

Brussels, March 1, 2023

**Subject: NGOs call on European Commission to choose climate, nature and people over WTO**

Dear Commission President von der Leyen,  
Dear Executive Vice-President Timmermans,  
Dear Commissioner Simson,

The undersigned organizations are writing to you regarding the ongoing negotiations on the Renewable Energy Directive (RED) and its related provisions on biofuels.

On September 14th, 2022, **the European Parliament voted for the immediate phase out of palm and soy based biofuels under the RED**. If accepted by the Council and the Commission, this would remove incentives for some of the worst biofuels feedstocks in terms of climate, biodiversity and social impacts. The earlier phase out dates for palm and/or soy have already been decided and in several cases enacted by a number of Member States such as Austria, Belgium, Germany, Denmark, France, Italy, the Netherlands, Portugal and Sweden. This shows that major European economies are recognising that the consumption of palm and soy biofuels is a driver of deforestation and food insecurity and should no longer be incentivised in Europe.

In 2019, the Commission adopted a Delegated Regulation on the expansion of feedstocks into high carbon stock areas based on a report on the status of production expansion of relevant food and feed crops worldwide. This Regulation included a methodology establishing the criteria required for any given feedstock to qualify as having a high risk of leading to ‘indirect land use change’. In that context, the European Commission had a legal obligation to review by 30 June 2021 all relevant aspects of the 2019 report on feedstock expansion<sup>1</sup>. The report hasn’t been updated yet. Only preliminary findings have been made [publicly available](#) by the Commission’s consultants. These show that the percentage of soy expansion overlapping with high carbon stock areas has been increasing from previous 8% to now 9.5%. This brings soy very close to the threshold of 10% that would classify it as a high ILUC risk feedstock according to the Delegated Act. As the final results of this study will include data from more recent years showing increasing deforestation rates in particular in Brazil, a main supplier of soy, **the Commission should publish the final report without any further delay**.

Moreover, by September 2023, the European Commission should, based on the final results of this report, review the criteria stipulated in the Delegated Regulation and amend it if necessary.

We also urge the Commission to take into account commitments by the European Union and most major forest countries to reduce deforestation to zero by 2030, as recently restated under the [Glasgow Declaration on Forests](#) at COP26. Accepting crop expansion to overlap to 10% with forested areas or peatlands, for certain crops equal to 100,000 ha or more of high carbon stock areas lost every year, is certainly not in line with the ambition of the declaration signed in Glasgow.

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<sup>1</sup> Article 7 of the Delegated Regulation as regards the determination of high indirect land-use change-risk feedstock for which a significant expansion of the production area into land with high carbon stock is observed: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019R0807&from=GA>

Soy has already been considered, together with palm oil, as one of the main drivers of deforestation and forest degradation in the [EU Deforestation Regulation](#). The regulation itself emphasizes that it should be applied together with the Renewable Energy Directive “as regards [to] some commodities used as biofuels or to produce biofuels, such as wood pellets or **derivatives of soy and palm oil**” because “the objectives of the two sets of EU rules are complementary, both addressing the overarching objectives of fighting climate change and biodiversity loss”. It is a matter of policy consistency across EU legislation.

While the [Commission has committed](#) to promoting food security in the face of the Ukraine crisis, the RED undermines food security by promoting the use of food for biofuels. [Numerous studies](#) have highlighted how biofuels increase the cost of food in the context of the 2008 food crisis. [Vegetable oil prices](#) went through an unprecedented spike in 2022 and are still at very high levels. A phase-out of soy and palm oil would contribute to ensuring consistency between the EU’s renewable energy policy on the one hand, and its international cooperation and humanitarian policies on the other.

We are aware of the Commission's concerns in relation to the immediate phase out of palm and soy oil due to possible complications with the World Trade Organization. The decision to phase out palm oil biofuels by 2030 pushed countries like Malaysia and Indonesia to file cases against the EU in front of the WTO. It seems that the Commission is now concerned that other countries might react similarly if the EU would decide to phase out soy based biofuels. There seem to be similar concerns by the Commission with regards to the negotiations about the EU-Mercosur free trade agreement and Argentina’s expressed interest in continued soy based biodiesel exports to Europe. However, there is enough scientific data backing up the urgency to immediately phase out both palm and soy as the worst biofuels in terms of climate change, biodiversity loss and food security. The EU cannot afford to dodge important climate decisions simply for the sake of avoiding potential trade disputes.

**As the highest level representatives of the Commission, could you please confirm your support for an immediate phase out of both palm and soy in biofuels in the context of the current revision of the Renewable Energy Directive?**

The European Union should be leading by example with an ambitious pathway to decarbonise society and develop renewables, taking into account the protection of human rights and biodiversity. Incentivizing the use of palm and soy biofuels, or any crop based biofuels, is in breach of these aspirations and should by no means be incentivised any longer.

Yours sincerely,



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