COMMISSION IMPLEMENTING DECISION

of 19 July 2011

on the recognition of the 'Biomass Biofuels Sustainability voluntary scheme' for demonstrating compliance with the sustainability criteria under Directives 2009/28/EC and 2009/30/EC of the European Parliament and of the Council

(2011/437/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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 [1], and in particular Article 18(6) thereof,

Having regard to Directive 98/70/EC of the European Parliament and of the Council of 13 October 1998 relating to the quality of petrol and diesel fuels [2] as amended by the Directive 2009/30/EC [3], and in particular Article 7c(6) thereof,

After consulting the Advisory Committee established by Article 25, paragraph 2 of Directive 2009/28/EC,

Whereas:

(1) Directives 2009/28/EC and 2009/30/EC both lay down sustainability criteria for biofuels. When reference is made to the provisions of Articles 17 and 18 and Annex V to Directive 2009/28/EC this should be construed as the reference also to the similar provisions of Articles 7a, 7b and 7c and Annex IV to Directive 2009/30/EC.

(2) Where biofuels and bioliquids are to be taken into account for the purposes referred to in Article 17(1)(a), (b) and (c) Member States shall require economic operators to show the compliance of biofuels and bioliquids with the sustainability criteria set out in Article 17(2) to (5) of Directive 2009/28/EC.

(3) Recital 76 of Directive 2009/28/EC states that the imposition of an unreasonable burden on industry should be avoided and voluntary schemes can help creating efficient solutions for proving compliance with these sustainability criteria.

(4) The Commission may decide that a voluntary national or international scheme demonstrates that consignments of biofuels comply with the sustainability criteria set out in Article 17(3) to (5) of Directive 2009/28/EC or that a voluntary national or international scheme to measure greenhouse gas emission savings contains accurate data for the purposes of Article 17(2) of this Directive.

(5) The Commission may recognise such a voluntary scheme for a period of 5 years.

(6) When an economic operator provides proof or data obtained in accordance with a scheme that has been recognised by the Commission, to the extent covered by that recognition decision, a Member State shall not require the supplier to provide further evidence of compliance with the sustainability criteria.

(7) The 'Biomass Biofuels Sustainability voluntary scheme' (hereinafter '2BSvs') scheme was submitted on 11 May 2011 to the Commission with the request for recognition. The scheme covers a wide range of products and applies to all geographic locations. The recognised scheme will be made available at the transparency platform established under Directive 2009/28/EC. The Commission will take into account considerations of commercial sensitivity and may decide to only partially publish the scheme.

(8) Assessment of the 2BSvs scheme found it to adequately cover, with exception of the criterion set out in Article 17(3)(c), the sustainability criteria of Directive 2009/28/EC, as well as applying a mass balance methodology in line with the requirements of Article 18(1) of the Directive 2009/28/EC.

(9) The evaluation of the 2BSvs scheme found that it meets adequate standards of reliability, transparency and independent auditing and also complies with the methodological requirements in Annex V to Directive 2009/28/EC.

(10) Any additional sustainability elements covered by the 2BSvs scheme are not part of the consideration of this Decision. These additional sustainability criteria are not mandatory to show compliance with sustainability requirements set up in Directive 2009/28/EC. The Commission may at a later stage take a view on whether the scheme also contains accurate data for the purpose of information on measures taken for issues referred to in the second paragraph, second sentence of Article 18(4) of Directive 2009/28/EC,

[1] OJ L 140, 5.6.2009, p. 16.
[2] OJ L 350, 28.12.1998, p. 58.
[3] OJ L 140, 5.6.2009, p. 88.

HAS ADOPTED THIS DECISION:

Article 1

The voluntary scheme 'Biomass Biofuels Sustainability voluntary scheme' for which the request for recognition was submitted to the Commission on 11 May 2011 demonstrates that consignments of biofuels comply with the sustainability criteria as laid down in Article 17(3)(a) and (b) and Article 17(4) and (5) of Directive 2009/28/EC and Article 7b(3)(a) and (b) and Article 7b(4) and (5) of Directive 98/70/EC. The scheme also contains accurate data for purposes of Article 17(2) of Directive 2009/28/EC and Article 7b(2) of Directive 98/70/EC.

Furthermore, it may be used for demonstrating compliance with Article 18(1) of Directive 2009/28/EC and of Article 7c(1) of Directive 98/70/EC.

Article 2

1. The Decision is valid for a period of 5 years after it enters into force. If the scheme, after adoption of Commission decision, undergoes changes to its contents in a way that might affect the basis of this Decision, such changes shall be notified to the Commission without delay. The Commission will assess the notified changes with a view to establish whether the scheme is still adequately covering the sustainability criteria for which it is recognised.

2. If it has been clearly demonstrated that the scheme has not implemented elements considered to be decisive for this Decision and if severe and structural breach of those elements has taken place, the Commission reserves the right to revoke its Decision.

Article 3

This Decision enters into force 20 days after its publication in *the Official Journal of the European Union*.

Done at Brussels, 19 July 2011.

For the Commission
The President
José Manuel BARROSO