

## **Benchmark of the Renewable Transport Fuel Obligation Standards against the European Union Renewable Energy Directive**

The Qualifying Standards (QS) in the Renewable Transport Fuel Obligation (RTFO) were benchmarked against the European Union's Renewable Energy Directive (RED) to check for a match against the Articles on the protection of biodiversity (17.3), land with high carbon stocks (17.4) and peatland (17.5). The purpose of the benchmark was to assess whether the QS could potentially be used by operators to show compliance with the RED.

The benchmark results are included in the 'Benchmark' worksheet. The results are colour coded; **GREEN** block indicates full compliance, **AMBER** block partial compliance and **RED** block indicates failure to comply. **Note that the results are provisional at this time and will be updated once final definitions are made available from the European Commission. These results are therefore indicative.**

In general, the QSs meet the requirements of Article 17.3 (relating to the protection of biodiversity), but do not meet the requirement of either Articles 17.4 or 17.5. Ecofys therefore proposes to the Renewable Fuel Agency (RFA) that reporting QS (or RTFO MS) could be used as compliance with the EC biodiversity criterion. Ecofys also recommends that the RFA works with the QSs to address any specific Articles that are currently not fully covered.

The non-Qualifying standards were also benchmarked, although none of these met the requirements of Articles 17.3, 17.4 or 17.5 of the RED. The results have not been included in this report.

## Renewable Energy Directive

### Article 17.3

Biofuels and bioliquids taken into account for the purposes referred to in points (a), (b) and (c) of paragraph 1 shall not be made from raw material obtained from land with high biodiversity value, namely land that had one of the following statuses in or after January 2008, whether or not the land continues to have that status:

- a) primary forest and other wooded land, namely forest and other wooded land of native species, where there is no clearly visible indication of human activity and the ecological processes are not significantly disturbed;
- (b) areas designated: (i) by law or by the relevant competent authority for nature protection purposes; or (ii) for the protection of rare, threatened or endangered ecosystems or species recognised by international agreements or included in lists drawn up unless evidence is provided that the production of that raw material did not interfere with those nature protection purposes;
- (c) highly biodiverse grassland that is:
  - (i) natural, namely grassland that would remain grassland in the absence of human intervention and which maintains the natural species composition and ecological characteristics and processes; or
  - (ii) non-natural, namely grassland that would cease to be grassland in the absence of human intervention and which is species-rich and not degraded, unless evidence is provided that the harvesting of the raw material is necessary to preserve its grassland status.

### Article 17.4

Biofuels and bioliquids taken into account for the purposes referred to in points (a), (b) and (c) of paragraph 1 shall not be made from raw material obtained from land with high carbon stock, namely land that had one of the following statuses in January 2008 and no longer has that status:

- (a) wetlands, namely land that is covered with or saturated by water permanently or for a significant part of the year;
- (b) continuously forested areas, namely land spanning more than one hectare with trees higher than five metres and a canopy cover of more than 30 %, or trees able to reach those thresholds in situ;
- (c) land spanning more than one hectare with trees higher than five metres and a canopy cover of between 10 % and 30 %, or trees able to reach those thresholds in situ, unless evidence is provided that the carbon stock of the area before and after conversion

### Article 17.5

Biofuels and bioliquids taken into account for the purposes referred to in points (a), (b) and (c) of paragraph 1 shall not be made from raw material obtained from land that was peatland in January 2008, unless evidence is provided that the cultivation and harvesting of that raw material does not involve drainage of previously undrained soil.

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17.3	Biofuels and bioliquids taken into account for the purposes referred to in points (a), (b) and (c) of paragraph 1 shall not be made from raw material obtained from land with high biodiversity value, namely land that had one of the following statuses in or after January 2008, whether or not the land continues to have that status:	5.16 - Reference date of 1st November 2005	10.9 - Plantations established in areas converted from natural forests after November 1994 normally shall not qualify for certification.	3.12 - Reference date of 1st November 2005	6.5 - No reference date.	7.3 - Reference date of November 2005.	4.5 - Reference date is May 2009.	2.2 (Addendum) - Reference date of November 2005.
	a) primary forest and other wooded land, namely forest and other wooded land of native species, where there is no clearly visible indication of human activity and the ecological processes are not significantly disturbed; b) areas designated:	<b>EIA:</b> 5.16 - Producers who are planning to use land classified as uncultivated or semi natural area at 01.11.2005 for arable production must ensure EIA Regulations have been met. In addition, if any of that land is used to produce energy crops producers must assess and record carbon losses.	6.10 - Forest conversion to plantations or non-forest land uses shall not occur, except in circumstances where conversion: a) entails a very limited portion of the forest management unit; and b) does not occur on high conservation value forest areas;	<b>EIA:</b> 3.12 - Producers who are planning to use land classified as uncultivated or semi arable production must ensure EIA Regulations have been met. In addition, if any of that land is used to produce energy crops producers must assess and record carbon losses.	6.5 - No destruction of 'rainforests' permitted. <b>EIA:</b> 6.4 - EIA must be followed, "where you are planning to bring or have brought 'uncultivated land or semi-natural areas' into more intensive agricultural use by clearance of vegetation, cultivation, fertilisation, liming, drainage, introducing high stocking rates, or earth moving etc."	7.3 - New plantings since November 2005 have not replaced primary forest or any area containing one or more High Conservation Values.	4.4 - Expansion for soy cultivation during field test period may not take place on land cleared of native habitat after May 2009. Exception: Producers who want or plan to clear native habitat after the cut-off date of May 2009 must produce scientific evidence from a comprehensive and professional third-party assessment of the area concerned that identifies the absence of: all primary forest, [...]	2.2 (Addendum) - From November 1, 2005 onwards no high value ecosystems must have been destroyed by or due to purposeful farm management activities.
	(i) by law or by the relevant competent authority for nature protection purposes; or		1 - Forest management shall respect all applicable laws of the country in which they occur, and international treaties and agreements to which the country is a signatory.		1.4 - Environmental policy must meet all regulatory and legislative requirements.	2.1 - There is compliance with all applicable local, national and ratified international laws and regulations.	1.1 - There is awareness of, and compliance with, all applicable local and national laws.	1.1 - Compliance with this standard and respective national legislation binding for [...] environmental aspects on farms – whichever is stricter.

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	(ii) for the protection of rare, threatened or endangered ecosystems or species recognised by international agreements or included in lists drawn up by intergovernmental organisations or the International Union for the Conservation of Nature, subject to their recognition in accordance with the second subparagraph of Article 18(4);	EIA: 5.16 - Producers who are planning to use land classified as uncultivated or semi natural area at 01.11.2005 for arable production must ensure EIA Regulations have been met. In addition, if any of that land is used to produce energy crops producers must assess and record carbon losses. 5.11 - Contains requirements for SSSI areas and Special Protection Areas under the Wild Birds Directive (i.e. GAEC 6, SM1, SM2 to be adhered to).	1.2 - The provisions of all binding international agreements such as CITES and Convention on Biological Diversity, shall be respected.	EIA: 3.12 - Producers who are planning to use land classified as uncultivated or semi natural area at 01.11.2005 for arable production must ensure EIA Regulations have been met. In addition, if any of that land is used to produce energy crops producers must assess and record carbon losses. 5.11 - Contains requirements for SSSI areas and Special Protection Areas under the Wild Birds Directive (i.e. GAEC 6, SM1, SM2 to be adhered to).	EIA: 6.4 - EIA must be followed, "where you are planning to bring or have brought "uncultivated land or semi-natural areas" into more intensive agricultural use by clearance of vegetation, cultivation, fertilisation, liming, drainage, introducing high stocking rates, or earth moving etc."	7.1 - A comprehensive and participatory independent social and EIA is undertaken prior to establishing new plantings or operations, or expanding existing ones, and the results incorporated into planning, management and operations. 7.3 - New plantings since November 2005 have not replaced primary forest or any area containing one or more High Conservation Values.	4.4 - Expansion for soy cultivation during field test period may not take place on land cleared of native habitat after May 2009. Exception: Producers who want or plan to clear native habitat after the cut-off date of May 2009 must produce scientific evidence from a comprehensive and professional third-party assessment of the area concerned that identifies the absence of: all primary forest, [...].	2.2 (Addendum) - From November 1, 2005 onwards no high value ecosystems must have been destroyed by or due to purposeful farm management activities.
	unless evidence is provided that the production of that raw material did not interfere with those nature protection purposes; (c) highly biodiverse grassland that is:		6.10 - Forest conversion to plantations or non-forest land uses shall not occur, except in circumstances where conversion: c) will enable clear, substantial, additional, secure, long term conservation benefits across the forest management unit.		6.4 - New sites: areas of habitat and margins as required by the LEAF Marque standard must be built into the site design, and include features that will protect and enhance the environment and biodiversity.			
	(i) natural, namely grassland that would remain grassland in the absence of human intervention and which maintains the natural species composition and ecological characteristics and processes; or  (ii) non-natural, namely grassland that would cease to be grassland in the absence of human intervention and which is species-rich and not degraded, unless evidence is provided that the harvesting of the raw material is necessary to preserve its grassland status.	EIA: 5.16 - Producers who are planning to use land classified as uncultivated or semi natural area at 01.11.2005 for arable production must ensure EIA Regulations have been met. [...] 5.11 - Contains requirements for SSSI areas (i.e. GAEC 6).	6.2 Safeguards shall exist which protect rare, threatened and endangered species and their habitats. (Note that the FSC's principles and criteria principally refer to forests and not to grasslands.)	EIA: 5.16 - Producers who are planning to use land classified as uncultivated or semi natural area at 01.11.2005 for arable production must ensure EIA Regulations have been met. [...] 5.11 - Contains requirements for SSSI areas (i.e. GAEC 6).	EIA: 6.4 - EIA must be followed, "where you are planning to bring or have brought "uncultivated land or semi-natural areas" into more intensive agricultural use by clearance of vegetation, cultivation, fertilisation, liming, drainage, introducing high stocking rates, or earth moving etc."	7.1 - A comprehensive and participatory independent Social and EIA is undertaken prior to establishing new plantings or operations, or expanding existing ones [...]. 7.3 - New plantings since November 2005 have not replaced primary forest or any area containing one or more High Conservation Values.	4.4 - Expansion for soy cultivation during field test period may not take place on land cleared of native habitat after May 2009. Exception: Producers who want or plan to clear native habitat after the cut-off date of May 2009 must produce scientific evidence from a comprehensive and professional third-party assessment of the area concerned that identifies the absence of: primary forest, other HCVAs, [...].	2.2 (Addendum) - From November 1, 2005 onwards no high value ecosystems must have been destroyed by or due to purposeful farm management activities.

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17.4	<p>Biofuels and bioliquids taken into account for the purposes referred to in points (a), (b) and (c) of paragraph 1 shall not be made from raw material obtained from land with high carbon stock, namely land that had one of the following statuses in January 2008 and no longer has that status:</p> <p>(a) wetlands, namely land that is covered with or saturated by water permanently or for a significant part of the year;</p> <p>b) continuously forested areas, namely land spanning more than one hectare with trees higher than five metres and a canopy cover of more than 30 %, or trees able to reach those thresholds in situ;</p> <p>(c) land spanning more than one hectare with trees higher than five metres and a canopy cover of between 10 % and 30 %, or trees able to reach those thresholds in situ, unless evidence is provided that the carbon stock of the area before and after conversion is such that, when the methodology laid down in part C of Annex V is applied, the conditions laid down in paragraph 2 of this Article would be fulfilled.</p>	<p>5.16 - Reference date of 1st November 2005</p>	<p>10.9 - Plantations established in areas converted from natural forests after November 1994 normally shall not qualify for certification.</p>	<p>3.12 - Reference date of 1st November 2005</p>	<p>6.5 - No reference date.</p>	<p>7.3 - Reference date of November 2005.</p>	<p>4.5 - Reference date is May 2009.</p>	<p>2.2 (Addendum) - Reference date of November 2005.</p>
			<p>No reference to wetlands in the standard.</p>		<p>6.1 - In order to avoid the risk of environmental damage and deterioration, producers must be able to demonstrate an awareness of the distribution of the key wildlife habitats etc. E.g. Lakes, ponds and watercourses; Semi-natural habitats (wetlands).</p>			
		<p>5.16 - only contains a requirement to 'assess carbon emissions' and not to prevent raw material being obtained from high carbon stock land.</p>	<p>6.10 - Forest conversion to plantations or non-forest land uses shall not occur, except in circumstances where conversion: a) entails a <u>very limited portion of the forest management unit</u>.</p>	<p>5.16 - only contains a requirement to 'assess carbon emissions' and not to prevent raw material being obtained from high carbon stock land.</p>	<p>6.5 - No destruction of 'rainforests' permitted.</p>	<p>7.1 - A comprehensive and participatory independent Social and EIA is undertaken prior to establishing new plantings or operations, or expanding existing ones, and the results incorporated into planning, management and operations. 7.3 - New plantings since November 2005 have not replaced primary forest or any area containing one or more High Conservation Values.</p>	<p>4.4 - Expansion for soy cultivation during field test period may not take place on land cleared of native habitat after May 2009. Exception: Producers who want or plan to clear native habitat after the cut-off date of May 2009 must produce scientific evidence from a comprehensive and professional third-party assessment of the area concerned that identifies the absence of: primary forest, other HCVAs, [...].</p>	<p>2.2 (Addendum) - From November 1, 2005 onwards no high value ecosystems must have been destroyed by or due to purposeful farm management activities.</p>

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17.5	Biofuels and bioliquids taken into account for the purposes referred to in points (a), (b) and (c) of paragraph 1 shall not be made from raw material obtained from land that was peatland in January 2008, unless evidence is provided that the cultivation and harvesting of that raw material does not involve drainage of previously undrained soil.	5.16 - Reference date of 1st November 2005	No reference to peatlands in the standard.	3.12 - Reference date of 1st November 2005	6.5 - Reference date is not stated.	7.3 - Reference date of November 2005.	4.4 - Reference date of May 2009.	2.2 (Addendum) - Reference date of November 2005.
	Biofuels and bioliquids taken into account for the purposes referred to in points (a), (b) and (c) of paragraph 1 shall not be made from raw material obtained from land that was peatland in January 2008, unless evidence is provided that the cultivation and harvesting of that raw material does not involve drainage of previously undrained soil.	5.16 - only contains a requirement to 'assess carbon emissions' and not to prevent raw material being obtained from high carbon stock land.		3.12 - only contains a requirement to 'assess carbon emissions' and not to prevent raw material being obtained from high carbon stock land.	6.5 - No destruction of 'peatlands' permitted.	7.3 - Reference date of November 2005. 7.4 - National interpretation should consider including specific controls and thresholds, such as slope limits, listing soil types that on which planting should be avoided ( <i>especially peat soils</i> ) [...].	4.4 - Expansion for soy cultivation during field test period may not take place on land cleared of native habitat after May 2009. Exception: Producers who want or plan to clear native habitat after the cut-off date of May 2009 must produce scientific evidence from a comprehensive and professional third-party assessment of the area concerned that identifies the absence of: primary forest, other HCVAs, [...].	2.2 (Addendum) - From November 1, 2005 onwards no high value ecosystems must have been destroyed by or due to purposeful farm management activities.