

## **ECIPE Media Brief**

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### **Reforming Europe's Biofuels Policy: How the European Parliament Seems to Make a Bad Proposal Worse**

*The European Union is about to change its highly controversial biofuels policy. A proposal from the European Commission from last year is currently making its way through the EU Member States and the European Parliament. And the European Parliament, which is getting close to finishing its work, is about to make a bad proposal worse. It wants to reinforce a principle of discrimination, leading to a collision with Europe's obligations in the World Trade Organisation (WTO). This conflict is not one between green ambitions and trade rules – it is a conflict between trade rules and a biofuels policy aiming to favour domestically produced biofuels at the expense of foreign competitors.*

The current proposal to reform biofuels policy in Europe is primarily based on the Renewable Energy Directive from 2009. This directive introduced a new type of discrimination in EU policy – discrimination not directly about products but how products have been produced. The directive was conspicuously done in a way to support biofuels based on feedstock from Europe. As have been concluded in several studies, if goods would actually be denied access to Europe on the basis of this directive, that rejection would not hold up in a WTO dispute-settlement case.

Both the Commission and the Rapporteur in the European Parliament, Corinne Lepage, now want to strengthen this discrimination by introducing a so-called ILUC factor. MEP Lepage goes far beyond what the Commission suggested, and demands that emissions generated by indirect land-use change should be part of the sustainability criteria. In practice, this means that emissions generated by the production of another crop, somewhere else in the world, should provide the basis for determining whether a biofuels should be discriminated against or not.

But an ILUC factor simply cannot be used for diligent policy. It cannot be used for the simple reason that it is impossible to make reliable, transparent, evidence-based assessments on ILUC emissions for a particular crop, and especially so when it is the global ILUC emissions that should be targeted. And we do not have to go any further the Commission's own estimates to see how arbitrary such a regulation would be. Many attempts have been made to model the ILUC emission effects, but they come to profoundly different results. That is not very surprising – it is impossible to manage so many different and changing factors that constitute the derivative effects of one company's decision to use a particular feedstock to produce a fuel.

An ILUC factor in Europe's sustainability criteria would flaunt WTO rules. Foreign competitors to biofuels produced in Europe could be discriminated even if the producer can prove it is friendlier to the environment or the climate than those biofuels that gets the greenlight from the EU. WTO prevents discrimination, but a conditional departure can be allowed from these rules if it can be clearly proven that the discriminated product has harmful effects on the environment. But neither the EU nor anyone else can determine the ILUC effects. And since such discrimination would introduce a regulation with effect on a direct competitive relationship between foreign and domestic product, it is highly unlikely that it would be approved even if would be possible to make a reliable estimate on ILUC emissions.

If you want to get further comments, do not hesitate to contact Fredrik Erixon ([fredrik.erixon@ecipe.org](mailto:fredrik.erixon@ecipe.org)) by email or phone (+32 (0)499 053 107).

This media brief builds on previous research on EU biofuels policy by Fredrik Erixon:

On Camels and the Making of EU Biofuels Policy.

ECIPE Bulletin No. 01/2013

By Fredrik Erixon

[http://www.ecipe.org/media/publication\\_pdfs/ECIPE\\_bulletin\\_01\\_2013\\_FErixon\\_copy\\_1.pdf](http://www.ecipe.org/media/publication_pdfs/ECIPE_bulletin_01_2013_FErixon_copy_1.pdf)

The Rising Trend of Green Protectionism: Biofuels and the European Union.

ECIPE Occasional Paper No. 2/2012

By Fredrik Erixon

[http://www.ecipe.org/media/publication\\_pdfs/OCC22012.pdf](http://www.ecipe.org/media/publication_pdfs/OCC22012.pdf)

Green Protectionism in the European Union: How Europe's Biofuels Policy and the Renewable Energy Directive Violate WTO Commitments.

ECIPE Occasional Paper No. 1/2009

By Fredrik Erixon

[http://www.ecipe.org/media/publication\\_pdfs/green-protectionism-in-the-european-union-how-europe2019s-biofuels-policy-and-the-renewable-energy-directive-violate-wto-commitments.pdf](http://www.ecipe.org/media/publication_pdfs/green-protectionism-in-the-european-union-how-europe2019s-biofuels-policy-and-the-renewable-energy-directive-violate-wto-commitments.pdf)