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Feedback: EU Draft Operational Guidance on the evidence for demonstrating compliance with the sustainability criteria for forest biomass laid down in Article 29 of Directive (EU) 2018/2001 of the European Parliament and of the Council

The Bioenergy Association of Finland emphasises that the guidance in question is needed for robust and harmonised implementation of the new sustainability criteria for biomass. It is essential specifically for the economic operators to build uniformity and predictability when they engage with national authorities and voluntary schemes.

Coherence in the interpretation of the measures and timeliness in transposition and implementation are paramount in preventing barriers to the internal market. We find it very unfortunate that the Commission is significantly delayed with this implementation act. That is particularly problematic as the REDII directive set the deadline for guidance by the end of January 2021. In parallel the commission has insisted that the Member States must implement REDII in time. This legal non-synchronization may create unnecessary biomass market turbulence in the coming months.

The preparedness of the system and tools to certify compliance will be paramount to its functioning. The Commission should, in cooperation with national authorities, prevent any regulatory gaps between the policy-driven market demand being generated for sustainable biomass, and its availability on the market.

In generally we find the draft guidance excessive and stretching beyond the mandate given by REDII. As an industry association for the companies on the whole bioenergy value chain, we were expecting guidance that provides examples for verification and workable tools. By and large, the draft guidance is missing these. At the same time the guidance is trying to broaden the scope of the co-legislated REDII directive.

Bioenergy Association of Finland proposes to revise the document to improve the applicability and preciseness of the document and ease operationalisation of sustainability criteria as follows:

Draft implementing act reference	Proposed amendment	Justification/ Comment
(6)	6) Where there is no evidence of compliance at the national level with one or more of the harvesting criteria laid down in point (a) of Article 29 (6) of Directive (EU) 2018/2001, forest biomass should be considered high-risk , sustainability evidence which should be provided by economic operators through management systems at forest sourcing area level, when compared to that required under the national and sub-national compliance assessment.	The qualification of forest biomass as high-risk is unnecessarily derogatory. If 29.6(a) does not apply, evidence at sourcing area level will guarantee that the biomass is sourced sustainably and does not pose risks.
Article 1.2 (a)	primary forest biomass from forests , from which solid biomass fuels have been produced that are used in installations producing electricity, heating and cooling or fuels with a total rated thermal input below 20 MW;	Consistency with the terminology of the REDII required
Article 1.2 (b)	primary forest biomass from forests , from which gaseous biomass fuels have been produced that are used in installations producing electricity, heating and cooling or fuels with a total rated thermal input below 2 MW, or with the following equivalent average biomethane flow rate:	Consistency with the terminology of the REDII required
Article 2 (b)		

	<p>'secondary forest biomass from forests' means residues from forest-based industry, including - but non-exhaustive - bark, sawdust and wood shavings that result from sawmilling or wood milling, and recovered post-consumer wood;</p>	<p>Consistency with the terminology of the REDII required</p> <p>The list does not mention for instance sawn timber cuttings and other more robust secondary biomass from forest industry.</p>
Article 2 (c)	<p>'harvesting sustainability criteria at national or sub-national level' means the criteria laid down in point (a) of Article 29 (6) of Directive (EU) 2018/2001;</p>	<p>On REDII article 29 title word sustainability is used. To keep consistency this should be followed.</p>
Article 2 (d)	<p>'harvesting sustainability criteria at sourcing area level' means the criteria laid down in point (b) of Article 29 (6) of Directive (EU) 2018/2001;</p>	
Article 2 (f)	<p>(f) 'natural forests' means forests composed of indigenous trees regenerated naturally, including both spontaneous and assisted natural regeneration;</p>	<p>These definitions stretch over the mandate of the commission by defining national forestry politics.</p>
Article 2 (g)	<p>(g) 'semi-natural forests' means managed natural forests which, over time, has taken on a number of natural characteristics, including layered canopy, enriched species diversity, random spacing; or, planted forests which acquire more natural characteristics over time, including abandoned</p>	

	<i>plantation forests that diversify with age and which experience natural regeneration of indigenous species</i>	
Article 2 (h)	<i>(h) 'plantation forests' means planted forests that are intensively managed and meet all the following criteria at planting and stand maturity: one or two species, even age class, and regular spacing;</i>	
Article 2 (i)	<i>(i) 'stumps and roots' mean parts of the whole tree volume, excluding the volume of the above stump woody biomass, considering the height of the stump as that at which the tree would be cut under normal felling practices in the relevant country or region;</i>	There is no need and mandate to define stumps and roots as there are no justification to require specific approach on these feedstocks.
Article 2 (j)	'deadwood' means all non-living woody biomass not contained in the litter, either standing, lying on the ground, or in the soil, including wood lying on the surface, coarse debris, dead roots, and stumps larger than or equal to to 10 cm in diameter or any other diameter definition used in by the country concerned;	The definition of deadwood should be left to Member States, also on criteria used. In that way local sustainable forest management practices can be taken into account.
Article 2 (k)	'long-term production capacity' means the ability of forest to continuously and sustainably deliver biomass goods, such as wood of various quality grades, and non-wood forest products and services, including air and water purification, maintenance of wildlife habitat, recreation or	This definition is not following the logic of REDII but extends it to new dimensions. REDII is not about immaterial values/production capacity. Art 29.6 a +b iv is regulating the use of biomass, not the use forests. This interpretation is not supported by REDII/BIO draft

	cultural capital, over a long period of time, and where applicable, bridging several successive forestry rotations;	report either on defining long-term production capacity.
Article 2 (s)	'first gathering point' means a storage or processing facility managed directly by an economic operator or other counterpart under agreement and that is sourcing raw materials directly from primary producers of forest biomass;	Demand to strictly defined <i>manage</i> a site would limit the different market models. Many times operator may use several traders or forest companies which can have individual or shared biomass terminals by forests.
Article 3.1 (a)	the country of harvest, and, where applicable, the sub-national region where the forest biomass was harvested, including the sourcing area; and	This sentence could be misintepreted to mean that on a country level risk based assessment operator would have to provide evidence specifically on sourcing area too. This is against the country level risk based assessment principle. enforcement on <i>specific harvest area!</i>
Article 3.1 (b) ii	forest regeneration, by demonstrating that the applicable laws require natural or artificial regeneration, or a combination of both, aiming at the establishment of a new forest in the same area and within at least five years after the harvesting operation, within a period specified in national legislation and that there is no biodiversity degradation in the regenerated forest area, including that primary forests and natural	Requiring some specific years would be not justified by TFEU regarding competence on national forestry policies. The latter part is far beyond the delegation. Avoiding conversion to different forest type is not defined on REDII criteria. And biodiversity is addressed separately on point iv)

	<p>or semi-natural forests are not degraded to or replaced with plantation forests;</p>	
Article 3.1 (b) iii	<p>the effective protection of areas designated by international or national law, or by the relevant competent authority, for nature protection purposes, including areas being defined as in wetlands and peatlands;</p>	<p>This would go greatly further than REDII as it refers to protected areas IN wetlands and peatlands.</p>
Article 3 (b) (iv)	<p>that forest harvesting is carried out in a way that minimises negative impacts on soil quality and biodiversity, by demonstrating that the applicable laws ensure, during the harvesting operations, the protection of soils, species and habitats, and regulate the removal of stumps, roots, deadwood, and where appropriate, needles or leaves;</p>	<p>Removal of stumps, roots and deadwood, needles and leaves is going beyond mandate as it looks only some feedstocks, not the general situation.</p>
Article 4.1(b)(ii)	<p><i>(ii) forest regeneration is carried out in a manner that at least maintains the quality and quantity of the harvested forest areas, including by ensuring that the forest is allowed a regeneration period required by the legislation in place on the sourcing area of at least five years after the harvesting operation; and there is no biodiversity degradation in the regenerated forest</i></p>	<p>Requiring some specific years would be not justified by TFEU regarding competence on national forestry policies.</p> <p>Biodiversity degradation or the latter use of the forest area after verified regeneration is not the scope of REDII art 29.6 a and b ii)</p>

	<i>area, including that primary forests and natural or semi-natural forests are not degraded to or replaced with plantation forests</i>	
Article 4.1 (b) (iii)	forest biomass does not originate from areas designated for nature protection, including areas in wetlands and peatlands, unless there is evidence that the harvesting of forest biomass activities does not conflict with the protection objectives of the designated areas. That shall be proven by using, inter-alia, international and national databases, official maps, forest management plans, operational protocols, harvesting protocols, satellite imaging, environmental impact assessments, and official logging permits including conditions or restrictions ensuring that there is no conflict with the relevant nature protection objectives, and results of relevant compliance audits and inspections	This would go greatly further than REDII as it refers to protected areas IN wetlands and peatlands.
Article 4.1 (b) (iv)	Article 4.1 (b) (iv) (iv) forest harvesting is carried out in a way that aims at least at preventing negative impacts on soil quality and biodiversity. To that end, the relevant risks associated with forest biomass harvesting shall be identified in advance. Unless otherwise duly justified by national, sub-national or local forest management guidelines, practices, or demonstrated to not be a direct	Forest management activities are not driven by the bioenergy sector; for this reason, it is important to specify that the possible negative impacts on biodiversity or soil quality should not be provoked directly by the sector that is regulated by the REDII and present guidance.

	<p>result of bioenergy production the following appropriate mitigation actions shall be implemented, including no harvesting of stumps and roots; no harvesting on vulnerable soils; harvesting is carried out through logging systems minimizing impacts on soils quality, including avoiding soil compaction; harvesting is carried out in a way that minimises impacts on biodiversity features and habitats, including plants and animals protected under international or national legislation; a locally appropriate quantity and assortments of deadwood is left in the forest; clearcuts are minimised; and harvesting avoids extraction of needles and leaves, where appropriate; taking into account biotic and abiotic risks . Those mitigation actions shall be proven by providing, inter-alia, international and national databases, official maps and satellite imaging, forest management plans, operational protocols, and harvesting protocols, results of relevant compliance audits and inspections.</p>	<p>Removal of residues and debris could be motivated by the need to avoid wild fire or biotic risk.</p>
<p>Article 6.1 a)</p>	<p>identify the spatial outer boundaries of the sourcing area for which compliance needs to be demonstrated, for instance by means of geographical coordinates, plots or parcels, including stands and tracts of land; and identify the relevant forest carbon pools,</p>	<p>Requirement to specify the sourcing area in so detailed is de facto full track and trace system which goes against the idea of larger sourcing areas in which the sum of actions is relevant for risk management.</p>

	including aboveground biomass, belowground biomass, litter, deadwood and soil organic carbon.	
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