming practices”.⁵

05. The growth of the biofuels industry indirectly led to a large-scale conversion process of land rich in biodiversity and in carbon storage. According to the Globiom study, the main study on emissions linked to indirect land use change – ILUC, commissioned by the European Commission, no fewer than 8.8 million hectares will have been converted to crops, in the run up to 2020, to meet the needs of the European renewable energy policy. This area corresponds to 0.6% of the world’s cropland. Only a third of this conversion (2.9 million hectares) is expected to occur within the EU.⁶

06. Indirect land use change (ILUC) refers to the fact that “biofuel production typically takes place on cropland which was previously used for other agriculture such as growing food or feed. Since this agricultural production is still necessary, it may be partly displaced to previously non-cropland such as grasslands and forests. Indirect land use change risks negating the greenhouse gas savings that result from increased biofuels because grasslands and forests typically absorb high levels of CO₂. By converting these land types to cropland, atmospheric CO₂ levels may increase.”⁷ According to the aforementioned Globiom study, use of conventional biofuels increases the carbon balance of European transport in 2020 by 3.5% unlike the scenario that carries no obligation to incorporate these biofuels.

07. Consumption of first generation biofuels in the EU has been multiplied by a factor of 14 since 2002. It represented 4% of transport fuel in the Union in 2017 in energy value. 80% of Europe’s consumption of biofuels is biodiesel, as opposed to 20% for ethanol.⁸ In Belgium, consumption of first generation biofuels grew from 1% of transport fuel in 2007 to 5.5% in 2017. Biodiesel represented over three-quarters of these biofuels.

08. The rapid growth of these incorporation rates is the consequence of adopting a European regulatory framework promoting the large-scale consumption of biofuels as part of Europe’s energy and climate policies. In 2003, Directive 2003/30/EC aiming at promoting the use of biofuels of other renewable fuels in transport⁹ set indicative national targets of 2% of biofuels in transport in 2005 and 5.75% in 2010. As part of the “climate-energy” package adopted in 2008, Directive

⁵ AETS, *Assessing the impact of biofuels production on developing countries from the point of view of Policy Coherence for Development*, a study commissioned and financed by the European Commission, February 2013. See also E. Cushion, A. Whiteman, and G. Dieterle, *Bioenergy Development: Issues and Impacts for Poverty and Natural Resource Management* (Washington, D.C.: World Bank, 2010), p. 119; and High-Level Panel of Experts, *Land tenure and international investments in agriculture: A report by the High Level Panel of Experts on Food Security and Nutrition of the Committee on World Food Security* (Committee on World Food Security, FAO, Rome, July 2011).

⁶ Ecofys, IIASA, E4tech, *The land use change impact of biofuels consumed in the EU*, 27 August 2015, study commissioned and financed by the European Commission.

⁷ European Commission, *Land Use Change*, <https://ec.europa.eu/energy/en/topics/renewable-energy/biofuels/land-use-change>

⁸ EurObserv’ER, *Biofuels Barometer 2018*, September 2018.

⁹ Directive 2003/30/EC of the European Parliament and of the Council of 8 May 2003 on the promotion of the use of biofuels or other renewable fuels for transport, OJ L 123 of 17.5.2003, p. 42.

2009/28/EC on promoting the use of energy produced using renewable sources¹⁰ set binding national targets of 10% renewable energy in transports by 2020.

09. In order to transpose these European directives, Belgium has made several regulatory amendments. The Royal Decree of 4 March 2005 on the denominations and characteristics of biofuels transposed the definitions and indicative targets (2% in 2005 and 5.75% in 2010) of Directive 2003/30/EC. The Law of 22 July 2009 on the obligation to incorporate biofuel into fossil fuels released for consumption¹¹ contained an obligation to incorporate 4% of the volume. It was replaced by the law of 17 July 2013 on minimum nominal volumes of sustainable biofuels that have to be incorporated into the volumes of fossil fuels released annually for consumption.¹² On 4 May 2018, a royal decree was adopted setting the target of 8.5% (energy) of sustainable biofuels in Belgian transport by 2020, with a ceiling of 7% for first generation biofuels, i.e. an increase of 27% over the 2017 consumption level. So as to achieve the 8.5%, oil companies can count advanced biofuels as double. The objective of this royal decree is to ensure that Belgium conforms with the 10% renewable energy target of Directive 2009/28/EC. Renewable electricity will make up for the missing 1.5%.

10. Since 2009, there has been an intense debate raging within the EU Institutions regarding calculation methods and conditions for taking ILUC into account in the biofuels sustainability regime. The result was the adoption in September 2015 of Directive 2015/1513, also known as the “ILUC” Directive, amending Directive 2009/28/EC by establishing measures to limit greenhouse gas emissions linked to indirect land use change associated with the production of biofuels¹³. The main measure is the capping at 7% of accountable first generation biofuels under Directive 2009/28/EC in 2020. This ceiling is higher than the initial proposals of the Commission (5%) and the Parliament (6%).¹⁴

11. On 14 June 2018, the European Parliament and the Council of the European Union reached a political agreement on the broad strokes of the new renewable energies directive for the period spanning 2021-2030. This was formally adopted by the European Council and Parliament in December 2018 (Directive 2018/2001). It sets a global target of 32% of renewable energy in the EU by 2030. For transport, the share of renewable energy is set indicatively at 14% in each Member State.

12. Regarding biofuels, the essential elements of Directive 2018/2001 are as follows:

- the share of first generation biofuels may not exceed the levels of 2020 + 1% in each Member State, with a maximum ceiling kept at 7%;

¹⁰ Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC, OJ L 140 of 5.6.2009, p. 16.

¹¹ *Belgian Official Gazette*, 23.8.2009.

¹² *Belgian Official Gazette*, 23.7.2013.

¹³ Directive (EU) 2015/1513 of the European Parliament and of the Council of 9 September 2015 amending Directive 98/70/EC relating to the quality of petrol and diesel fuels and amending Directive 2009/28/EC on the promotion of the use of energy from renewable sources, OJ L 239, 15.9.2015, p. 1.

¹⁴ Directive 2015/1513 also sets provisional estimates of greenhouse gas emissions linked to ILUC. Nevertheless, the latter must not be included when calculating the carbon balance of biofuels. Member States and companies are only required to submit a report on indirect emissions. In parallel, Directive 2015/1513 promotes advanced biofuels, with the indicative consumption target being set at 0.5% in 2020.

- if the limit set for first generation biofuels in a Member State is lower than 7%, the global target for the share of renewable energy in transport is reduced by the same amount (such as, for example, a Member State with a ceiling of 5% for first generation biofuels would be set a target of 12% in transport);
- biofuels with a high risk of ILUC will be capped at their 2019 level until 2023 and then progressively reduced until they are eliminated in 2030, according to the criteria set out in a delegated act in which the proposal was expected to be presented on 1 February 2019 by the Commission – biofuels certified “low risk of ILUC” are exempt from these limits;
- an objective of 7% of ‘advanced’ fuels must be achieved de facto, by making compatible biofuels produced from waste or residues, listed in Annex IX of the directive, or renewable electricity – advanced biofuels are to benefit from being counted double and green electricity counts four times.

13. At the end of 2018, the Belgian authorities presented a proposal for the 2030 National Energy-Climate Plan (NECP) which sets a target of 14% biofuels in transport by 2030, of which 7% are first generation biofuels, in other words, the maximum proportion authorised by the European Union, and 7% advanced biofuels. Alongside the 14% biofuels, in the proposed NECP other types of renewable energy can be added (renewable electricity, notably), to achieve a total share of 20.6% of renewable energy in Belgian transport by 2030.

14. On 8 February 2019, the Commission presented a draft delegated act “as regards the determination of high indirect land-use change-risk feedstock for which a significant expansion of the production area into land with high carbon stock is observed and the certification of low indirect land-use change-risk biofuels, bioliquids and biomass fuels”.¹⁵ Two cumulative criteria were selected for determining the “high ILUC-risk feedstock”: (a) the average annual expansion of the global production area of the feedstock since 2008 is higher than 1% and affects more than 100,000 hectares; (b) the share of such expansion into land with high-carbon stock is higher than 10%. When applying this methodology from the delegated act, only palm oil cultivation is considered a “high ILUC-risk feedstock”.

15. The same draft delegated act sets out criteria allowing biofuels based on agricultural raw materials considered “high ILUC-risk” to be classified “low ILUC-risk”: these raw materials must either result from a duly verified increase in productivity (principle of additionality), or have been cultivated on land that is not in use, has been abandoned or severely degraded, or have been grown on small properties of under five hectares. The act also sets out terms for the process of certifying “low ILUC-risk” biofuels.

¹⁵ Ref. Ares(2019)762855

3. Recommendations

The Advisory Council on Policy Coherence for Development has produced the following recommendations:

At European level

16. Demand the inclusion in the category “high-ILUC risk” biofuels presented in the draft delegated act on 8 February of all of the biofuels for which taking into account indirect emissions results in a negative carbon balance when compared against its fossil equivalent. Soy biodiesel ought to be included in this category, as well as biodiesel made from rapeseed oil and biodiesel made from sunflower oil, which have higher emissions than diesel.

17. Demand the removal of the derogation in favour of “low-ILUC risk” biofuels included in the draft delegated act of 8 February 2019. The criteria establishing the low risk of ILUC are either irrelevant or difficult to put into practice. There is a high risk that this exemption will be used as a roundabout means of large quantities of biodiesel flowing onto the European market with a decidedly negative carbon balance.

At Belgian level

18. Exclude first generation biofuels from the 2030 energy-climate plan. None of these biofuels can claim to respect sustainability criteria. The measures obliging oil companies to incorporate them ought to be withdrawn as of 2021, as permitted by the new Directive 2018/2001.

19. Review the role of “advanced” biofuels in the 2030 energy-climate plan, to move towards a more realistic and prudent approach, with a view to avoiding a repeat of the mistakes made in supporting first generation biofuels.

20. Promote a mobility policy generally oriented towards alternatives to private cars.

4. Justification of the recommendations

At European level

21. As set out in the proposal for a delegated act published on 8 February 2019 by the Commission, the methodology determining the “high-ILUC risk” crops does not accurately take into account the full scope of the phenomenon of indirect land use change. This methodology overlooks the interactions between the different markets which lie at the heart of the ILUC phenomenon. It has been demonstrated that the plant oil markets are fungible, in other words, it is eminently possible to substitute plant oils on the markets, meaning that increased demand for one oil can translate into increasing the production of another. This explains why the spike in demand for rapeseed oil by the biodiesel industry between 2000 and 2010 did not result in a proportional increase in European production of rapeseed oil, with the European plant oil deficit being corrected by palm

oil imports, especially in the agri-food and oleo-chemical industries.¹⁶ Similarly, the expected decrease in palm oil consumption due to its “high-ILUC risk” classification will be made up for by using other oils (soy, rapeseed, sunflower) in European biodiesel, which will translate partially into an increase in global production of these oils, partially by redirecting the markets that were previously serviced by these other oils towards palm oil, the cheapest plant oil on the world market.

22. The substitution mechanisms also affect land markets. The data presented as an annex to the proposal for a delegated act implies that only 8% of the global growth of soybean production has occurred since 2008 on land with high carbon stock areas, which falls below the limit of 10% above which a biofuel is considered by the Commission as “high-ILUC risk”. This approach artificially evacuates the expansion of agricultural activities on carbon-rich land caused by the expansion of soybean growing on land that was previously used for these other activities. It has long been acknowledged that the expansion of soybean growing in Brazil is largely taking place on land used for livestock farming, meaning this activity is having to be shifted to regions that are rich in biodiversity and carbon.

23. The weakness of the methodology also resides in the fact that historical deforestation levels in a given area of production are not necessarily an indication of future trends. In the case of Brazil, the world’s top exporter of soybean, the sharp decrease in deforestation levels in the Amazon between 2002 and 2015 is linked to a proactive Amazon protection policy which was abandoned in 2016 and which, since the change in presidency in 2019 has been succeeded by dismantling of environmental regulation. A significant increase in agricultural pressures in carbon-rich areas (Cerrado and the Amazon) is at play, to which the expansion of soybean growing is making a decisive contribution.

24. The modelling of ILUC and its associated emissions has been officially recognised by European legislation since 2015. The economic models used in the studies commissioned by the European Commission in 2011 and 2015 incorporate more parameters than the methodology selected in the delegated act and are therefore in a better position to evaluate the effects of increasing demand for a given raw agricultural material on different markets. Although the results vary according to the scenarios and there are still controversies regarding methodology, to this day, economic modelling is still the best method available to decision-makers when looking ahead at the full range of outcomes of a given supply policy. This makes it an extremely important decision-making instrument where biofuels are concerned. It is incomprehensible that the European Commission opted not to use it when creating the criteria to determine “high-ILUC risk” biofuels.

25. Taking into account the results of the main modelling attempt, the Globiom study, calculates the carbon balance of palm oil, soybean and rapeseed biodiesels at three times, twice and 1.2 times the emitters of diesel respectively.¹⁷

26. On 16 November 2017, the Minister for Energy, the Environment and Sustainable Development, Marie-Christine Marghem, called upon the Federal Sustainable Development

¹⁶ The International Council on Clean Transportation, *Vegetable Oil Markets and the EU Biofuel Mandate*, Briefing, February 2013.

¹⁷ Life cycle analysis performed by ‘Transport & Environment’ on the basis of figures taken from the Globiom study.

Council, the Central Economic Council and the Consumer Affairs Council¹⁸ to deliver an opinion on the draft royal decree to establish product standards for fuels used in the transport sector with renewable origins. Adopted on 14 February 2018, the opinion recommends that the European and Belgian authorities restrict and eliminate the use of alternatives to fossil fuels which emit more GHGs over the whole of their life cycle.

27. On the subject of criteria determining “low-ILUC risk” biofuels, the draft report from the European Commission¹⁹ which accompanies the proposal for a delegated act suggests that the best way of ensuring the additionality of production of raw materials used in biofuels is to apply the guidelines used by the Clean Development Mechanism (CDM). The reality of additionality in projects under the CDM has been seriously called into question. A report by the Öko Institut from 2016 commissioned by the European Commission’s DG CLIMA estimates that 73% of the range of CDM credits over the period 2013-2020 have a low probability of reducing emissions, as opposed to only 7% of credits with a high probability of reducing them.²⁰

28. The validity of concepts of “unused”, “unproductive”, “abandoned” or “degraded” land has been contested for over a decade. A large number of studies, especially from the FAO, have shown that land considered “unused” by States or economic stakeholders often have important economic and social functions for poor rural communities (seasonal grazing, collecting firewood, foraging, etc.).²¹

29. Whether it is about increasing productivity or using abandoned areas of land, the intrinsic weakness of the idea of additionality applied to raw materials for biofuels is that it requires the existence of production sites that would not have been created if it were not for the demand from the biodiesel industry. This is a weak premise in a context of global demand for plant oils increasing by 1.5 million tonnes per year (figures for the period 2017-2026 according to FAO).²²

30. As “robust” and “transparent” as they are, certification processes cannot overcome these inherent difficulties in the concept of additionality and cannot guarantee the absence of production displacement, and therefore ILUC, linked to the extraction of raw materials for biofuels.

31. The classification of raw materials taken from smallholdings of under five hectares as being “low-ILUC risk” is entirely unfounded. The size of the holding does not correlate with the risk of deforestation. Furthermore, allocating small areas of land to workers selling their production to one major factory controlled by large companies is a production model that is commonly found in countries producing palm oil.

¹⁸ In the meantime, this committee has had a change of name and is now known in French as the “Commission consultative spéciale ‘consommation’ (CCS Consommation)”.

¹⁹ European Commission, *Report on the status of production expansion of relevant food and feed crops worldwide (draft)*, February 2019.

²⁰ Öko Institut, *How additional is the Clean Development Mechanism?*, 2016, https://ec.europa.eu/clima/sites/clima/files/ets/docs/clean_dev_mechanism_en.pdf.

²¹ Cotula et al., *Fuelling exclusion? The biofuels boom and poor people’s access to land*, IEED and FAO, 2008.

²² OECD & FAO. (2017). *OECD-FAO Agricultural Outlook 2017-2026*. OCDE, Publishing. Retrieved from http://www.oecdilibrary.org/agriculture-and-food/oecd-fao-agricultural-outlook-2017-2026_agr_outlook-2017-en

At Belgian level

32. Belgium has on several occasions reaffirmed its commitment to the United Nations' 2030 Sustainable Development Agenda, especially when presenting its voluntary national report submitted as part of the high-level political forum that oversees implementation of the agenda.²³

33. In the part of the report dedicated to Goal 2, "zero hunger"²⁴, Belgium announced its intention to reduce its food production footprint and to reduce its dependency on raw materials. It also mentions that in May 2017 the Belgian Cooperation adopted a new Strategy on Agriculture and Food Security which adopts a rights-based approach and which aims at improving productivity within stable food production systems as well as eliminating hunger and malnutrition.

34. With regard to this same "zero hunger" goal, Belgium recalls its contribution to the *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security*, adopted in 2012 by the Committee on World Food Security, which aims to promote land rights and fair access to land and other resources for vulnerable and marginalised people.

35. In the part of the report taken up with Goal 15 "life on land"²⁵, Belgium indicates that it attaches particular importance, in its cooperation with developing countries, to the protection, restoration and sustainable use of land ecosystems and sustainable forestry management.

36. Respect for its international commitments, as well as coherence with its cooperation objectives in the domain of sustainable development and the right to food, oblige Belgium as of 2021 to eliminate its consumption targets of first generation biofuels. When the notion of sustainability is considered in all of its different dimensions, it quickly becomes apparent that all first generation biofuel sectors have problematic consequences where sustainability is concerned.

37. The sustainability criteria included in Directive 2018/2001²⁶ do not ensure it is possible to guarantee with any real effect the sustainability of first generation biofuels consumed on a large scale. The binding sustainability criteria do not cover the environmental dimension.²⁷ The social impact of biofuel production is not included in the binding sustainability criteria, although it is the subject of a biennial report by the European Commission. This shortcoming is underlined in a special report from the European Court of Auditors from 2016, which regrets that in Directive 2009/28/EC "there are no binding criteria under the RED to ensure that EU biofuel production does not generate negative socioeconomic effects. The possibility of such negative effects is therefore not assessed during the Commission's recognition procedure for voluntary schemes. However, the production of biofuels could endanger local communities and cause damages to

²³ *Pathways to sustainable development. First Belgian National Voluntary Review on the Implementation of the 2030 agenda*, New York, July 2017.

²⁴ The full title of the second SDG is "End hunger, achieve food security and improved nutrition, and promote sustainable agriculture."

²⁵ The full title of the fifteenth SDG is "Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss."

²⁶ These are the same criteria as those in Directive 2009/28/EC.

²⁷ Some of the criteria "linked to GHG emissions", which require the GHG balance of biofuels to be 35% lower than that of fossil fuels (50% in 2016 and 60% in 2018), elsewhere the criteria "linked to land", which require the land on which raw agricultural materials have grown not being "rich in biodiversity", "rich in carbon" or peatland in January 2008.

society at large.” The same report considers that the biennial reports on social viability presented by the Commission are “of limited use as they contain limited information and unclear conclusions.”²⁸

38. Whilst the *direct* social impact theoretically could be managed by adopting binding social criteria, the indirect social impact is beyond the scope of control because it results in a chain effect on food, agriculture and property markets. European consumption of biofuels at 7% of fuel used in the transport sector contributes to the risk of tensions on global food prices and pressure on natural resources with the inevitable impact on the world’s poor consumers and rural communities.

39. It is precisely these shortcomings in the sustainability of first generation biofuels that led the European institutions to remove them from the binding regime, by offering Member States the possibility of reducing their renewable energy targets in transport in line with the reduction in the use of these controversial biofuels. Article 26 of Directive 2018/2001 thus states: “*Where the share of biofuels and bioliquids, as well as of biomass fuels consumed in transport, produced from food and feed crops in a Member State is limited to a share lower than 7 % or a Member State decides to limit the share further, that Member State may reduce the minimum share referred to in the first subparagraph of Article 25(1) accordingly, by a maximum of 7 percentage points*”.

40. Similar nagging doubts have already led several EU Member States, including the United Kingdom, the Netherlands and Germany, to take advantage of this latitude in the new Directive 2018/2001 to limit the share of first generation biofuels with a threshold of below 7% as of 2021. Furthermore, on 4 December 2018, Norway decided to introduce a ban on using palm oil biodiesel in biofuels, whereas the French Parliament decided two weeks later no longer to consider palm oil-based products as biofuels.

41. For these same reasons, the Commission’s first proposal for the new directive covering the period 2021-2030, presented in November 2016, included a cap of 3.8% on the use of first generation biofuels in 2030.²⁹

42. The “need to protect already agreed investments” (referred to by the Directive 2015/1513) cannot be considered post-2021 as an acceptable argument to keep Belgium’s biofuel consumption level at 7%. The Commission has gone so far as to ban public aid for the running of units producing biofuels using food crops after 2020.³⁰

43. The precautionary principle must be applied to the use of “advanced” biofuels. Consideration must be granted to the whole biomass life cycle. According to studies carried out in Belgium, the potential offered by second generation biomass that can actually be harnessed is limited. There

²⁸ European Court of Auditors, *The EU system for the certification of sustainable biofuels*, Special report 18/2016.

²⁹ European Commission, Memo: The revised renewable energy Directive, November 2016.

³⁰ CE, *Guidelines on State aid for environmental protection and energy 2014-2020*, Communication from the Commission (2014/C 200/01).

is heavy competition for use with sectors already showing growth such as construction, energy, animal feed, fibres for specific applications, etc.³¹

44. Belgium's targets for advanced biofuel consumption must not lead to an increase in imports of waste and residues from countries outside of Europe. As a minimum, there must be a ban on raw materials carrying social and environmental risks, such as palm oil by-products, and the hierarchy of waste must be respected, as set out in Directive 2008/98/EC.

45. Ultimately, biofuels represent a limited strategy when it comes to adapting the transport sector to meet climatic challenges. As indicated in the opinion of the Federal Sustainable Development Council of 14 February 2018, transport decarbonisation policies must prioritise the reduction of car traffic and the development of alternatives (public transport, gentle mobility, car-sharing, etc.).

The Advisory Council on Policy Coherence for Development was established in April 2014. It is governed by the Royal Decree of 2 April 2014, in application of the Law of 19 March 2013 with regard to the Belgian development cooperation (articles 2, 16°, 8, 31 and 35,2°). This Advisory Council's primary mission is to provide advice to the Belgian federal authorities in order to promote Policy Coherence for Development in accordance with Article 208 of the Treaty on the Functioning of the European Union and Article 8 of the legislation initiated on March 19, 2013, related to Belgian Development Cooperation.

To know more about the Advisory Council and to read more opinions in English, Dutch and French, please visit the website: <http://www.ccpd-abco.be/>

³¹ Jacquet Nicolas et al., "Les initiatives commerciales de bioraffinage en Région wallonne (Belgique): production de biocarburants et voies de valorisation connexes (synthèse bibliographique)", *'Biotechnologie, Agronomie, Société et Environnement'*, 2015, 19/2.