



**Mr José Manuel Barroso**

President  
European Commission  
200 rue de la Loi  
B-1049 Brussels  
Belgium

15 November 2011

Dear President,

BUSINESSEUROPE supports the Commission's intention to reduce the lifecycle greenhouse gas intensity of fuel and other (electric) energy supplied for use in road vehicles and of fuel for use in non-road mobile machinery. However, industry is concerned that the draft Commission Directive establishing calculation methods and reporting requirements pursuant to Directive 98/70/EC ("Fuel Quality Directive") relating to the quality of petrol and diesel fuels will have a disproportionate impact on EU competitiveness and trade for little environmental benefit.

The European Commission should undertake an impact assessment of this draft Directive. This would be in full compliance with the announcement in the Commission's Industrial Policy Communication of last year that all policy proposals with a significant effect on industry undergo a thorough analysis for their impacts on competitiveness. Moreover, the EU-US regulatory cooperation principles of 2011 commit to carry out Transatlantic trade impact assessments of regulations that could have a negative impact on our cross-border trade.

From a competitiveness perspective, the proposed Directive could undermine future EU security of supply of energy as producers of non-conventional sources of oil will consider exports to the EU as high risk. In addition, EU-only specific default values for feedstock will impose significant administrative burdens on the EU fuels industry which in turn will create a price premium for fuels on the European market. This will put EU industry at a competitive disadvantage compared to other industries in the world.

From a trade impact perspective, we consider the draft Directive to be out of line with the EU policy of promoting regulatory cooperation, openness and progressive trade liberalisation. For example, the proposal discriminates (de facto) against fuels derived from oil sands. If adopted, this measure will create trade disruptions with the United States which is the main consumer of oil sands petroleum and which exports the derived fuels to the EU. The Transatlantic Economic Council was established to prevent this type of regulatory trade distortion.



Furthermore it is by no means clear that the proposal is compatible with the European Union's obligations under the World Trade Organisation. The aim of the proposal is to distinguish between fuels produced from 'conventional crude oil' and oil produced from 'natural bitumen' (or oil sands) on the basis of the CO<sub>2</sub> emissions during the production process of the feedstock for the fuels. The WTO has very strict rules regarding the discriminatory treatment of like products on the basis of non-product related process and production methods and even stricter rules with respect to the so-called general exceptions. In addition, we do not want to encourage other WTO members to adopt similar trade distorting measures against our exporters. The proposal is a significant risk for EU exporters as our trading partners could adopt similar import restrictions for energy-intensive manufactured products for which the EU is a leading exporter.

As currently written, it is unlikely that the Directive will lead to a net reduction in global emissions. We anticipate that crude will simply be shipped further to countries outside the EU for processing, increasing total lifecycle emissions. In addition, very few countries accurately track emissions from extraction and processing and by discriminating against natural bitumen, the Commission is essentially providing a disincentive for others to increase the transparency of their production processes.

In light of these concerns, we urge the Commission to undertake a full impact assessment of this proposed Directive in close cooperation with EU member state authorities, industry representatives from the sector concerned and those industries with a big stake in promoting the EU's export interests.

This letter has also been sent to Vice-President Tajani and Commissioners De Gucht, Oettinger and Hedegaard.

Yours sincerely,

Philippe de Buck