

(25) EU 8

8 May 2025

FEFAC feedback to Delegated Act amending Regulation (EU) 2023/1115 as regards the list of relevant commodities and relevant products

FEFAC wishes to provide recommendations in relation to three relevant products listed in the draft Delegated Act.

1. The draft Delegated Act intends to add “(not including waste as defined in Article 3, point (1) of Directive 2008/98/EC)” after the entry ‘**1802 Cocoa shells, husks, skins and other cocoa waste**’. Cocoa shells and husks are residual by-products from cocoa bean processing, and are traded to the EU using this code i.a. for use in animal feed. The draft delegated act considers that when “waste” is caught in the scope of the EUDR, this will discourage “circular and resource efficient practices”. The use of cocoa shells and husks in animal feed, which therefore would not or no longer have a commercial purpose in human nutrition, will be strongly discouraged due to the inclusion of CN code 1802 in the EUDR scope. The use of animal feed of residual by-products such as cocoa shells and husks is recognised as practice that contributes to the circular economy and makes animal feed production more resource efficient. FEFAC would therefore recommend to also add “not including feed as defined in Article 3, point 4 of Regulation (EC) No 178/2002” to the entry on 1802 Cocoa shells, husks, skins and other cocoa waste.

2. The draft delegated act includes the proposal to place “ex” in front of **2306 60 Oilcake and other solid residues of palm nuts or kernels, whether or not ground or in the form of pellets, resulting from the extraction of palm nut or kernel fats or oils**. Under this trade code palm kernel expeller (or meal) is traded to the EU, which is primarily used in animal feed. Palm kernel expeller is a residual by-product from palm kernel oil production after the pressing process. It is a highly fibrous material and is very commonly used in cattle feed for dairy production at global level as a source of crude protein and energy as well as a good source of some minerals such as phosphorus and magnesium. Being a residual by-product, it is by no means an economic driver of oil palm plantation. The development of EUDR-compliant supply chains for palm kernel expeller is extremely challenging due to inherent logistical complications, and unlikely to be cost-effective for the relative low value compared to palm oil. Following the reasoning of the use of “ex” in the EUDR Annex I, it is clear that palm kernel expeller is not made from and is not an extract of the commodity ‘palm oil’, however the draft Delegated Act maintains palm kernel expeller on the Annex I. There are sufficient reasons to argue in favour of the removal of 2306 60 Oilcake and other solid residues of palm nuts or kernels, whether or not ground or in the form of pellets, resulting from the extraction of palm nut or kernel fats or oils, without impacting the EUDR’s ambitions to achieve deforestation-free supply chains, in this case palm oil. Alternatively, if the legislator intends to stimulate circular and resource efficiency practices, it could include “not including feed as defined in Article 3, point 4 of Regulation (EC) No 178/2002” to this entry, to ensure that valorisation in animal feed of this residual product is not discouraged and hampered.

3. The draft delegated act proposes an “ex” in front of **3823 19 Industrial monocarboxylic fatty acids; acid oils from refining (excluding stearic acid, oleic acid and tall oil fatty acids)**. Palm fatty acid distillates and palm kernel fatty acid distillates are residual by-products



traded to the EU with this code and used in animal feed. They are highly valued ingredients in ruminant feed, supporting dairy cattle with sufficient energy in order to optimize milk yield, containing a high amount of free fatty acids. They are processing residues resulting from the physical refining of crude palm (kernel) oil products. Again, these are residual by-products that are not economic drivers from palm tree plantation. Considering they are residual by-products made from the commodity palm oil, FEFAC recommends to add “not including feed as defined in Article 3, point 4 of Regulation (EC) No 178/2002” to this entry.