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FEFAC input for European Commission consultation on EUDR Annex I

FEFAC wishes to comment on the draft Delegated Act amending the product scope of the EU Deforestation Regulation (EUDR).

FEFAC's most immediate concern is that the accompanying Staff Working Document shows that the Commission services considered the addition of "animal feed preparations" (HS 2309) to the scope of relevant products in Annex I. Fortunately, it was concluded to not add HS 2309, however it is important to point out that the reasoning and argumentation for its possible inclusion shows fundamental flaws, in case the European Commission will reconsider in the future. The main argument that there is a "significant percentage of palm cake embedded in animal feed preparations" does not hold much ground, as the large majority of the annually approximately 150 million tonnes compound feed produced does not contain palm cake (or even palm oil) at all. The included graph at the end of the section shows the import value of animal feed preparations from China as a reference of apparent relevance, while in reality these imports relate to lysine sulphate, which is a feed additive with no connection to the EUDR. FEFAC also regrets that no closed stakeholder consultation was performed to collect information from directly affected sectors about the potential inclusion of approximately 150 million tonnes of compound feed produced in the EU (irrespective of their content), which would have been a disastrous and unjustified outcome for all European compound feed producers.

FEFAC regrets that palm kernel expeller (HS 230660) is not proposed for exclusion from Annex I. The Staff Working Document provides an explanation for this decision, however there is room to argue that palm kernel expeller could be proposed for removal from the scope, also using the methodology of choice. It is stated that "Oilcake and other solid residues of palm nuts or kernels are palm oil derivatives resulting from the physical refining of palm oil", while in fact they are leftover residues from the oil extraction process. The refining process in the palm oil production chain is when the harvested crude palm oil is purified to remove elements such as gums, free fatty acids, trace metals, and color pigments. This refining step is necessary to produce a palm oil product that is suitable for i.a. food production. Palm kernel expeller is therefore not part of the value chain that leads to refined palm oil, but rather the exterior capsule from which the palm (kernel) oil is contained. The statement that the exclusion of palm kernel expeller would be "in contrast with the approach proposed for the palm oil supply chain where the proposed inclusion of further palm oil derivatives aims to ensure a uniform regulatory approach and avoid inconsistencies in the obligations applicable throughout the supply chain" is therefore simply invalid. The reference to the oleochemicals sector is also not relevant in the creation of palm kernel expeller, as its main use at global level is animal feed.

From an economic perspective, the existence of palm kernel expeller is by no means the driver of palm oil demand or for that matter the driver of palm tree plantations. Without access to information about how the calculations were made, it is not possible for FEFAC or any stakeholder to challenge the assumed environmental benefit of €154.5 million vs compliance costs of €187,000 when keeping palm kernel expeller in scope. Considering the relatively low economic value of palm kernel expeller compared to (refined) palm oil, put against the higher logistical challenge to obtain EUDR-compliant data flows of palm kernel expeller compared to

palm oil (higher number of plantations involved for an equivalent volume), it is hard to deduct how these figures were determined. In terms of costs, the premiums that will need to be paid for EUDR-compliant palm kernel expeller may end up driving the EU out of the market, leaving the product to be used in dairy production in other continents.

In terms of a stated “balanced approach” across other commodities, the comparison to soya cake is not valid as this product (i.e. soybean meal) is in fact an economic driver for soybean cultivation, with therefore valid reasoning to be included in the scope of relevant products of the EUDR. The comparison between palm kernel expeller and the current inclusion of cocoa husks (HS 1802) when used as a feed ingredient is indeed valid. At an earlier stage FEFAC already advocated for its exclusion from the scope, which is relevant as now cocoa husks are proposed for exclusion, but only when used as “waste”. There is a greater importance for the compound feed industry to see palm kernel expeller exempted from the scope, hence FEFAC has not reiterated the recommendation for the removal of cocoa husks when used as feed, however if it is about the point of principle that needs to be applied, there is full room to argue that cocoa husks should indeed be removed from the scope, also when used as a feed ingredient.