

***Malaysian Palm Oil Council (MPOC): Comments and Critique***  
***In the context of the European Commission's legislative initiative on***  
***'Deforestation and forest degradation – reducing the impact of products***  
***placed on the EU market'***

The *Malaysian Palm Oil Council* (MPOC) looks with interest and cooperative spirit to the EU's legislative initiative on "*Minimising the risk of deforestation and forest degradation associated with products placed on the EU market*", hoping that the consultative process ahead will ensure that the legislative and regulatory outcomes be balanced, not unilateral, based on measurable science and data, non-discriminatory, and in line with the applicable WTO rules.

MPOC represents the interests of the Malaysian palm oil producers, exporters, end users and consumers worldwide. It was incorporated under Malaysian law on 25 January 1990 and is charged with the promotional and marketing of Malaysian palm oil globally. Malaysia is the second-largest producer of palm oil, and a major exporter. We also represent the interests of palm oil growers and small holder (family sized) farmers in Malaysia. The palm oil industry directly employs more than a million Malaysians.

Palm oil is an extremely important commodity for Malaysia and Malaysia has long recognised the importance of preserving its forest coverage and of ensuring the sustainable cultivation of oil palms and production of palm oil. Today, the forested area in Malaysia amounts to around 53% of the land area.

As a relevant benchmark, in the EU, despite significant reforestation efforts at multiple times in modern history, the forest area covered only around 39.5% in 2018, a slight increase from around 35% in 1990. These trends are important to highlight because Malaysia's performance despite the development of its palm oil industry, is outstanding if projected against the steady decline of the overall global forested area. This data and these differences must be recognised and factored in when policies are defined and actions taken. Simple recipes and generalisations do not work.

MPOC would also like to highlight Malaysia's significant efforts related to ensuring the sustainability of its industries, including its palm oil industry. As of 1 January 2020, Malaysia has made it mandatory for oil palm cultivators and palm oil producers to be certified under the *Malaysian Sustainable Palm Oil* (MSPO) standard. The MSPO standard, established in 2015, intends to ensure responsible and sustainable production by oil palm smallholdings, plantations, and palm oil processing facilities, as well as transparency and traceability along the value chain. Again, these actions are real, measurable and adopted by Malaysia to protect what is not only a precious resource for humanity, but foremost Malaysia's most important asset and comparative advantage: its forests and unique ecosystem.

MPOC recognises the ambitious objectives of the European Green Deal and the priorities identified by the European Commission in the "[\*EU Communication on Stepping up EU Action to Protect and Restore the World's Forests\*](#)" adopted on 23 July 2019 for purposes of protecting and improving the health of existing forests, especially primary forests, and significantly increasing sustainable, biodiverse forest coverage worldwide. Of those priorities, MPOC emphasises the importance that work be conducted:

1. *“in partnership with producer countries to reduce pressures on forests”,*
2. *the EU “strengthen international cooperation to halt deforestation and forest degradation, and encourage forest restoration” and that,*
3. *in adopting and advancing its initiatives, actions and policies on forestry, the EU improve “the availability and quality of information on forests and commodity supply chains, the access to that information, and support research and innovation”.*

MPOC believes that this has not always been the case when EU policies and measures (*e.g.*, most recently, the EU’s *Directive (EU) 2018/2001 on the promotion of the use of energy from renewable sources*, or called, RED II) have been defined and adopted, with the consequence that unilateral, discriminatory, and WTO-inconsistent outcomes have been poisoning international relations and hardly achieving the intended results in terms of added sustainability and environmental protection.

MPOC looks forward to a constant, transparent, science-based, and frank dialogue with the EU, as this legislative initiative progresses, and would like to note the following:

- 1) The European Commission’s Inception Impact Assessment states that there is *“a market and regulatory failure reflected in the lack of level playing field between companies that act responsibly towards deforestation and those who do not”.*

MPOC believes that this is true not just between companies, but also countries (*e.g.*, not all palm oil producing countries have the same regulatory frameworks in place in order to cultivate and produce responsibly, protect the forests and enforce the rules) and commodities (*e.g.*, palm oil is often conveniently targeted and singled-out, not just in the deceptive and anti-competitive commercial narrative of private operators that use labels like *‘palm oil free’* to promote their products by indiscriminately denigrating all palm oil, but also increasingly in legislative initiatives such as the EU’s Renewable Energy Sources Directive (RED II) and the related rules on indirect land-use change (ILUC) or measures adopted by individual EU Member States). This must be addressed, and the initiatives considered and adopted by the EU must be balanced, based on facts and measurable scientific evidence, be commodity-neutral, and not result in disguised restrictions on international trade.

- 2) The Inception Impact Assessment also rightly indicates that there are *“information asymmetries, derived from the lack of common standards and reliable information in the hands of consumers”.*

MPOC concurs with the European Commission on the importance of sustainability standards, which must be multilateral in nature and not unilaterally imposed,

We also emphasize the need for reliable information as the fundamental basis for correct policy-making, which must be scientifically-based, measurable and available for all countries, affected commodities and comparable activities, contrary to what the EU appears to have applied in recent legislative actions.

For example, such approach has arguably not been followed in the

- (i) *“Report from the Commission to the European Parliament, the Council,*

*the European Economic and Social Committee and the Committee of the Regions on the status of production expansion of relevant food and feed crops worldwide'*

that was the notional basis of the

(ii) *'Commission's Delegated Regulation supplementing Directive (EU) 2018/2001 as regards the determination of high indirect land-use change-risk feedstock for which a significant expansion of the production area into land with high carbon stock is observed and the certification of low indirect land-use change-risk biofuels, bioliquids and biomass fuels', adopted within the framework of the RED II).*

MPOC believes that access to such scientifically-based, measurable and reliable information is important not just for consumers, when they make their commercial choices, but also for regulators and legislators, who all too often decide on environmental policies that have significant socio-economic impacts for third countries and specific industries, without having the full picture before them.

- 3) The Inception Impact Assessment goes on to state that, *"while the EU FLEGT Action Plan tackles illegal logging, it does not address deforestation caused by agricultural expansion. The recast Renewable Energy Directive for the period post-2020 extends the obligation to fulfil the EU sustainability criteria from biofuels to all bioenergy end-uses (including heating/cooling and electricity), but it only covers raw material used for bioenergy production"*.

Indeed, MPOC believes that EU policies often focus on a few *'trees'*, selectively and conveniently chosen, but miss the *'forest'*, figuratively speaking. No mention and recognition is given, for instance, to the fact that a country like Malaysia has a comparatively much larger forest area of around 53%, compared to the EU's mere 39.5%.

No mention is made of the fact that the EU as a whole emits far more CO<sub>2</sub> and absorbs far less of it than Malaysia, noting that, on the basis of available data from 2014, the EU (then 28 countries) had GHG emissions of 4,224.5217 MtCO<sub>2</sub>e for a percentage of global total of 9.33%. By means of comparison, Malaysia had GHG emissions of a mere 303.1518 MtCO<sub>2</sub>e, for a percentage of global total GHG emissions of 0.67%, and noting 308 million cars registered in the EU, compared to 28 million in Malaysia.

Finally, no mention is made of the agricultural, industrial and comparative differences between commodities, with some (like palm oil) being far more sustainable and *'greener'* than others (e.g., soy, beef, pig meat, dairy, etc.), when it comes to key production factors. Statistics for yield per hectare for various oil crops demonstrate the comparative advantage of palm oil vis-à-vis other vegetable oils. The overall yield of 55.9 million metric tonnes of soybean oil, produced from 126.4 million harvested hectares, and of 25.6 million metric tonnes of rapeseed oil, produced from 33.3 million harvested hectares, has to be compared to a yield of 72 million metric tonnes of palm oil, produced from 20.2 million harvested hectares globally. The ratio of oil yield per hectare amounts to 0.44 for soybean oil and 0.76 for rapeseed oil, but to 3.56 for palm oil – an eight-fold or four-fold advantage for palm oil, respectively.

In this context, it must also be pointed out that the oil palm is a perennial crop that begins yielding oil palm fruits about three years after planting and then has a continual productive lifespan of 25 to 30 years. At the same time, soy and rapeseed are seasonal crops that need to be replanted every season. Again, MPOC believes that the EU's approach should be holistic and organic with respect to all economic activities related to: CO<sub>2</sub> emissions; climate change and its mitigation; deforestation, forest management, and reforestation; agricultural, industrial and transport activities; and international trade.

Imagining that the *'magic recipe'* may be to put a complete stop to deforestation in countries that still have 50% forest coverage, impeding their legitimate socio-economic development and targeting only their comparative advantages and their competitive industries and commodities, such as palm oil, while the majority of other countries, including the EU, continue to consume, pollute, produce and emit more than average, often with much lower forest coverage of their own and no significant policies to reinstate their own reforest areas, is not only unfair, but also unrealistic and likely doomed to fail.

- 4) Finally, the Inception Impact Assessment argues that, *"were the EU not to act, the problem of deforestation and forest degradation related to EU consumption would persist. This could negatively affect the EU's efforts in the field of biodiversity protection, climate change, human rights, peace and security and the rule of law"*.

This is a legitimate concern and MPOC urges the EU not to give-in to the usual *'lobbies'* that are quick and clever to suggest that the only problems and *'culprits'*, when it comes to deforestation, are palm oil, Malaysia, Indonesia, and their related industries. The solution cannot be and should not be to target and punish a single commodity as a convenient *'scapegoat'*. The only viable and sustainable solution must be to provide incentives for the continued and increased production of sustainable products, on the basis of standards of sustainability that are multilaterally or plurilaterally agreed and not unilaterally imposed in ways that, experience shows, all too often end-up hiding or disguising protectionist and discriminatory policies under an *'environmental blanket'*.

These standards should be defined, agreed and enforced vis-à-vis all commodities and all countries, including EU Member States (consideration should also be given, for instance, to the environmental impact of EU industries like beef production, dairy, pig meat, rapeseed, soy, etc.). The fact that the EU does not have a major deforestation problem, **since it had already deforested a long time ago**, cannot be a reason for it not to have to do its part, for instance by reforesting areas currently destined to highly polluting farming or industries.

MPOC looks forward to actively and constantly engaging with the EU for purposes of advancing this legislative initiative in a manner that is truly based on international cooperation and a partnership between EU legislators and a key country like Malaysia, which is at the forefront in terms of sustainable forestry policies, sustainable palm oil production and environmental protection, without neglecting the fundamental role that sustainable forest management, timber and palm oil production plays vis-à-vis its socio-economic development, poverty eradication, and small holders' employment and subsistence.

MPOC further reiterates that no unilateral approach and actions should be taken, but the EU should cooperatively and genuinely work in partnership with countries like Malaysia, in the many diplomatic, commercial and technical *fora* available, in order to define and adopt bilateral, plurilateral or multilateral standards and solutions for sustainable forestry and agricultural production compliance.

Last but not least, MPOC remains hopeful that the EU policies and measures eventually adopted, in order to minimise the risk of deforestation and forest degradation associated with products placed on the EU market, be consistent with WTO rules, particularly those on non-product related process and production methods (PPMs), and not be biased or discriminatory (*de facto*, if not *de jure*) vis-à-vis third countries and '*like products*' that compete with the ones produced in the EU.

In particular, MPOC notes that the Inception Impact Assessment refers to an external study that "*will be contracted out to gather additional evidence. It will further inform the options available to address the problem, how related solutions have worked in the past and how these solutions could affect stakeholders*". To that end, MPOC is willing to work cooperatively and in partnership with the European Commission and its external consultants in order to provide the wealth of measurable data and relevant scientific, technical and commercial know-how that it has developed over the years in its constant quest to ever more responsible management of forests, sustainable production and protection of the environment.

**Datuk Dr. Kalyana Sundram**  
**Chief Executive Officer**  
**Malaysian Palm Oil Council (MPOC)**

