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Spain's National Biofuels' Sustainability Scheme

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Report Highlights:

The Royal Decree 1597/2011 published on November 5, 2011 transposed articles 17 to 21 from the Renewable Energy Directive. As stated by the transitory provision of the Royal Decree, starting in January 2013, biofuels marketed must be sustainable in order to be eligible to count against the consumption targets. On July 26, 2012 the CNE presented a draft proposal on the implementing details of the national sustainability verification system. The Consultative Council for Hydrocarbons members are invited to weight in. The document containing final implementation details will be published in Spain's National Gazette by October 31, 2012, two months prior its enforcement.

Disclaimer: This report provides an overview of Spain's National Biofuel's Sustainability Scheme. To find

out more about Spain's specific biofuels policy, production supply and demand data please see the latest version of Spain's biofuels report. Also, as a member of the European Union (EU), conforms to EU directives and regulations on biofuels. It is therefore recommended that this report is read in conjunction with the EU-27 biofuels consolidated report.

Abbreviations and definitions used in this report

MINETUR: Ministry of Industry, Energy and Tourism (since December 2011)

MITYC: Ministry of Industry, Commerce and Tourism

CNE: Spanish National Energy Commission

IDAE: Spanish Institute for Energy Diversification and Saving

GOS: Government of Spain

EC: European Commission

EU: European Union

MS: Member State

RED: Renewable Energy Directive

GHG: Greenhouse Gas

AFOEX: Oilseeds Crushers Association

APPA: Spain's Renewable Energies Association

AOP: Spanish Petrol Industries Association

MT: Metric Tones

MY: Marketing Year

General Information:

The Renewable Energy Directive 2009/28/EC (RED) on the promotion of the use of energy from renewable sources laid down sustainability requirements for biofuels, established restrictions on restrictions on land use as well as minimum Greenhouse Gas savings of at least 35 percent. Starting in 2017, the reduction of emissions should add up to 50 percent and of at least 60 percent after 2018 in new facilities.

Sustainability requirements had to be implemented by Member States by December 5, 2010. While the EU policy on sustainability for biofuels is set in Brussels, Spain is responsible for its transposition into national law. However, Spain, as did many other Member States, failed to comply with the proposed deadline. The Royal Decree 1597/2011 published on November 5, 2011 transposed articles 17 to 21 from the RED.

Royal Decree 1597/2011, which was prepared by the former Ministry of Industry, Tourism and Trade (current Ministry of Industry, Energy and Trade) and assessed by the CNE (Spanish National Energy Commission), transposed sustainability criteria to national regulation, defined Spain's National Scheme for verification of compliance and transposed those provisions in the Directive related to double credit for certain biofuels.

The Royal Decree 1597/2011 is based on the EU Directive 2009/28/EC on the promotion of the use of energy from renewable sources and the sustainability criteria are identical to those in Article 17 of the RED. Anyhow, more detailed guidelines are needed for full sustainability criteria control implementation as well as for double counting consideration.

On July 26, 2012 the CNE approved the draft proposal on the implementing features of the national sustainability verification system. The Consultative Council for Hydrocarbons members are invited to weight in and the final paper will be published in Spain's National Gazette by October 31, 2012. That is, two months before sustainability certification is needed in order to meet mandates.

Starting on January 1, 2013 sustainability will be required for all biofuels marketed, however a transitory period will be observed until the verification system is fully in place. During the transitory period, the economic agents in the supply chain can comply with sustainability by simply presenting a Responsible Declaration. The Responsible Declaration would assure that the mass balance, allowing product traceability and sustainability throughout the chain of custody, has been observed.

In the absence of a U.S.-EU bilateral agreement or National Scheme accepting the United States as a sustainable supplier of soybeans, the soybean oil produced out of U.S. soybeans will not comply with sustainability requirements, unless producers decide to abide by one of the EC approved Private Schemes. As a consequence, biodiesel produced out of U.S. soybeans will not be eligible to meet mandates after January 2013.

Biofuels Promotion in Spain

Directive 2003/30/EC set out indicative biofuels use targets for EU Member States at 2 percent by the end of 2005 and 5.75 percent by the end of 2010. Directive 2009/28/EC established a mandatory 10 percent goal of renewable energy in transport by 2020.

To transpose the EU Directives into National Law Spain opted for mandatory biofuels blending beginning in 2009. Fines of 350 Euros are imposed per certificate/metric ton of oil equivalent that the obliged party failed to market. The mandates are based in energy content, not volume. The amounts of transport biofuels that must be placed in the market by fuel sector operators are as shown in **Table 1**. The gap between the specific and the overall mandates can be fulfilled by either biofuel.

Table 1. Spain's biofuel targets (percent in terms of energy)

| Year | Type of mandate | Overall mandate | | Biodiesel specific mandate | Bioethanol specific mandate |
|------|-----------------|-----------------|------|----------------------------|-----------------------------|
| 2008 | Voluntary | 1.9 | | 1.9 | 1.9 |
| 2009 | Mandatory | 3.4 | | 2.5 | 2.5 |
| 2010 | Mandatory | 5.83 | 4.78 | 3.9 | 3.9 |
| 2011 | Mandatory | 6.2 | | 6 | 3.9 |
| 2012 | Mandatory | 6.5 | | 7 | 4.1 |
| 2013 | Mandatory | 6.5 | | 7 | 4.1 |

Source: Orden ICT/2877/2008. Ministry of Industry, Energy and Tourism and Royal Decrees 1738/2010 and 459/2011.

The transitory provision in Royal Decree 1597/2011 establishes that, from January 1st, 2013 only sustainable biofuels will count against the mandates. Non-sustainable certified biofuel can still be marketed but will not count against the national targets.

Spain's National Scheme

Sustainability requirements

The Royal Decree 1597/2011 is based on the EU Directive 2009/28/EC on the promotion of the use of energy from renewable sources and the sustainability criteria are identical to those in Article 17 of the RED.

In terms of land use, there are certain land categories excluded from production of biofuels' raw material. In addition to that, when the land category is appropriate Statutory Management Requirements (SMRs) and Good Agricultural and Environmental Condition (GAEC) have to be

observed.

For Greenhouse Gas Emission savings default values or calculated values can be used. For the later, a [GHG calculator](#) is available in the IDAE's website.

Ways foreseen to comply with Sustainability Requirements

To prove sustainability the Royal Decree 1597/2011 maintains the three options described in the RED which are voluntary schemes, national schemes or a bilateral/multilateral agreements recognized by the European Commission. Combinations of these three options are also accepted.

In addition to these three paths and their combinations, the Director General for Energy Policy and Mines, within the Spanish Ministry of Industry, Energy and Tourism, can deem appropriate to recognize other Member States national verification systems in place on a case by case basis.

Traceability must be observed throughout the raw materials/biofuels supply chain and the different actors in the chain must observe mass balance methods to ensure that, despite the physical mixing of batches with different sustainability characteristics, the minimum threshold limits are met.

Transitory period

The transitory provision in Royal Decree 1597/2011 establishes that a transition period will be observed until the verification system is fully in place. According to this same provision, from January 1, 2013 sustainability will be required for all biofuels marketed. Stages for implementation are as follows:

- Up to December 31, 2012: No sustainability certification required to meet mandates.
- Beginning January 1, 2013: Biofuels marketed must be sustainable in order to count against mandates.
- Once the verification is fully in place: More in depth verification will be carried out.

During the transitory period, the economic agents in the supply chain can comply with sustainability by presenting a Responsible Declaration. The Responsible Declaration would assure that the mass balance, allowing product traceability and sustainability assurance throughout the chain of custody, has been observed. In case the biofuel batches are certified under an EC recognized private scheme or a bilateral agreement, only a reference to the name of the scheme or agreement will have to be included in the Responsible Declaration.

Once the transitory period is over and the sustainability verification system is fully implemented a

sustainability verification report prepared by a sustainability certification entities will be required.

Main Actors in the Sustainability Certification National Scheme

The National System for Sustainability Certification is comprised by the following actors:

- National Energy Commission (CNE), which will be part of the national system of verification of sustainability and responsible for issuing and accounting biofuel's consumption certificates.
- Ministry of Industry, Energy and Tourism (MINETUR), which will oversee the system.
- Sustainability certification entities, which have to be accredited for this purpose and will be responsible for issuing the sustainability verification report.
- Economic agents, that includes: farmers, raw materials elevators and merchants, biofuel producers, petrol and petrol logistics companies, which have to maintain relevant information on sustainability assurance for a 5 years' period for auditing purposes.

Obligated Parties

According to Royal Decree 1597/2011, obligated parties, which include oil companies, must submit to the CNE batch identification, biofuel type, volume, raw materials and country of origin. As it pertains to information regarding sustainability, this should include the system chosen for sustainability certification (voluntary scheme, national scheme or a bilateral/multilateral agreement). Also responsible declaration or a sustainability verification report assuring compliance with mass balance and traceability as well as with GHG emission reduction, land use and good agricultural practices is required.

Obligated parties (petrol companies) can choose whether to adhere to Spain's national scheme or to any of the Private Schemes approved by the Commission. Obligated parties would prefer private schemes as opposed to Member State national schemes. Whereas the EC approved private schemes are accepted in all Member States, the recognition of national-scheme certified biofuels is not automatic, which results in increased flexibility when using private scheme certification.

Selling eligible biofuel to meet consumption targets in other MS market is possible with EC approved private schemes, which are recognized by all MS. An EC approved bilateral agreement with a third country would also allow for EU wide recognition, whereas recognition within a MS national scheme only assures biofuel eligibility in the corresponding Member State.

Implications for U.S. Soybean Trade

The United States has traditionally been a supplier of raw materials for the robust Spanish feed industry. The majority of U.S. Agricultural exports to Spain consist of bulk commodities intended for further processing. The Spanish feed industry constitutes one of the U.S. agricultural products main users in Spain. In particular, U.S. soybean exports represent on average about 20 percent of the domestic soy crushing industry supply.

Table 2. Spain Total Imports of Soybeans by Origin Oct/Sep (MT)

| Country of Origin | MY2006/07 | MY2007/08 | MY2008/09 | MY2009/10 | MY2010/11 |
|----------------------|------------------|------------------|----------------|------------------|------------------|
| EU-27 | 72,166 | 76,729 | 52,744 | 68,060 | 46,493 |
| Brazil | 2,109,927 | 2,348,775 | 2,537,343 | 1,773,646 | 1,927,806 |
| United States | 342,491 | 664,902 | 356,445 | 648,916 | 852,174 |
| Paraguay | 14,897 | 275,150 | 25,011 | 466,975 | 238,946 |
| Canada | 8,663 | 2,632 | 3,080 | 264,194 | 105,532 |
| Others | 10,571 | 23,971 | 3,095 | 11,626 | 17,036 |
| TOTAL IMPORTS | 2,558,715 | 3,392,159 | 2977718 | 3,233,417 | 3,187,987 |

Source: GTA

Total soybean crushing capacity in Spain is over 3 million MT. Spain's soybean crushing industry is made up of 4 plants located in the ports of Bilbao, Barcelona (2 plants) and Cartagena. The meal obtained from crushing the beans, used by the feed industry, is the main driver for imports. The oil obtained in the process is used by the food, feed or the biodiesel industry.

Spain has traditionally been a net exporter of soybean oil, as net soybean oil trade is closely related to the in-country biodiesel production. Other EU-27 Member States (over 60 percent) and North African countries are Spain's soybean oil main destinations. Exports to Portugal have grown steadily over the last MY driven by the biodiesel industry demand, while exports to other EU more food oriented markets such as France, Germany and Italy have remained fairly stable after peaking in MY2007/08.

Table 3. Spain Total Exports of Soybean Oil by Destination Oct/Sep (MT)

| Country of Destination | MY2006/07 | MY2007/08 | MY2008/09 | MY2009/10 | MY2010/11 |
|------------------------|-----------|-----------|-----------|-----------|-----------|
| EU-27 | 88,166 | 242,677 | 135,563 | 165,381 | 231,376 |
| Portugal | 7,247 | 27,644 | 51,856 | 112,574 | 142,690 |
| France | 14,615 | 112,253 | 40,792 | 26,414 | 22,483 |
| Germany | 38,507 | 29,346 | 26,102 | 4,064 | 14,136 |
| Italy | 12,051 | 32,373 | 7,584 | 13,272 | 42,152 |
| Algeria | 19,100 | 54,872 | 59,510 | 21,056 | 17,892 |
| Tunisia | 28,900 | 27,577 | 5,900 | 5,800 | 5,700 |
| Morocco | 0 | 3,041 | 5,545 | 6,021 | 8 |

| | | | | | |
|----------------------|----------------|----------------|----------------|----------------|----------------|
| South Africa | 487 | 30 | 0 | 11,802 | 104,029 |
| Others | 16,752 | 23,818 | 825 | 1,645 | 3,454 |
| TOTAL EXPORTS | 153,405 | 352,015 | 207,343 | 211,705 | 362,459 |

Source: GTA

As it pertains to imports, Argentina and Brazil are Spain's main suppliers, representing on average over 70 percent of the country's imports.

Table 4. Spain Total Imports of Soybean Oil by Origin Oct/Sep (MT)

| Country of Origin | MY2006/07 | MY2007/08 | MY2008/09 | MY2009/10 | MY2010/11 |
|--------------------------|------------------|------------------|------------------|------------------|------------------|
| EU-27 | 19,294 | 16,046 | 16,331 | 16,245 | 23,330 |
| Argentina | 12,410 | 12,208 | 66,845 | 43,716 | 101,721 |
| Brazil | 5,972 | 47,358 | 56,976 | 47,457 | 9,841 |
| Paraguay | - | - | 3,583 | 3,417 | 8,121 |
| Others | 251 | 532 | 3,036 | 8,699 | 9,727 |
| TOTAL IMPORTS | 37,927 | 76,144 | 146,771 | 119,534 | 152,740 |

Source: GTA

In the absence of a U.S.-EU bilateral agreement or National Scheme accepting the United States as a sustainable supplier of soybeans, the soybean oil produced out of U.S. origin soybeans will not be eligible for biodiesel production in Spain, unless producers decide to abide by one of the EC approved Private Schemes.

The implementation of sustainability criteria in Portugal starting also in January 2013 (See [PT1201](#)) might have an impact in Spain's soybean oil market balance.

Competent Authorities for Biofuels Policy

There are three relevant authorities that participate in the regulatory development and provision implementation in Spain, which are the CNE (National Energy Commission), the Directorate General for Energy Policy and Mines, belonging to the Ministry of Industry, Energy and Tourism and IDAE, the Institute for Energy Diversification and Saving, also ascribed to the Ministry of Industry, Energy and Tourism.

The CNE has a broad oversight of the entire energy sector. In the area of biofuels, the work of the CNE is limited to what National regulation foresees. The CNE is not responsible for the preparation of the regulation but rather responsible for the assessment and implementation of the rules prepared by the Ministry of Industry, Energy and. However, the CNE is responsible for the preparation of implementing regulations to define the process by which sustainability information will be submitted, the management of the mass balance, the definition of batch and the format of the documents needed to

prove sustainability.

The **Directorate General for Energy Policy and Mines** has ultimate authority over regulations and policies related to the RED. It is responsible for the development and monitoring of policy initiatives and the transposition of EU regulations into National Law in the hydrocarbon sector among other energy sectors.

IDAE's mission is to promote energy efficiency and the rational use of energy in Spain. It pursues the use of renewable sources of energy and carries out technical advisory activities and finances innovative projects.

As it pertains to the local production of biofuels' feedstocks, the Ministry of Agriculture, Food and Environment (**MAGRAMA**) is responsible for the definition of the necessary provisions to ensure that the Statutory Management Requirements (SMRs) and Good Agricultural and Environmental Condition (GAEC) are observed.

Double Counting

Double counting of biofuels derived from waste, residues, non-food cellulosic and lingo-cellulosic materials shall count double to meet national targets as this type of biofuels rise less land use concerns and provide with greater (GHG) emission savings. On the downside for the biofuel industry, the double counting reduces the volumes needed for mandate compliance. The list of eligible raw materials for double counting is yet to be published. The Undersecretary for Energy is responsible for the publication of the list of eligible raw materials.

Biofuel Related Industry Contacts

AFOEX (Asociación para el Fomento de las Semillas Oleaginosas y su Extracción)
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Renewable Energy Producers' Association
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AOP (Asociación Española de Operadores de Productos Petrolíferos)
Spanish Petrol Industries Association
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Other Key Contacts

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Email: agmadrid@fas.usda.gov

Related Reports

| Report title | Date |
|--|-------------|
| EU-27 Biofuels Annual Report | 7/10/2012 |
| Spain Enacts Biodiesel Production Quota System | 4/24/2012 |
| Portugal's Biofuels Standing Report | 3/12/2012 |
| Spain's Biodiesel Standing Report | 11/16/2011 |