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Germany

Bio-Fuels

German Government Modifies Biofuel Laws

2008

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Report Highlights:
On October 22, 2008 the German Cabinet approved a proposal to change the support measures for biofuels. The law will reduce the increase in the biofuel mandates for bioethanol as well as the overall mandate for biofuels. Beginning in 2015, the calculation basis for the biofuels mandate will be switched from energy content to greenhouse gas emission savings. The effective increase in the energy tax on 2009 will also be reduced. Most critical for the U.S. is a provision that excludes biofuels made from soybean oil or palm oil from benefitting from the mandates and any tax incentives until the German sustainability criteria for biofuels will be in effect. In addition, biofuels that already received a subsidy – such as the blender's credit – will also be excluded from the German system of benefits.

Includes PSD Changes: No
Includes Trade Matrix: No
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On October 22, 2008 the German Cabinet approved a proposal to change the support measures for biofuels. The law will reduce the increase in the biofuel mandates for bioethanol as well as the overall mandate for biofuels. Beginning in 2015, the calculation basis for the biofuels mandate will be switched from energy content to greenhouse gas emission savings. The effective increase in the energy tax on 2009 will be reduced. Most critical for the U.S. is a provision that excludes biofuels made from soybean oil or palm oil from benefitting from the mandates and any tax incentives until the German sustainability criteria for biofuels will be in effect. In addition, biofuels that already received a subsidy – such as the blender's credit – will also be excluded from the German system of benefits.

Biofuel Mandates

When the biofuel mandates were originally approved in 2006, the German Government (GOG) counted on the introduction of an E10 gasoline blend that would not have to be labeled at the gas station. This introduction failed after protests from the car importers association and the German car drivers association (ADAC) who claimed that up to 3 million imported cars would not be able to use this type of gasoline. The GOG assessed that as a result of the failure to introduce E10 the current bioethanol mandates were too ambitious. In addition, the development of second generation biofuels seems to take longer than originally expected. Both those factors prompted the GOG to reduce the bioethanol and the overall mandate through this proposed legislation.

The new mandates are summarizes in the following table:

	Old			New		
Year	Overall mandate (%)	Biodiesel specific (%)	Ethanol specific (%)	Overall mandate (%)	Biodiesel specific (%)	Ethanol specific (%)
2007		4.4	1.2		4.4	1.2
2008		4.4	2.0		4.4	2.0
2009	6.25	4.4	2.8	**5.25**	4.4	2.8
2010	6.75	4.4	3.6	**6.25**	4.4	**2.8**
2011	7.00	4.4	3.6	**6.25**	4.4	**2.8**
2012	7.25	4.4	3.6	**6.25**	4.4	**2.8**
2013	7.50	4.4	3.6	**6.25**	4.4	**2.8**
2014	7.75	4.4	3.6	**6.25**	4.4	**2.8**
2015	8.00	4.4	3.6			

In addition, the proposal states that biofuels which have already received other direct government subsidies in Germany or abroad or have been granted the tax relief in Germany will be excluded from counting against the biofuel mandates.

Energy Tax

Until August 2006, GOG supported biofuel by a tax incentive which set the energy tax for all biofuels at zero. Since then the GOG is gradually changing the support from tax incentives to mandates. The energy tax for pure biodiesel (B100) is being phased in until 2013 when taxes for diesel and biodiesel will be at the same level. For 2008, the tax amounts to 0.15 €/liter for B100 versus 0.47 €/liter for diesel. The current legislation requires an increase of the effective energy tax for B100 from € 0.15 per liter to €0.18 to take effect on January 1, 2009. The proposal reduces the level of increase from 6 to 3 Euro cents per liter. Thus, on January 1, 2009 the effective energy tax will increase to from € 0.15 per liter to €0.18 and not to €0.21, as stated in the current law. While this is meant to help to increase the competitiveness of B100, industry sources doubt that the reduction is enough to achieve the desired effect.

In addition, the proposal states that biofuels which have already received other direct government subsidies in Germany or abroad will be excluded from receiving any tax benefits in Germany and will be subject to the full energy tax of €0.47 per liter.

Exclusion of Biofuels made from Soybean Oil

The proposed legislation contains a provision that would disqualify biodiesel made with soybean oil and palm oil from being counted against the biofuel mandates and deny receipt of any tax incentives unless and until the German Government implements a sustainability criteria law for biofuels. This provision will be applied once the legislation is implemented retroactively to all biofuels that are based on feedstocks from contracts signed on or after September 25, 2008.

In December 2007, the GOG passed legislation (BioNachV) which established sustainability criteria. However, the legislation is being held up in the European Commission in order to develop EU-wide biofuels sustainability criteria. While the GOG is confident that the EU will conclude its sustainability criteria before the end of 2008, this would likely require some adjustment of the BioNachV before it can go into effect.

Once the EU/German sustainability regulations are in place the U.S. has at least two options to prove the compliance with the regulation for its products.

- U.S. exporters can produce according to a certification scheme that has to be accredited by either the EU or by Germany.

- The U.S. government concludes an agreement with either the EU or Germany that specifies sustainability criteria for its territory (or parts of its territory).

Implications

The proposal discriminates against two feedstocks (soybean oil and palm oil) compared to other vegetable oils and animal fats. It so happens that soybeans and palm trees are not grown in Germany. Nonetheless, the GOG considers the proposal to be WTO consistent.

The proposal is expected to reduce demand for soybean based biodiesel in Germany – whether manufactured in Germany or imported - for at least as long as the sustainability criteria are not yet implemented. This will likely cut off any biodiesel imports from the U.S. into Germany that have not been contracted before September 25.

In addition, the proposal puts soybean oil at a disadvantage compared to other biofuel feedstocks such as rapeseed oil and sunflower oil. This will likely reduce demand for soybean oil and ultimately for soybeans in Germany. A more detailed assessment of the implications on the oilseeds market will follow in a separate report.

Soybean oil and biodiesel that were contracted prior to September 25 will still remain eligible to be counted for the German system of benefits.

Timeline

It is expected that the proposal will pass the Bundestag (comparable to the U.S. House of Representatives) and the Bundesrat (comparable to the U.S. Senate) without any major changes and will be implemented in mid/end February 2009, go into effect retroactively on January 2009. Because of the tax incentives contained in the proposal, it has to be approved by the European Commission before it can go into effect.

Background

In 2007, German domestic consumption of biodiesel and bioethanol amounted to 3.1 million MT and 486,000 MT, respectively. From January through July 2008, the respective consumption figures amounted to 1.7 million MT and 326,600 MT compared to 2.2 million MT and 286,000 MT for the same period in 2007. January through July Germany imported 376,215 MT of biodiesel.