

December 15, 2010

Mr. Philip Lowe
Director-General
Directorate-General for Energy
European Commission
B-1049 Brussels
Belgium

Dear Mr. Lowe,

The undersigned organizations, which represent the U.S. soybean and canola industries, write to express serious concerns about the impending implementation of the requirements of the European Union (EU) Renewable Energy Directive (RED) 2009/28/EC:

- Very few EU Member States transposed the RED as of the December 5 goal, and even fewer appear to have RED-implementing laws in place or are ready to enforce them. This creates a situation where U.S. economic operators will face widely differing requirements across the EU on January 1, 2011, with very little transition or implementation communication by EU officials on how to handle them.
- Compliance with the RED's sustainable land use certification requirements will be extremely cumbersome and most likely infeasible in the United States. Available data for the U.S. and U.S. requirements related to land use and renewable energy justify a national pathway or aggregate approach.
- The RED's greenhouse gas (GHG) emissions savings default value of 31 percent for soyoil-origin biodiesel significantly understates the emissions savings of U.S. soy biodiesel relative to petroleum diesel. The RED's assignment of additional emissions to the processing step in establishing the overall GHG emission reduction value appears to be arbitrary and unwarranted, considering that actual operating data are now available.

These concerns are causing serious uncertainty in the U.S. about the impact of the impending implementation of RED requirements by some EU Member States on U.S. suppliers of biodiesel feedstocks and biodiesel. As EU Member States were required to transpose the Directive into national law by December 5 and implementation deadlines are set for January 1, 2011, time is of the essence. We would greatly appreciate an opportunity to meet with you personally and other appropriate European Commission (EC) officials at your earliest convenience to discuss these issues, which are explained more fully below, with a view towards finding mutually acceptable solutions to achieve RED objectives.

Uncertainties Surrounding Implementation of the RED Requirements by EU Member States

We are extremely concerned by the potential for unbalanced requirements across EU Member States, and by the uncertainty currently surrounding RED implementation. Very few countries appear to have national implementing laws in place or are ready to enforce them. In addition, we understand that no voluntary sustainability schemes will be recognized by the EU until April 2011 due, in part, to a lack of resources for European agencies to assess such schemes. This lack of synchronization and detail in implementation present trade obstacles and confusion for market operators, and will have a potentially large impact on access to EU markets for U.S. biodiesel feedstocks and U.S. biodiesel.

The RED's Sustainable Land Use Certification Requirements

Our concerns with the RED's sustainable land use certification requirements were first raised on July 23, 2010, in a letter from Mr. Philip Bradshaw, then-Chairman of the United Soybean Board (USB), to Mr. Philip Lowe, the EU's Director-General for Energy, following publication of EU communications 2010/C 160/01 and 2010/C 160/02 in June. Mr. Bradshaw raised a number of questions regarding the difficulties U.S. producers and operators would have in complying with these requirements, including the diverse sources of production and co-mingling of feedstocks that occur throughout the U.S. supply chain. He also suggested that the U.S. could meet the objectives of the RED through a national or aggregate approach, rather than certifying compliance by individual country elevators and other commodity purchasers and exporters, including audits at the farm level.

The U.S. Department of Agriculture (USDA) has maintained data on U.S. agriculture production and information on farming practices for many years, including documentation of compliance with land use restrictions required under U.S. farm laws. Data are also available on the continuing reduction in U.S. land in agricultural production dating back several decades. These data are used by the U.S. Environmental Protection Agency to validate compliance of U.S. biodiesel with the renewable energy standards required under the Renewable Fuel Standard established by the Energy Policy Act of 2007.

In consideration of the fact that more appropriate data and information are available, we request that the EC enter into negotiations with the USDA and appropriate U.S. government agencies to reach a bilateral agreement certifying U.S. soybean and canola pathways as compliant with the sustainable land use requirements of the RED. Such an agreement should encompass production of these commodities in the U.S., as well as processing of them into oil and biodiesel, either in the U.S or in the EU.

The RED's GHG Emissions Savings Default Value of 31 Percent for Soy Biodiesel

Our concerns with the RED's 31 percent default value for soy-based biodiesel were first raised in a March 22, 2010, letter from then-USB Chairman Bradshaw to Director-General Lowe. Mr. Bradshaw's letter included, as an attachment, a copy of a report entitled "Applying Recent U.S.

Soybean Data to the EU Renewable Energy Sources Directive.” This report, which was prepared by Omni Tech International, applied U.S. soybean production, processing and transportation data for 2000-2007 to the RED’s methodology to determine if newly gathered actual data for U.S. soy biodiesel would produce an overall GHG emission reduction value above the 35 percent minimum threshold default value. The analysis showed a significant improvement using the European “typical” processing GHG value of 18 g CO₂ e/MJ in place of the 26 g CO₂ e/MJ default value.

We understand that the EU’s Joint Research Centre (JRC) used Brazilian production and transportation data, as well as European processing data, in establishing the overall default GHG emission reduction value for soy biodiesel. As evidenced by the results from the Omni Tech International analysis, the JRC data significantly overstate the emissions attributable to U.S. soy biodiesel pathways, particularly for transportation. In consideration of these results and the fact that the RED requires a single default value for soy biodiesel, we request that the EU be open to a soy biodiesel GHG default value above the 35 percent threshold and develop an alternative pathway for establishing an actual value for U.S. soy biodiesel. We are confident that using an accurate emissions savings based on U.S. production and transportation data will yield actual values on U.S. soy and canola pathways that are significantly higher than the 31 percent default value and the 35 percent threshold value required under the RED. As this information is highly technical, we would offer to discuss this data and analysis with you, or appropriate JRC officials, about the impact they could have on the default soy biodiesel value, or in their application for an actual GHG value for U.S. soy biodiesel.

Given the above discussed concerns, and with RED provisions required to have been transposed into national law by December 5, 2010, we urge the EC and EU Member States to agree to a delay in implementation of the RED beyond January 1, 2011, until all of these issues have been adequately addressed. In this regard, we would appreciate an opportunity to meet with you and appropriate EC officials at your earliest convenience to discuss our concerns in greater detail. Please contact Mr. John Gordley, Washington Representative, American Soybean Association, at 600 Pennsylvania Avenue S.E., Suite 320, Washington, DC 20003, or at jgordley@gordley.com.

Thank you in advance for the consideration of our views.

Sincerely yours,

A handwritten signature in black ink that reads "Alan Kemper". The signature is written in a cursive, flowing style.

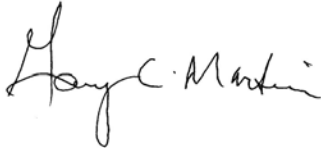
Alan Kemper, President
American Soybean Association



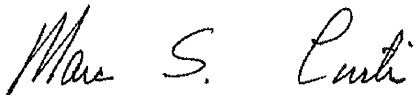
Kendell Keith, President
National Grain and Feed Association



Tom Hammer, President
National Oilseed Processors Association



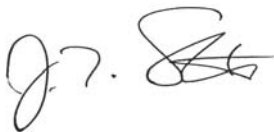
Gary Martin, President and Chief Executive Officer
North American Export Grain Association



Marc Curtis, Chairman
United Soybean Board



Doug Scoville, President
U.S. Canola Association



Jim Sutter, Chief Executive Officer
U.S. Soybean Export Council

cc. Mr. Michael Koehler
Head of Cabinet
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