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Member Update

Title: EU Sustainability Certification Discussion Paper

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Distribution

- GTA Members – primary contact list. Please circulate to all appropriate internal parties.
- GTA intends to hold a meeting of interested parties to further progress this matter and would welcome industry comments. Due to the time constrains on this issue comments should be addressed to admin@graintrade.org.au no later than COB 17 June 2011.

EU Sustainability Certification Discussion Paper

This paper has been developed to assist the canola/grains industry to determine how it can meet EU requirements for sustainability certification. This paper has been compiled from information from publicly available sources which are believed to be reliable, however, this is a complex issue and GTA is not responsible for the accuracy or completeness of any information contained herein. GTA, in conjunction with AGEA, has developed this paper to raise the awareness of this issue and to assist industry in considering and implementing the options available to enable trade with the EU to continue.

This issue has arisen from the introduction of legislation in the EU that requires all feedstocks for biofuels to meet sustainability criteria. This impacts the Australian canola industry and, while not all Australian canola is used for biofuel, it appears that EU importer requirement is for all canola imports to comply with the legislation and have sustainable certification.

The Australian industry needs to have this in place prior to the 2011/12 harvest to ensure that trade can continue unimpeded.

This paper outlines the EU legislation and its requirements, then addresses the options for the Australian industry and identifies issues in implementing the recommended option.

The EU Renewable Energy Directive (RED)

The EU Renewable Energy Directive (RED) was introduced as part of the EU Legislative Framework for biofuels and sustainability. The Directive 2009/28 [Renewable Energy Directive] sets EU targets for renewable energies by 2020 including a 20% share of energy from renewable sources in the EU's final consumption of energy and a 10% share of energy from renewable sources in each member state's transport energy consumption. Compliance with sustainability criteria is a necessary condition for biofuels to account toward the 10% target.

The RED applies to both EU production and imported feedstocks; and it applies to both feedstocks and biofuels. Biofuels must meet minimum GHG reductions using Life Cycle Analysis (LCA). Feedstocks used in biofuel production must be certified by a Scheme that meets the RED sustainability requirements.

The EU Renewable Energies Directive entered into force on 5 December 2010.

The main feedstocks used in biofuels production in the EU are shown in table 1. This illustrates the importance of rapeseed/canola in biodiesel production.

Table 1: Main biofuel feedstocks

Biodiesel	Bioethanol
Rape (70-80%)	Wheat (35 40%)
Palm (8-15%)	Maize (15-20%)
Soy (8-15%)	Barley (1-4%)
Sun (1-2%)	Rye (4-6%)
	Wine (1-3%)
	Sugar beet (30-40%)

The Directive sets out stringent sustainability criteria to ensure that biofuels that are to count towards the European targets are sustainable and that they are not in conflict with overall environmental goals. This means that they must achieve at least a minimum level of greenhouse gas savings and respect a number of requirements related to biodiversity. Among other things this prevents the use of land with high biodiversity value, such as natural forests and protected areas, being used for the production of raw materials for biofuels.

Regardless of whether the raw materials were cultivated inside or outside the EU, biofuels can be accounted for with respect to the target of 10% renewable energy in transport (and therefore with respect to the national targets in terms of renewable energy) if they fulfil the following sustainability criteria:

- The greenhouse gas emission saving from the use of biofuels shall be at least 35%
- Biofuels shall not be made from raw material obtained from land with high biodiversity value
- Biofuels shall not be made from raw material obtained from land with high carbon stock (i.e. wetlands, continuously forested areas)
- Biofuels shall not be made from raw material obtained from peatland

Thus, as a supplier of feedstocks the focus for the Australian industry is what is required to supply certified canola that meets the sustainability criteria. Essentially the Directive implies a chain of custody management approach in which greenhouse gas and sustainability information can be reported throughout the supply chain.

The origin of the sustainable biomass used for the production of biofuels has to be traceable for every stage of the production and delivery process. Traceability can be achieved via mass balance or physical segregation systems with corresponding traceability tools such as declarations.

The key component of the sustainability information that is required from canola producers is compliance with land use criteria. That is, the status of agricultural land in Jan 2008 should show that crop production will not:

- damage large above or below ground carbon stocks
- damage high biodiversity areas
- lead to soil degradation
- lead to contamination/depletion of H2O sources
- result in air pollution
- affect workers rights
- affect land rights

Growers would need to provide certificates and/or self declarations. A percentage of the self declarations annually are required to be supported by an independent audit.

The other important component for the canola industry is that the Directive allows for use of a 'Mass Balance' model which effectively means that biofuel feedstock from different sources can be mixed and companies will provide a percentage of how much meets sustainability standards. When demonstrating

evidence of compliance using a mass balance system the physical link between all stages must be presented at time of auditing.

The alternative to mass balance is physical segregation of all batches with different origin and properties or segregation of sustainable and non sustainable products.

There are a number of mechanisms for accounting for mass balance e.g. physical mixing and retention of batches via bookkeeping; physical mixing and documentation of quantity credits; or physical mixing and documentation of percentages.

Where economic operators choose to use a mass balance system, this requires that the mass balance is averaged over a time period. The EU has indicated three months as an appropriate time period but will accept up to one year. The mass balance calculation also requires a spatial boundary which defines for which entity the mass balance is applied to e.g. plant/site.

There are three ways to demonstrate compliance with the RED, namely:

- National measures, however, most Member States have not yet transposed the legislation (Germany and Austria only)
- Voluntary schemes where organisations develop tracing, certification and auditing systems and the EU Commission approves scheme for use in RED. All states must recognise EU approved systems. To date approximately 14 schemes have been notified to Commission, with the seven schemes approved (refer Appendix I for the list of approved schemes)
- Bilateral agreement, however, indications are that this is not foreseen by EU Commission in the short term

There are a number of challenges relating to the RED which present difficulties for countries/ suppliers of feedstocks trying to comply with the legislation:

- Lack of harmonization at EU level i.e. while the RED took effect 5 Dec 2010 only Germany and Austria have implemented it (Netherlands is undertaking a gradual implementation). There is no mutual recognition between Member States and legal vacuum exists in most Member States at present
- Delay in assessing voluntary schemes i.e. 14 -16 Schemes have applied to EU to date, but none are yet approved and further delays in approval are possible
- Costs of compliance i.e. given the uncertainty in compliance, the costs are not clearly known or is it clear whether there will be a premium for certified feedstocks
- Potential to establish a precedent that may go beyond biofuels

The effect is that there is a high degree of unpredictability making it difficult to determine the best approach re compliance.

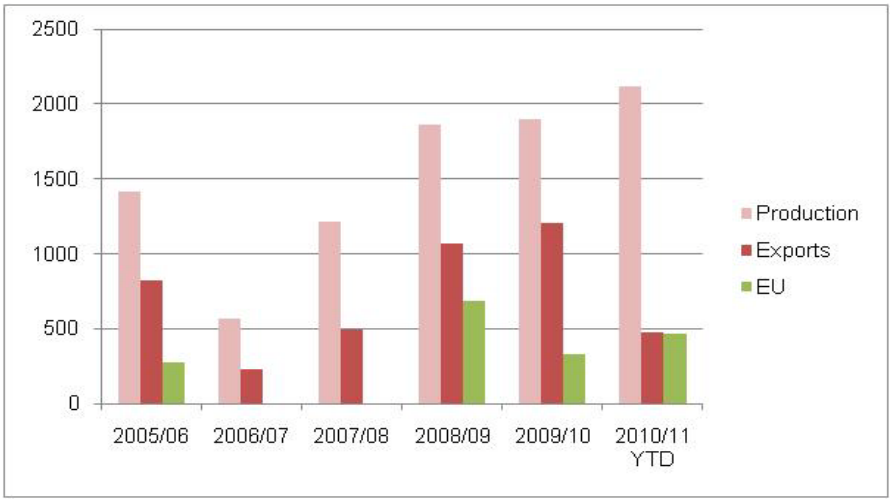
Implications for Australia

The EU is an important market (refer figure 1) for Australian canola which is used by the food and biofuel sectors.

Sustainability requirements are a reality and are a factor in maintaining market access to the EU. The commercial reality is that importers of canola are requesting sustainability certification for all supplies to provide flexibility to use canola across markets.

Thus, if Australia wishes to maintain access to this market, it will need to have in place a system for sustainability certification that is compliant with the EU requirements.

Figure 1: Australian canola exports to the EU



Australia's response to date

GTA developed a sustainability declaration in 2010 which was released as a tool that companies could use to demonstrate that they were working toward certification. This declaration would not comply with the EU directive and thus, the industry needs to move to a certification system. At this stage CBH Grain is the only Australian company that has formally adopted a scheme approved in an EU member country. The scheme that they have implemented is International Sustainability & Carbon Certification (ISCC) which is approved by Germany and currently before the EU Commission for approval.

Some other marketers have developed declarations etc, but these will need to be transitioned to a formal scheme to comply.

Australia's potential to meet requirements

Australia has a comprehensive framework of Federal and State legislation to manage biodiversity i.e. Federal legislation covers areas of national significance and State legislation covers land management and environmental protection of all other areas. This legislation was in place prior to 1 Jan 2008 and thus, it is expected that there is low risk of Australian broadacre farming impacting adversely on areas of high biodiversity value and not being able to comply with the EU directive requirements.

Options for the Australian industry to comply with EU requirements

The industry needs to have a scheme in place for the 2011/12 harvest if trade with the EU is to continue unimpeded. Thus, the broad options that the Australian industry has to comply with the EU directive are:

1. Bilateral approach

   The bilateral approach would involve Government to government negotiation where Australia would demonstrate and commit to sustainability goals similar to RED. There a number of challenges with this, but the two major ones are that negotiations would take time; and that it would require the willingness of EU and Australian government to participate, neither of which have indicated interest in this. Thus, this is not seen as a feasible option.

2. Comply with an EU approved voluntary scheme

   Adopting an existing voluntary scheme would provide the quickest pathway. The drawback is that most schemes are not specifically applicable to canola or Australia and most schemes that are known tend to go "beyond" minimum RED requirements, thereby imposing unnecessary burden and potentially cost on the industry

3. Develop a Australian or commodity (canola) Voluntary Scheme

The option of developing an Australian or commodity voluntary scheme would have the advantage of being designed and managed by the Australian industry and could be limited to RED criteria only. Any scheme developed would need to establish a method through which economic operators can submit information to show consignments comply with the sustainability requirements; arrange an adequate standard for independent auditing; and use a mass balance system. The major disadvantage of this option is that it would be time consuming and costly, with the outcome uncertain. An option if a commodity approach was adopted would be to develop this in conjunction with the Canadian canola industry, however, the challenges of time and cost would remain.

An assessment of the above options suggests that adopting an approved voluntary scheme would provide the quickest and simplest pathway.

If this option is selected, consideration needs to be given to whether the industry should adopt one scheme that is consistent across the industry; or can growers/marketers adopt any scheme they want. The former would have the advantage of:

- Simplifying any trade issues as all marketers purchasing certified grain would know they are purchasing the same product
- The mass balance system could be managed on basis of receival site/zone thus, simplifying the calculation and maximising flexibility
- Audits and declarations could be managed on equivalent basis to the mass balance, thus reducing the risk of a grower incurring multiple audits against different rules
- Potentially reducing costs for growers and the industry

If the voluntary scheme option is selected, then the ISCC scheme would appear to be the best choice on the basis that it has been approved by Germany and thus, already has recognition in the EU and it could be expected that it will be approved by the EU Commission as one of the early schemes through the approval process. This is also the scheme that has been implemented by CBH in WA and thus, there is some experience with it in Australia which would provide some evidence to growers and others in regard to the impact in relation to compliance. More information on ISCC can be found at http://www.iscc-system.org/index_eng.html . This would not preclude the opportunity of potentially simplifying the ISCC system or developing an alternative system over time.

Recommendation and issues for consideration

Thus, it is recommended that the industry:

i) Seek to have a certification process in place for the 2011/12 harvest

ii) Agree to the common adoption of a single scheme across the industry

iii) Nominate ISCC as the preferred voluntary scheme and progress to implement this

iv) GTA to convene a meeting with key industry organisations and players to identify the issues that would need to be addressed before implementation of the ISCC scheme. This should be convened as soon as practical

v) A broader communication/awareness plan to be developed once there is clarity around how the scheme will operate

Appendix I: Schemes approved by the EU as at 1 June 2011

Round Table on Responsible Soy Version 2.0 with EU RED Requirements Version as submitted on 11 May 2011

Roundtable on Sustainable Biofuels (RSB) EU RED certification system Version as submitted 10 May 2011

Abengoa RED Bioenergy Sustainability Assurance (RBSA) Scheme Version as submitted 08 April 2011

International Sustainability & Carbon Certification system (ISCC) Version as submitted 18 March 2011

Greenergy Brazilian Bioethanol verification programme, as submitted to the European Commission for recognition, with the sustainability criteria of Directive 2009/28/EC

Bonsucro EU Certification Scheme Version as submitted on 11 March 2011

Biomass Biofuels voluntary scheme (2BSvs) Version as submitted 11 May 2011

The schemes will eventually be published on the Transparency Platform (http://ec.europa.eu/energy/renewables/transparency_platform/transparency_platform_en.htm) in their English version.