To: Commissioners Oettinger, Hedegaard, Potočnik, Piebalgs, Cioloş, Kallas, Tajani
CC: President Barroso, Secretary-General Catherine Day
European Commission
Brussels

March 4, 2010
Ede, The Netherlands

Subject: Implementation of the EU biofuels and bioliquids sustainability scheme.

Dear Commissioners,

We wish to express our deep concern and alarm over the draft Commission Communication on the practical implementation of the EU Biofuels and bioliquids sustainability schemes.

Several points contained in the draft Communication directly contradict the spirit of the Renewable Energy Directive and might lead to a significant increase in greenhouse gas emissions, a higher rate of deforestation and multiple species extinctions - all in the name of EU biofuels policy.

We also ask for your assurance that the Commission will put forward proposals on indirect land use change (ILUC) impacts that guarantee genuine climate benefits from biofuels used in the EU.

We urge the European Commission to take the necessary steps to guarantee the environmental integrity of the sustainability criteria for EU biofuels and bioliquids and the consistency of this policy with the international objectives of averting global biodiversity loss, and preventing climate change from reaching dangerous levels.

Regarding the Communication, we recommend the following steps:

1.Exclude “forest plantations and other industrial tree plantations such as oil palm” from the definition of continuously forested areas.

The draft Communication suggests *inter alia* that plantations, such as for palm oil production, should be included in the definition for continuously forested areas. This means that cutting down forests, losing land with high carbon stock, wiping out rare species, and expelling populations who live in these forests to make space for palm oil or other industrial tree plantations would comply with the sustainability criteria under the Renewable Energy and the Fuel Quality Directives. That could lead to subsidizing large-scale environmental destruction on an unprecedented scale. This is not in line with the intention of Article 17.4b in the Directive (see Annex 2) dealing with continuously forested areas, namely to prevent the loss of carbon stocks and other forest benefits. It is not only undesirable from an environmental and social point of view, but also scientifically incorrect and not in line with UN definitions. Therefore, we urge the Commission to exclude plantations from the definition of forests in its article on continuously forested areas. For a more detailed explanation, please see Annex 1 to this letter.

2. Clarify the definition of biofuels that "count double" including wastes and *residues*

Certain biofuels count double towards the 10% target and for renewable energy obligations, including those from wastes and residues. The Commission needs to properly investigate which of these wastes and residues actually decrease greenhouse gas emissions and discriminate between them. As shown in a recent report from the UK Renewable Fuels Agency, producing biofuels from materials with existing uses are likely to have negative indirect impacts on emissions. Tallow for example might lead to displacement effects and subsequently increase emissions by up to 13% compared to fossil fuels.

3. Narrow down the exemption for existing installations

The draft Communication includes a "grand-fathering" definition, which exempts installations in operations on 23 January 2008 from a greenhouse gas emission threshold. This definition is far too broad, because it refers to "any installation used in the production process". This is against the spirit of the Renewable Energy and Fuel Quality Directives, according to which only biofuels that reduce greenhouse gas emissions should be supported. If this definition remains unchanged, it would effectively postpone the application of the greenhouse gas savings criterion until 2013.

Regarding the ***separate issue of indirect land use change***, we want to draw your attention to the fact that several independent institutions and scientists (i.e. FAO, JRC, Gallagher review to the UK government, US EPA) have warned that land use change due to increased biofuel production has a high potential to outweigh greenhouse gas benefits of biofuels policy. Since a stated purpose of EU biofuel policy is to reduce such emissions from the transport sector, it is essential that the emissions from indirect land use change are adequately incorporated in the full life cycle analysis. We therefore urge the Commission to put forward proposals on ILUC impacts and through a transparent and participatory process.

We would appreciate an opportunity to meet with you to discuss these issues further. We will be contacting your office shortly to request such a meeting.

Yours sincerely,

Jane Madgwick

Jane Madgwick
Chief Executive Officer

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Annex 1 – Why plantation can not be defined as a forest?

The Renewable Energy Directive clearly defines continuously forested areas. Including forest plantations or palm plantations into this definition is not only undesirable from an environmental and social point of view, but also scientifically incorrect according to the globally used taxonomy and not in line with UN definitions. Last but not least, it is not in line with the intentions of the article 15.4b in the Directive. Here are the reasons why:

- The text contained in the draft Communication is clearly a violation of the purpose of Article 15.4 b in the Renewable Energy Directive, because it would allow the conversion of areas of natural forest into relatively carbon poor mono-cultures, such as wood or palm oil plantations. This conversion would lead to significant losses of stored carbon, but also biodiversity. According to recent assessment studies[1], the amount of carbon stored, as plantations grow, never matches that lost from clearing the large carbon stores in natural forests.

- A plantation of oil palm can never meet the definition of the directive in Article 15, 4 b: " … land spanning more than 1 hectare with trees higher than 5 metres and a canopy cover of more than 30%....". The oil palm crop is not a tree according to the scientific taxonomy of species; it may be tall, but is more related to grasses than to tree species. The trees mentioned in the directive refer to what is commonly regarded as trees: soft wood and hard wood species belonging to the conifers and broadleaves (dicotyledons).

- Finally, the FAO definition - to which the Directive explicitly refers - excludes palm oil plantations from the definition of forests.

- The Communication should therefore instead include an explanatory note following the guidance by the FAO in the Forest Resources Assessment Programme 2010 publication, see below.

Category	**Definition**
Forest	**"Land spanning more than 0.5 hectares with trees higher than 5 meters and a canopy cover of more than 10 percent, or trees able to reach these thresholds *in situ*. It does not include land that is predominantly under agricultural or urban land use."** Explanatory Notes 9. Excludes tree stands in agricultural production systems, such as fruit tree plantations, oil palm plantations and agroforestry systems when crops are grown under tree cover. Note: Some agroforestry systems such as the "Taungya" system where crops are grown only during the first years of the forest rotation should be classified as forest.

- An important aspect of the definition of natural forest is furthermore to break it down into separate important 'biomes' (like cool/temperate, wet tropical forests, peatswamp forests etc.) to reflect the very different carbon and biodiversity values of different biomes and the very different management problems they face and conservation opportunities they present.

[1] Shiel, D. et.al., 2009. The impacts and opportunities of oil palm in Southeast Asia: what do we know and what do we need to know?', Occasional paper no. 51. CIFOR, Bogor, Indonesia. and UNEP, 2009. Towards Sustainable Production and Use of Resources: Assessing Biofuel.