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Smaller German Biofuel Mandates Reduce Biodiesel Demand

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Report Highlights:
Legislation changing the existing German biofuel support law was published in the German Federal Law Gazette (Bundesgesetzblatt) on July 20, 2009. The changes include a delay in the energy tax increase on pure biodiesel, a reduction of the biofuel use mandates, and the exclusion of biofuels which previously received direct state aid from the German biofuels support benefits. The legislation entered into force on July 21, 2009, however, the reduction in the mandates and tax will be applied retroactively to January 1, 2009. The smaller mandate will reduce the demand for biodiesel in Germany. Previous provisions that threatened the eligibility of biodiesel made from soybean or palm oil were dropped. An unofficial translation of the law is attached.

General Information:

Biofuels remains a hot topic in the German political arena. On June 18, 2009, the Bundestag (comparable to the U.S. House of Representatives) overruled an objection of the Bundesrat (comparable to the U.S. Senate) and passed changes to the German biofuel support system, concluding a longstanding dispute between the two institutions that resulted in a number of revisions to the original draft. The final legislation makes several changes to the existing law. I) It delays and reduces the stepwise increase of the energy tax applied to pure biodiesel (B100). II) It reduces the bioethanol specific and the total biofuels mandates. III) Biofuels which previously obtained direct state support elsewhere, either domestically or abroad, and that are not subject to countervailing and/or antidumping duties, are excluded from the German biofuels support system. In contrast to previous versions, the final legislation does not include two provisions that would exclude soybean-based biodiesel from German benefits (tax reduction and use mandates). This language was dropped in the final text due to concerns raised by the U.S. Government. Below are more details on the specific changes.

I) Energy Tax Increase Delayed

Until August 2006, the German Government (GOG) supported biofuels with a tax incentive that set the energy tax for all biofuels at zero. Since then the GOG has been gradually changing the support from a tax incentive based system to a usage mandate based system referred to by the Germans as "quota". As a result, an energy tax for pure biodiesel (B100) is being phased in and will gradually increase until 2013, when taxes for diesel and biodiesel will be at the same level. The new legislation reduces the tax increase for 2009. In addition, the last step of the tax increase will be delayed from 2013 to 2014. Comment: While this is meant to help increase the competitiveness of B100, industry sources doubt that the new tax level is sufficient to achieve the desired effect. End Comment.

II) Reduction of Biofuel Mandates

When the biofuel mandates were originally approved in 2006, the GOG counted on the introduction of an E10 gasoline blend (a mix of 90 percent gasoline and 10 percent bioethanol) that would not have to be labeled at the gas station. This introduction failed, after protests from the German Car Importers Association and the German Car Drivers Association (ADAC). Who both claimed that up to 3 million imported cars would not be able to use this type of gasoline. After careful evaluation the GOG concluded that the failure to introduce the E10 fuel resulted in making the current bioethanol mandates difficult to achieve. It also found the development of second generation biofuels seemed to be taking longer than originally expected. Both factors prompted the

GOG to introduce this legislation which reduces the bioethanol specific as well and the overall mandate. The new mandates are summarizes in the table below.

Table 1: German Biofuel Mandates

	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			

Note: All values refer to energy content.

In addition, beginning in 2015, the calculation basis for the biofuels mandate will be switched from energy content to greenhouse gas emission savings.

Table 2: Future German Biofuel GHG Reduction Mandates

Year	Minimum GHG Emission Reduction in % *
2015	3.0
2017	4.5
2020	7.0

* The use of biofuels must reduce greenhouse gas (GHG) emissions of the total mix of fossil fuels and biofuels compared to fossil fuel by at least the percentage stated in the table

III) Exclusion of Biofuels That Have Received State Aid

Biofuels which receive direct state aid elsewhere, either domestically or abroad, and that are not subject to countervailing and/or antidumping duties, are excluded from the German biofuels support system. This provision was introduced in reaction to complaints by the German biodiesel industry claiming that cheap biodiesel imports benefitting from the U.S. blenders credit were putting them out of business. After the EU officially imposed anti-dumping and countervailing duties on U.S. biodiesel, this provision became obsolete. Despite this, Germany decided to retain the language in case other countries enacted state support measures. In the opinion of the GOG, imposing countervailing duty/anti dumping duties utilizing the EU process, took too long and thus, they kept the provision in the law to be able to react more quickly in the future against what it perceives as trade distorting measures.

Provisions Excluding Biofuels Made From Soybean Oil Dropped

The original proposal contained a provision disqualifying biodiesel made from soybean oil and palm oil from being counted against the biofuel mandates and from benefitting from tax incentives unless and until the German Government implemented a sustainability criteria law for biofuels. These provisions were not included in the final law due to concerns raised by the U.S. Government and the European Commission. The drop of these provisions ensures that soybean-based biodiesel can continue to benefit from German biofuel support mechanisms. It also ensures an outlet for soybean oil produced in Germany from imported U.S. soybeans. This is important because the use of soybean oil in the food sector is limited in Germany due to reservations against biotech.

Implications:

Under the current market situation in Germany, biodiesel is not competitive outside the use mandates. The minor reduction in the energy tax increase for B100 biodiesel compared to the existing law does not change this. As a result, biofuel use will largely be driven by mandates for the foreseeable future. Fuel distributors are free to choose which type of biofuel they will use to fill the gap between the fuel specific mandates and the overall mandates. However, since the mineral oil industry prefers biodiesel over bioethanol, industry expects that the majority of the volume will consist of biodiesel. As a result, the reduction in the overall mandate will consequently reduce demand for biodiesel in Germany and subsequently biodiesel imports. Industry sources estimate the annual market for biodiesel in Germany within the mandates at 2.2 million MT. This is 600,000 MT less than what was consumed in 2008.

Background:

In 2008, German domestic consumption of biodiesel and bioethanol amounted to 2.8 million MT and 618,000 MT, respectively. From January through April 2009, the respective consumption figures amounted to 785,000 MT and 291,000 MT compared to 771,000 MT and 183,000 MT for the same period in 2008. January through April 2009, Germany imported 62,159 MT of biodiesel compared to 126,320 MT over the same period in 2008.