

## **Transitional Arrangement for the use of Palm Oil in CHP plants**

The German government adopted the amended draft legislation for the promotion of biofuels on 22 October 2008. The bill now has to go through the parliamentary ratification process and could come into force as early as February 2009. The draft legislation will need to get the approval of both Chambers of the German Parliament, the Bundestag and the Bundesrat (2<sup>nd</sup> Chamber).

The draft legislation focused on a lowered national biofuel quota of 5.25% for 2009 instead of 6.25%, as originally planned. The higher quota will kick-in 2010 instead. More significantly though, the draft law stipulates that biofuels from palm oil as well as soy would need to prove their compatibility with sustainability requirements in order to count towards the target and receive preferential tax treatment. Non-compliance will mean that palm oil will be excluded from the German biofuels quota.

However, the ruling parties have now agreed to adopt a transitional arrangement for the use of palm oil in combined heat and power plants (CHP) on the 4<sup>th</sup> of December, 2008 . The agreement provides that CHPs shall be entitled to claim the bonus for renewable resources under the German Renewable Energy Sources Act (EEG) 2009 until a sustainability regulation has entered into force. This transitional arrangement is expected to be in place until the end of 2009. This should provide us with adequate room to continue with our initiatives to convince the German government to amend their proposed legislation on palm oil use in both biodiesel production and in combined heat and power plants.

The Federal Ministry of Environment and the Federal Ministry of Food, Agriculture and Consumers Protection are still in discussion to finalise the outline of the sustainability requirements to be included in the draft legislation. In February 2008, they submitted an enactment draft, which was blocked by the European Commission in order to wait for the EU legislation to be developed. This temporary freeze expired in mid-December, allowing Germany to introduce its own sustainability criteria before the EU level rules come into force. Germany's own sustainability criteria would have to be notified to the European Commission and the WTO. The present draft legislation does not stipulate the acceptance of RSPO certification as a precondition in meeting the sustainability requirements.

The use of biodiesel in Germany is still controversial. The federal ministry of finance defends the tax exemption of biodiesel, the federal environmental agency, however, argues that the ecological benefits do not justify the disadvantages such as additional agricultural inputs and the expenses. The biodiesel industry is in fact entering a difficult consolidation phase in Germany due to the debates surrounding its policy and the impact on the environment. It is also obvious that the NGOs have

achieved a breakthrough with their criticism and reservations on the green fuel policies issued by the German government.

Some stakeholders are against the restrictions on palm oil since this may restrict the availability of competitively priced feedstock for the production of renewable energy in Germany. The restrictions may further affect the already fragile renewable energy industry in Germany. The situation is made worse by the recent announcement by the German government to further increase taxes on biodiesel to 18 euro cents a litre from January 2009.

Others encouraged the government to clearly define the certification requirements applicable to all feedstock and finished products. Isolating palm oil and soya oil is discriminatory to both.

Huge investments have been made by the industry in the renewable energy sector, setting up new biodiesel plants and expanding the production of their present plants. The legislation will definitely have some unfavourable impact on the industry.

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