

December 19th, 2024

**Subject: NGOs call on the European Commission to respect legal obligations in the Renewable Energy Directive to review the Delegated Regulation on the expansion of feedstocks into high carbon stock areas**

Dear Commission President von der Leyen,  
Dear Vice-President Ribera and Commissioners Hoekstra, Jørgensen, and Šefčovič,

The undersigned organizations are writing to you regarding biofuels and the ongoing revision of the Delegated Regulation 2019/807 mandated in the Renewable Energy Directive as regards the determination of high indirect land-use change-risk feedstocks for which a significant expansion of the production area into land with high carbon stock is observed.

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>. Consequently, by September 2023, the European Commission should have, based on the final results of this report, reviewed the criteria stipulated in the Delegated Regulation and amended it if necessary<sup>2</sup>. However, the report hasn’t been updated yet and as a result, the Delegated Regulation has not been reviewed.

Only preliminary findings of the first phase of the data revision led by the Technical Assistance for the European Commission have been made [publicly available](#). These capture deforestation rates until 2019 and show that the percentage of soy expansion overlapping with high carbon stock areas has been increasing from the previous 8% to now 9.5%. This brings soy very close to the threshold of 10% which would classify it as a high ILUC risk feedstock according to the Delegated Act. The results of the first phase of the study corrected the Commission’s 2019 assumption for the carbon loss from high carbon stock land<sup>3</sup>, which implies that the current 10% threshold should be lowered to 8%<sup>4</sup>, hence **automatically classifying soy as a high ILUC risk feedstock**.

The classification of palm oil as a high ILUC risk feedstock in 2019 has resulted in Indonesia and Malaysia challenging these measures with the World Trade Organisation. However, the WTO ruled in March 2024 regarding the [dispute with Malaysia](#) in favor of the EU’s decision to cease classifying palm oil biodiesel as a renewable fuel.

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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](#)

<sup>2</sup> Article 26 of the [Directive \(EU\) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources](#)

<sup>3</sup> The consultants raised the figures for the carbon loss from high carbon stock land to 24 tCO<sub>2</sub>/ha/yr, compared to previous 19.6 tCO<sub>2</sub>/ha/yr. For more information please see [slide 36](#) of their presentation of the results of the first phase of the report, from July 2022

<sup>4</sup> Based on T&E in-house calculations

This ruling bolsters the EU's ability to take progressive, climate-based action on contentious international trade issues. It sets a strong precedent for phasing out other deforestation-driving biofuels currently used on the European market, especially soy. However, the WTO flagged the EU's non-compliance with a 'timely review of the data used to determine which biofuels are high ILUC risk', making it even more urgent that the European Commission respects its legal obligations and publishes this data as soon as possible.

The earlier phase-out dates for palm and/or soy have already been decided and in several cases enacted by Member States such as Austria, Belgium, Germany, Denmark, France, Italy, the Netherlands, Portugal, and Sweden. This shows that major European economies are recognizing that the consumption of palm and soy biofuels is a driver of deforestation and food insecurity and should no longer be incentivized in Europe. 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 and feed crops for biofuels. A review of over 100 economic modeling studies found that biofuel demand has been a significant contributing factor in the three global food price crises since biofuel mandates were introduced at the beginning of the 2000s (in 2007/08, 2011/12, and 2021 to the present day)<sup>5</sup>. [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 climate, biodiversity, international cooperation, and humanitarian policies on the other.

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<sup>6</sup>". It is a matter of policy consistency across EU legislation.

**As the highest level representatives of the Commission, we ask you to ensure a rapid release of the report on high ILUC risk feedstocks and give your support for an immediate phase-out of both palm and soy biofuels in the context of the revision of the Delegated Regulation on the expansion of feedstocks into high carbon stock areas.**

The European Union should be leading by example with an ambitious pathway to decarbonize society and develop renewables, taking into account the protection of human rights, biodiversity, and the real climate impacts of different biofuel feedstocks. Incentivizing the use of palm and soy biofuels, or indeed any crop-based biofuels that involve the dedicated use of land is in breach of these aspirations and should under no circumstances be incentivized any longer.

Yours sincerely,

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<sup>5</sup> p.22 of Oxfam briefing paper [Biofuels Blunders](#), September 2024

<sup>6</sup> p. 3 of the [Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the making available on the Union market as well as export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation \(EU\) No 995/2010](#)



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