



Draft Nigerian Bio-fuel Policy and Incentives

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1. Introduction

1.1. *Definition of Terms and Concepts*

For the purposes of this Policy:

1. Bio-fuels shall mean fuel ethanol and bio-diesel and other fuels made from biomass and primarily used for automotive, thermal and power generation, according to quality specifications stipulated by the Standards Organisation of Nigeria (SON), Department of Petroleum Resources (DPR), and any other competent government agency.
2. Biomass shall mean agriculturally produced raw materials which are available on a renewable or recurring basis, including trees, crops, plant fibre, cellulose based materials, industrial wastes, and the biodegradable component of municipal solid waste.
3. Fuel Ethanol shall mean hydrous or anhydrous bio-ethanol suitably denatured for use as motor fuel, according to quality specifications stipulated by SON, DPR, and any other competent government agency or authority.
4. Bio-diesel shall mean fatty acid methyl ester or mono-alkyl esters derived from vegetable oil or animal fats for use in diesel engines, according to quality specifications stipulated by SON, DPR and any other competent government agency or authority.
5. Out-growers Scheme shall mean an arrangement between farmers in farming communities and Bio-fuel mill owners or/and companies for the purposes of feedstock production or cultivation.
6. ServCos shall mean Agricultural Service Companies independently managed and set-up for the purposes of providing support to farmers through outgrower schemes. ServCos may be companies set up by individuals or fully/partly owned subsidiaries of Bio-fuel Plant operations.
7. Bio-fuel Feedstock: The following crops shall qualify as bio-fuel feedstock for production in the country: Cassava, Sugarcane, Oil Palm, Jatropha,

cellulose-based materials and any other crop as may be approved by the Bio-fuel Energy Commission.

1.2. Background

Pursuant to an August 2005 government directive on an Automotive Biomass Programme for Nigeria, NNPC has been given the mandate to create an environment for the take-off of a domestic fuel ethanol industry. The aim is to gradually reduce the nation's dependence on imported gasoline, reduce environmental pollution while at the same time creating a commercially viable industry that can precipitate sustainable domestic jobs.

The Bio-fuel programme constitutes a major and unique attempt to integrate the agricultural sector of the economy with the downstream petroleum sector.

The use of Bio-fuels in Nigeria is anticipated to make significant impact on petroleum products quality enhancement in view of the current limitations of the fossil-based fuels which have not kept pace with the increasing demand for environmentally friendly fuel.

Other anticipated benefits of Bio-fuel Programme include the following;

- additional tax revenue for the government from the economic activities attributable to the industry;
- job creation, increased economic development and empowerment of rural communities;
- agricultural benefits – improved farming techniques, increased agricultural research, and increased crop demand resulting from activities in the industry;
- energy benefits – co-generation benefits, etc; and
- environmental benefits – reduction in tailpipe emissions and ozone pollution, reduction in particulate emission, and replacement of toxic octane enhancers in gasoline.

1.3. Structure of Programme

The following plan will be followed in implementing the Bio-fuel programme in Nigeria:

1.3.1. Phase1: Seeding the Market

This will involve the blending of up to 10% of fuel ethanol with gasoline to achieve a blend to be known as E-10. This phase will commence with a seeding of the market through importation of cargoes of fuel ethanol until such a time that sufficient capacity and capability would have been developed in the country for large scale production of bio-fuel feedstock and establishment of bio-fuel plants.

The seeding phase is expected to commence with initial penetration of selected cities during the first 3 years of the programme, while a national roll-out is expected within 5-10 years.

1.3.2. Phase 2: Bio-fuel Production Programme

This phase will commence concurrently with the seeding programme. This will be the core of the agricultural integration programme and will entail the establishment of plantations and the construction of bio-fuel distilleries and plants.

Based on current demand for gasoline in the country, at 10% blend ratio with fuel ethanol, about 1.3 billion litres will be required for the country, this is estimated to increase to about 2 billion litres by 2020. It is also estimated that market demand for bio-diesel will be about 900 million litres by 2020 as compared to current market possibility of about 480m litres for a 20% blend for bio-diesel. The Bio-fuel Production programme aspires to achieve 100% domestic production of bio-fuels consumed in the country by 2020.

Investment in domestic production of bio-fuels will be private sector driven, with the government through its various agencies providing an environment conducive to players in the industry.

2. Policy Objectives

2.1. Objectives

The objective of the programme is to firmly establish a thriving fuel ethanol industry utilizing agricultural products as a means of improving the quality of automotive fossil-based fuels in Nigeria. The Policy shall link the agricultural and the energy sector, with the underlying aim of stimulating development in the agricultural sector.

Specific to automotive use, the policy will allow:

- (a) The Minister of Petroleum Resources make appropriate regulation pursuant to his powers under the Petroleum Act whereby bio-fuel blends shall become available for sale and use within Nigeria.
- (b) NNPC guarantee off-take of bio-fuels produced within the country under agreed contractual terms (refer to section 7)

In broad terms, the policy aims:

- (a) To promote job creation, rural and agricultural development and technology acquisition and transfer;
- (b) To provide a framework which is capable of attracting foreign investment in the Bio-fuels industry;
- (c) To streamline the roles of the various tiers of government in order to ensure an orderly development of the Bio-fuels industry in Nigeria;

- (d) To involve the oil and gas industry in a more purposeful development of other sectors of the nation's economy.

2.2. Policy Environment

2.2.1. Creating Market Demand for Bio-fuels:

- The Federal government of Nigeria hereby approves the blending of bio-fuels as a component of fossil-based fuels in the country as required for all automotive use. This blend shall involve the process of upgrading fossil-based fuels.
- It is envisaged that from the take-off of the programme, full national implementation shall be achieved within 10 years.

2.2.2. Market Entry:

- Market entry shall be through registration of bio-fuel plants manufacturing fuel ethanol or/and biodiesel with the possible addition of a co-generation power plant by the DPR.
- Organisations/investors interested in Bio-fuel Production in the country shall be duly registered with the DPR.

2.3. Industry Classification

For the purpose of this Policy, investment in the Bio-Fuel Industry shall be treated as an agro-allied activity and shall benefit from the incentives put in place to foster the development of the agro-allied industry, in addition to other incentives under this Policy.

2.4. Industry Structure, Bio-fuel Producers and Outgrowers

- Policy will support the emergence of an industry in which substantial portion of feedstocks used by bio-fuel plants will be produced by large scale producers and outgrowers.
- Integrated (Plants and Plantations) bio-fuel operations will be encouraged to set up **ServCos** to support the emergence of an outgrower scheme. Alternatively, bio-fuel operators will be

encouraged to have resources in their organizations to support the operations of outgrowers.

- Bio-fuel producers are required to establish documented, transparent, fair and auditable contractual terms with bio-fuel feedstock outgrowers; long term contracts are encouraged.
- Bio-fuel producers are required to use auditable feedstock weighting equipment and methodologies that are prescribed by the Department of Weights and Measures of the Ministry of Commerce and Industry.

3. Regulatory Framework

3.1. Legislative Support

In order to facilitate the market entry of Bio-fuel, the Minister of Petroleum shall, pursuant to the powers vested on him under Section 9 of the Petroleum Act, make Regulations relating to Bio-fuel activities.

3.2. Establishment of a Bio-fuels Energy Commission

For the purposes of implementing the provisions of this Policy, a Bio-fuels Energy Commission shall be established. The Commission shall be a body corporate with perpetual succession and common seal, having power to own property and to sue and be sued in its corporate name.

3.3. Composition of Bio-fuels Energy Commission

The Bio-fuels Energy Commission shall upon inauguration be headed by a designated officer from NNPC. The Chairman of the Commission shall be a person with requisite knowledge, cognate experience and competence in issues of refining, storage and distribution of petroleum products.

Other members of the Commission shall be the duly nominated representatives of the Office of the Special Adviser to the President on Energy Matters, the Federal Ministries of Agriculture, Commerce & Industry, Finance,

Environment, Science & Technology, Bankers Committee, Manufacturers Association of Nigeria, Federal University of Agriculture (as nominated by the National Universities Commission) and the Energy Commission of Nigeria.

3.4. Functions of the Bio-fuels Energy Commission

The Commission is charged with responsibility for implementing the strategies for Bio-fuels in the country.

Specifically, the Commission shall:

1. Register all Bio-fuel Plants/Projects in the country.
2. Issue license to Bio-fuel operators for the production of fuel ethanol or/and bio-diesel in Nigeria.
3. Formulate and recommend fiscal, financial and other incentive policies for the bio-fuel industry, as well as protection measures if required
4. Periodically, review and assess the economic, technical, environmental and social impact of the use of bio-fuels, and shall determine changes in policies required when necessary.
5. Monitor the supply and utilization of bio-fuels and bio-fuel blends and recommend appropriate measures to the Department of Petroleum Resources in case of shortage in the supply of bio-fuels or feedstock
6. Review and adjust the minimum mandated bio-fuel blends as it deems appropriate.
7. Determine and put in place Industry stabilization mechanisms.
8. Designate and oversee the activities of the investment bank appointed to manage the Bio-fuel Industry Equity Fund.
9. Establish and support the Bio-fuels Research Agency to be established under the Bio-fuels Programme.
10. Monitor intra-industry commerce, in particular relationships between outgrowers and bio-fuel producers
11. Present quarterly reports and briefings on the status of the Bio-fuel Industry to the National Assembly.
12. Disseminate and share information with investors and other interested members of the public.

13. Liaise with the Energy Commission of Nigeria in the formulation, revision and implementation of the National Energy Policy.
14. Liaise with the National Sugar Development Council as may be required.
15. Liaise with government ministries, agencies, parastatals, research institutes (e.g. NIFOR, NCRI, NRCRI, IITA, RTEP etc) or other bodies, charged with responsibility for the development of bio-fuel feedstock such as palm oil, sugarcane, cassava, jathropha, etc

3.5. *Establishment of a Bio-fuels Research Agency*

1. A research agency to be known as the Bio-fuels Research Agency shall be established to act as the central coordination body for bio-fuel research in the country.
2. The Bio-fuels Research Agency shall be headed by a Director to be appointed by the Bio-fuels Energy Commission.
3. The Agency shall coordinate bio-fuel crop production optimization programme and collaborate with the research and development efforts of International Institute of Tropical Agriculture (IITA), National Cereal Research Institute (NCRI), National Root Crops Research Institute (NRCRI), Nigerian Institute For Oil Palm Research Council (NIFOR), Forestry Research Institute Nigeria (FRIN), Nigerian Stored Products Research Institute (NSPRI), Institute for Agricultural Research and Extension Services (IARES), Agricultural Research Council of Nigeria (ARCN), National Biotechnology Development Agency (NABDA), SHEDA Science and Technology Complex (SHESTCO) Federal Soil Conservation School (FSCS), National Centre for Agricultural Mechanisation (NCAM), National Agricultural Seeds Council (NASC), Nigerian Automotive Council, Raw Materials Research and Development Council (RMRDC) and Federal Institute of Industrial Research Oshodi (FIRO) and other relevant agencies.
4. The Bio-fuels Research Agency shall collaborate with the Ministry of Agriculture and Ministry of Science and Technology to provide direction

for research in crop production, industry technology and processes pertaining to the production of bio-fuels.

5. The Bio-fuel Research Agency shall coordinate the allocation of funds set aside for bio-fuel research for mandated national research organizations as listed in 3.5(3)

3.6. Funding of Research and Development

To encourage synergy of both the private and public sectors in R&D, the following steps shall be taken:

1. A research and development fund shall be established into which all Bio-fuels companies shall contribute 0.25% of their revenue for the purposes of funding research into feedstock production, local technology development and improved farming practices.
2. The Fund shall be established by the Federal Government. This fund shall be in the custody of the Central Bank of Nigeria and shall be disbursed by the Bio-Fuels Energy Commission through the Bio-fuels Research Agency.
3. The Government's contribution to the fund shall be up to 100% of total contribution by Bio-fuel companies.
4. The Petroleum Technology Development Fund (PTDF), established under the Petroleum Training and Development Fund Act shall also be required to fund research and development in bio-fuels.
5. All expenditure on research and development by Bio-fuel companies shall be fully tax deductible.

4. Critical Issues

4.1. Applying Pioneer Status

- The Bio-fuel Industry is not included in the list of approved industries conferred with pioneer status for purposes of benefiting from the incentives granted under the Industrial Development (Income Tax Relief) Act. This policy hereby applies for a waiver granting Pioneer Status for an initial 10-year period with the

possibility of additional 5 years extension.

4.2. Importation

- An import duty waiver for bio-fuels granted by the President pursuant to his powers under section 13 of the Customs, Excise, Tariff, etc (Consolidation) for 10 years will be required.
- A DPR licence will be required for the importation of Bio-fuels until adequate production is achieved locally.

4.3. Blending

- Blending will be carried out initially by NNPC at its depots according to requirements specified in the Bio-fuel Regulations put in place by the Minister of Petroleum Resources.

5. Immediate Actions

For the immediate commencement of the programme, the next steps identified below will be initiated:

1. The Minister of Petroleum shall issue regulations for bio-fuel use in the country, including the power to grant permissions and licenses for importation, blending, transportation and marketing of bio-fuels in the country.
2. The Federal Government shall grant import duty waiver for fuel ethanol imports into the country.
3. The President shall designate the Bio-fuel Industry to enjoy a Pioneer Status.
4. The Minister of Finance, pursuant to powers under section 38 of the Value Added Tax (VAT) Act shall make an order modifying the list of exempted goods and services, so as to reflect the needs of the bio-fuel industry.
5. Petroleum marketers shall be required to revamp their retail outlets and shall be recertified by the DPR prior to sales and marketing of Bio-fuel.

6. Industry Incentives

6.1. *Pioneer Status – Tax Holiday*

- All registered businesses engaged in activities related to Bio-fuels production and/or the production of agricultural feedstock for the purpose of bio-fuel production and co-generation within the country shall be accorded pioneer status within the provisions of the Industrial Development (Income Tax Relief) Act.

6.2. *Withholding tax on interest, dividends, etc*

- Bio-fuel Companies shall be exempted from taxation, withholding tax and capital gains tax imposed under sections 78,79,80 and 81 of the Companies Income Tax Act in respect of:
 - interest on foreign loans;
 - dividends;
 - services rendered from outside Nigeria to bio-fuel companies by foreigners.

6.3. *Waiver on import and customs duties*

Bio-fuel companies shall be exempt from the payment of customs duties, taxes and all other charges of a similar nature, specifically;

1. Bio-fuel companies shall be exempted from the payment of duties and other related taxes on the importation and exportation of bio-fuels into and out of Nigeria.
 - Exemption from payment of import duties on bio-fuels is aimed at ensuring adequate supply of bio-fuels to the domestic market in line with regulations as it relates to the importation of petroleum products.
 - Bio-fuel companies shall be exempt from payment of excise duties on bio-fuels for an initial 10-year period subject to renewal depending on prevailing circumstances.
2. Bio-fuel companies and their contractors and sub-contractors shall be

exempt from the payment of import duties, taxes and all other duties, levies and charges of a similar nature, in respect of all necessary imports of plant machinery, goods, chemicals, fertilizers, pesticides and materials for use in the construction of, or incorporation in milling plants, mechanised agricultural production (such as tractors, harvesters, haulers irrigation equipment, etc), infrastructure for bio-fuels transportation, cogeneration facilities and ancillary works used in Bio-fuels Companies business, and in respect of any major spare parts.

6.4. Waiver on value-added tax

- Bio-fuels companies that are involved in the production of bio-fuels feedstock or the production of bio-fuels and or the generation of electricity from biomass shall be exempt from payment of value-added taxes on all products and services consumed by them.

6.5. Long Term Preferential Loans

- Preferential Loan arrangement will be made available to investors in the Bio-fuel Industry to aid the development of Large-Scale Outgrower's Schemes and large scale integrated operation including a plantation, a plant and within-the gate co-located power generating plants. The domestic financing of Industrial Production for the Bio-fuel Industry shall be aided through the provision of special low interest loans to be provided by Bank of Industry, Nigerian Export Import Bank, Commercial banks, Agricultural banks, and other development finance agencies.
- Preference in loan disbursement will be given to investors/organisations with commercially viable outgrowers schemes as source of significant feedstock supply for bio-fuel production.
- An Environmental Degradation Tax shall be charged on Oil & Gas upstream operations to provide a source of funding for preferential

Loans.

- A fund of N10 billion will be set aside by the government for provision of preferential loans for investment in bio-fuel distilleries to complement the N50bn already set aside for the Agricultural Sector on similar terms of a single-digit interest rate.
- Preferential Loan facilities shall be administered by The Central Bank of Nigeria through commercial and agricultural banks.

6.6. Insurance

The operations of the Nigerian Agricultural Insurance Corporation established under the Nigerian **Agricultural Insurance Corporation Act** Cap. N89, LFN, 2004 shall need to be strengthened to adequately cover the inherent risks in the production of bio-fuels feedstock.

7. Bio-fuel Blending and off-take Guarantees

7.1. NNPC's Role

NNPC shall:

1. Implement the blending requirements for Bio-fuel use in the country in line with the directives of the Bio-fuel Energy Commission as well as agencies involved in determining fuel specifications in Nigeria.
2. Guarantee off-take of bio-fuels produced within the country as the buyer of last resort
3. Coordinate importation of Bio-fuels in periods of shortfalls in domestic production.
4. Support the development of Bio-fuel Downstream sector activities, e.g. depot modifications, distribution assets
5. Invest in bio-fuel JVs and import/export facilities for the purpose of seeding the industry.

7.2. NNPC's Commercial Terms for Off-take Guarantees

NNPC as buyer of last resort guarantees off-take of bio-fuels produced in the country at negotiated price and contractual terms as follows:

Price:

- Prices are to be based on hybrid formula combining market-based and fair return / cash cost pricing

Volume

- NNPC shall take 100% of volume offered by supplier if agreed prices meet conditions stipulated above

Duration

- Off-take period shall be 10 years from project commission for new projects, with 3 years renewal option at the end of the initial term.

Guarantee

- Contract includes a Take-or-Pay clause at agreed price conditions

Supply and Payment

- Bio-fuel product is to be delivered at certified NNPC depot (which can receive biofuel) after proper notification to NNPC
- Suppliers are to be paid according to standard NNPC payment terms

Quality

- Delivered biofuel product must meet specifications set by SON
- Bio-fuel product quality is to be assessed by NNPC before delivery at depot in order to be accepted

8. Role of Government Ministries / Agencies

8.1. Department of Petroleum Resources

In respect of all Bio-fuels intended for use in automotive, commercial and domestic fuel consumption, the Department of Petroleum Resources (DPR) shall exercise regulatory control over all processes involved in the blending,

distribution and retail of Bio-fuel products and/ or its derivatives as follows:

1. Implement policy guidelines and procedures regulating the distribution and use of bio-fuels for automotive, commercial and domestic consumption.
2. Monitor and ensure strict adherence to approved bio-fuel products' specifications.
3. Monitor and approve all bio-fuel product importations.
4. Monitor and approve all concepts, designs, construction and operations for modification of existing facilities for bio-fuel storage, transportation and retail.
5. Certify and approve all retail outlets intended for bio-fuel sales.

8.2. Federal Ministry of Finance

The Ministry of Finance shall:

1. Ensure that fiscal incentives are put in place to ensure the sustained growth and development of the industry.
2. Monitor the production and importation programme of bio-fuels through the Federal Internal Revenue Service and the Nigerian Customs Service.

8.3. Federal Ministry of Agriculture

The Federal Ministry of Agriculture shall:

1. Have direct responsibility for developing a monitoring framework for the administration of outgrower schemes.
2. Have responsibility for coordinating the activities of Agricultural Research Institutes in the country for the development of improved feedstock seed varieties and modern farming practices. Coordination will be through the Bio-fuels Research Agency.
3. Facilitate cooperation between host communities and bio-fuel companies operating in the country
4. Support land acquisition and utilization strategies by Bio-fuel

companies.

5. Coordinate and empower target state agriculture ministries to adequately support bio-fuel companies in their operations as may be required.
6. Formulate and implement appropriate policy guidelines, regulatory and incentive regimes in the agricultural sector to support the bio-fuel industry.

8.4. Federal Ministry of Industry

The Federal Ministry of Industry shall implement manufacturing policy guidelines, and incentive regimes relating to sections of this Policy and other related legislation which support the development and sustainability of the Nigeria bio-fuel industry.

8.5. Federal Ministry of Environment

The Federal Ministry of Environment shall:

1. Establish environmental policy guidelines to guide the activities of stakeholders in the Nigerian Bio-fuel Industry.
2. Support qualification of Bio-fuel industry projects under the Clean Development Mechanism (CDM).
3. Prescribe effluent levels permissible within the bio-fuels industry.
4. Prescribe standards for the conduct of Environmental Impact Assessment of bio-fuel projects.

8.6. Federal Ministry of Commerce

The Federal Ministry of Commerce shall:

1. Engage domestic financial and commercial sectors of the economy in stimulating growth of the Bio-fuel Industry in Nigeria.
2. Implement relevant commercial policy guidelines, regulatory and incentive regimes relating to this policy document and other related legislation in the country which support the development and sustainability of the Nigerian Bio-fuel industry

3. Coordinate the activities of all commerce and export-related agencies such as Nigerian Investment Promotion Council, Small and Medium Enterprises Development Agency of Nigeria, etc. to support the development of the Nigerian Bio-fuel Industry.

8.7. Federal Ministry of Science and Technology

The Federal Ministry of Science and Technology shall:

1. Coordinate the engagement of appropriate technology in the development of the Nigerian Bio-fuel industry.
2. Facilitate bio-fuel technology transfer.
3. Have responsibility for coordinating with the Bio-fuel Research Agency the activities of relevant research institutes for development of appropriate technology for the industry.

8.8. Federal Ministry of Power and Steel

The Federal Ministry of Power and Steel shall:

1. Coordinate the integration of cogenerated power by bio-fuel plants into the National grid.
2. Provide modalities for Power Purchase Agreement between Bio-fuel plants and power off-takers.

8.9. Development Partnership – Federal, State and Local Governments

Federal Government

1. The Federal Government shall be involved in the provision of infrastructure, amenities and facilities to communities where Bio-fuel companies operate.
2. The Federal Government shall provide funding in conjunction with the State and Local Governments for infrastructure requirements of areas identified for Bio-fuel Operations.
3. Infrastructure requirement shall include the provision of roads, electric power and water supply.

State Governments

1. Shall facilitate agricultural land procurement/utilization by Bio-fuel companies and the establishment of good relationships between Bio-fuel companies, local governments and host communities.

Local Governments

Shall in conjunction with the State Governments and Bio-fuel companies organize out-growers and other cooperative schemes for the host communities.

9. Others

9.1. Technology Transfer

To ensure that appropriate technology is acquired and used within the country, Bio-Fuel companies shall liaise with and report to the National Office on Technology Acquisition and Promotion (NOTAP) according to conditions spelt out in the NOTAP Act Cap. N62, LFN, 2004

9.2. Development of the Bio-fuel Industry Equity Fund

- Federal Government will institute appropriate funding arrangement of up to \$50m for the establishment of a Bio-fuel Industry Equity Fund.
- The purpose of this fund will be to stimulate investment in the bio-fuel industry.

Investment of Equity Fund shall be up to a minimum of 5% and maximum of 10% in bio-fuel related projects.

9.3. Funding of Pilot Projects

- Federal and State Government working with other private companies should fund pilot projects aimed at demonstrating technical & commercial viability of new biofuel feed stocks and products

9.4. Qualifying as a Bio-fuel Company

- The Pioneer Status incentives provided for in this Policy shall be available only to stakeholders in the Nigerian Bio-fuel Industry who are involved in the production and distribution of fuel ethanol or/and bio-diesel sourced from feedstock cultivated in Nigeria, including farmers engaged in the production or cultivation of feedstock through established Outgrower's Schemes and **ServCos** involved in these schemes.
- Companies which qualify for these incentives are those identified along the entire value chain of the bio-fuel industry, and for purposes of this policy will be referred to as "**Bio-Fuel Companies**".
- **Bio-fuel Companies** include subsidiaries of such organizations in so far as such subsidiaries are wholly involved in bio-fuel related activity.

9.5. Bio-fuel Feedstock

- The utilization of cellulosic materials from crops like cassava, sweet potato and maize shall be encouraged for use as bio-ethanol feedstock in the future.
- Feedstock other than Palm Oil and Jatropha can be explored for the production of bio-diesel.
- The development of transgenic varieties of cassava, sugarcane, sweet potato and maize, that are customized specifically for efficient production of fuel ethanol as a long term plan shall be promoted.
- The adoption of modern micro-propagation method (such as tissue culture) to facilitate the production of adequate raw materials for fuel ethanol industry shall be enhanced.
- The research for new conversion process, technologies shall be encouraged e.g. research and development of transgenic yeast and

other micro-organisms for efficient and continuous process of fuel ethanol production