# **Invitation to quote**

# **Biofuels case study – Sugarcane based ethanol value chain (Perú-Brazil-EU-Belgium)**

0. Introduction

Oxfam-België (hereafter OBE or Oxfam), non-governmental organisation for humanitarian assistance and development aid, launches an Invitation to Quote (IQ) for a **Biofuels case study**

The quote must arrive at latest on 10 May, midnight CET and stay valid until 30 May, midnight CET

The Invitation to Quote (IQ) is structured as follows

1. Terms of reference
2. Submission procedure
3. Decision procedure

Your quote could form the basis for a contract between your company and OBE. However, this invitation to quote does not oblige OBE to proceed with the actual act of purchasing. No compensation can be claimed in case of non-acceptance of a quote or non-award of a contract.

Oxfam General Purchase Conditions apply to all Oxfam purchases. If there is an inconsistency between any of the provisions of these Conditions and a particular provision in the IQ or a contract then the provision in the IQ or the contract will prevail.

1. Terms of reference
   1. General information

|  |  |
| --- | --- |
| **Institution** | Oxfam België-Belgique |
| **Tentative title** | Belgium’s imports of sugar cane’s ethanol: Shared responsibilities among EU MS of human rights violations |
| **Budget** | 20.000 EUROS |
| **Period** | April-July 2022 |

* 1. Objective

Belgium is relying on biofuels to achieve its CO2 emissions reductions. Previous studies have shown the negative effects associated with biodiesel production, but there’s insufficient information on negative effects around bioethanol production, which is expected to increase in the coming years. A [previous Oxfam study](https://www.oxfamsol.be/fr/node/11272) has shed light on several human rights violations within sugar cane plantations, but there’s yet sufficient information on shared responsibilities for these violations along the value chain. This research will give an answer to that.

Building on the first research, the objective of this consultancy will be to map the sugarcane’s ethanol value chain from Peru and Brazil into Belgium, by identifying the flows, actors, and European countries involved, as well as their roles and responsibility in respecting social sustainability. It will try to cast light on some of the loopholes in the legislation allowing for ethanol to flow into the EU, besides its clear contradictions with basic European human rights principles. Since the current incorporation of biofuels into the Belgian market is mandated by the EU and the Belgian government, the results of this study will be useful to put pressure not only on the companies involved, but on the European and Belgian decision makers.

* 1. Background

In 2021 OBE and Oxfam Peru conducted [research](https://www.oxfamsol.be/fr/node/11272) on a sugarcane plantation for ethanol production the Piura region in Peru. The study demonstrated that several human rights violations have been taking place in the area since the 2000’s to date. These included land grabbing, water grabbing, air pollution, as well as issues regarding corruption, lack of consent, impacts on jobs, food security, gender equity and green taxation. Some of these issues remain unresolved.

The research also showed that this plantation was operating thanks to the support of developing banks (inc. Belgian BIO and Dutch FMO), and the demand from EU biofuel markets, including Belgium, the Netherlands, Germany, France, as well as the UK and Switzerland. Ethanol imports to the EU have increased considerably in the last 20 years, with an average increase of 500% from 2000 to 2020; including some countries like the Netherlands where imports have been multiplied by 20 (2000%). Our first study clearly showed the link between policy developments and instruments in EU legislation, ethanol imports to the EU and exports from Peru. IEA reports expect an increase in bioethanol consumption. Some sustainability criteria have been adopted, but remain yet limited and do not protect communities in producer countries from human rights violations.

* + 1. Climate and Energy Policies

The first case study demonstrated the strong connection between the EU Energy directives and the establishment of this plantation[[1]](#footnote-1). The current consultancy will provide evidence to sustain Oxfam’s current demand for the need of social criteria as a basis for food-based biofuels in REDIII development and REDII national transposition, which are due in 2022.

At the European level, the European Commission has set itself the goal of making Europe the first carbon neutral continent by 2050. The Commission wants to revise the EU's current climate and energy rules for 2030. The EU is currently working on the development of the REDIII[[2]](#footnote-2), and the current proposal is still showing a huge gap in terms of social sustainability and human rights protection. The EU is also working on new directives for the aviation and maritime sectors, including the use of (advanced) biofuels. The recently adopted EU Climate Law seems to provide a legal ground for impacts of climate change policies on vulnerable communities of the global south[[3]](#footnote-3), yet to be translated into energy legal instruments.

At Belgian level, REDII will to be transposed during 2022, and the new Climate and Energy Plan (NCEP) establishing new targets, will be submitted to the EC by 2023, with a drafting period expected to start by June 2022. The legislation currently is much stronger on environmental considerations than on social. The latter needs to be strongly reinforced.

* + 1. Shared responsibilities and HRDD Policies

The identified human right violations in the Piura region showed that the current legislative framework is insufficient to protect vulnerable communities.

Both at the national and the European level, policy processes regarding mandatory human rights and environmental due diligence (mHREDD**)** for companies are ongoing. Together with the UNGPs and OECD Guidelines, these should be taken into consideration when investigating who bears responsibility for the negative social and environmental impacts of biofuels, and how negative impacts can and should be addressed, mitigated, and remedied. Several EU and international institutions have long acknowledged the need for human rights and environmental due diligence legislation. Most recently, the European Parliament voted several resolutions supporting mHREDD, including one on the liability of companies for environmental damage (2021) and one on corporate due diligence and corporate accountability (2021). The European Commission has promised to propose a directive to introduce mHREDD by mid-February 2022. Initial information indicates that most of the companies involved in the sugar cane value chain will be left out of this regulation, due to their size and sector of activity. Data from the research will help provide evidence of this issue.

In Belgium, a national law proposal has been tabled in April 2021.Although the exact modalities of upcoming legislation on HREDD are still being developed, it is clear that large companies, or companies active in high-risk sectors will in the near future be obliged to conduct HREDD. This will entail human rights and environmental risks assessments, engagement with stakeholders in the value chain, action plans on how to address salient risks, and monitoring and reporting the progress.

The national law would entail mHREDD for all large companies based or operating in Belgium. IT is still unsure whether companies will be held liable for damage in the value chain and how deep into the value chains obligations regrading HREDD will go. With regard to this study, HREDD offers a framework to look at all actors in the biofuel value chain (including processing facilities, buyers, and government) and discuss respective responsibilities and possibilities to act. It will also help clarify whether the current scope of the legislation is sufficient to ensure no violation of human rights are associated with sugar-cane ethanol consumed in Belgium, regardless of where the involved companies are officially registered.

* + 1. Investment and Trade Policies

Oxfam’s 2021 research found some linkages with trade agreements but did not go deep into the implications of agreements such as EU-Mercosur, EU-Peru-Colombia, and other EU-Latin-American treaties. Trade policy instruments have a profound impact on the quality and quantity of what’s been traded. They can include clauses meant to facilitate or block the flow of imports into the European Union. research from [Friends of the Earth](https://friendsoftheearth.eu/wp-content/uploads/2021/11/Ethanol-expansion-and-the-EU-Mercosur-trade-deal-finall.pdf) Europe found for example that tax reductions for pesticides exports from the EU into Brazil would produce an enormous increase on the ethanol imports into the EU. With the current research Oxfam Belgium wants to analyze how different agreements are facilitating investment environments for sugarcane ethanol imports.

The results of the research will be useful for different ongoing political processes. The negotiations of the EU-Mercosur association agreement were concluded in June last year, and its due for ratification. This agreement is on the political agenda in Belgium. The Walloon and Brussels’ government already passed resolutions saying they won’t ratify the agreement. [The EU-Mercosur is likely to increase ethanol imports from the block into the EU with similar consequences as the one described in Oxfam’s report on Peru](https://www.euractiv.com/section/transport/opinion/how-the-mercosur-deals-ethanol-boost-contradicts-eu-green-promises/). Last year, the European Commission finished a public consultation on Trade and Sustainable Development chapters in trade agreements.

Oxfam’s 2021 research also found that the company had used Green bonds, whereas not respecting environmental clauses, to invest in the development of the plantation. However, the research did not provide info on who was providing these investments, and through which mechanisms the company had access to them. Green bonds are intended to finance the green part of national recovery plans within the framework of Next Generation EU. In the Belgian recovery plan, reference is made to the promotion of alternative fuels but there is no direct reference to biofuels.

* + 1. Annexes to be provided after signature of a contract
* Previous Oxfam research
* Available data from BE and other EU administrations
* Relevant studies from other NGOs:
  1. Research questions

Overall: Focus on sugar cane. Describe value chain and how is it possible that given the evidence of HR violations, the product arrived to BE consumers.

1. Sugarcane’s ethanol value chain mapping. The consultant will build a clear map including: countries (names and roles), companies (names, and roles), amounts, flows, since 2003 (first EU biofuel directive) to date.
   1. Sugarcane’s ethanol flows
      1. leaving Peru and Brazil
      2. entering Belgium
      3. passing through: the Netherlands, the UK and Switzerland, and other EU countries
   2. Describing the mechanism (where is sugar cane transformed into ethanol, how is to sold, etc)
   3. Describing the purposes: which amount if for transport, and which amount for other purposes (e.g. medical ethanol[[4]](#footnote-4), bioplastics, etc)
   4. Identifying stakeholders: farming companies, transforming, brokers, investors, buyers, mixing, companies distributing to Belgian consumers, (advertising companies? Certifying companies?), **investors.** Target the enterprises that buy, and have a responsibility to respect HR and thus identify and address risks in their value chain. Also target the government, as a buyer (pillar 2 of the UNGPs) but also as a government that has the duty to implement measures that make business respect human rights (pillar 1 of UNGPs). Among others obtain information about the role of:
      1. <https://www.belgianbioethanol.be/over-bba.php>
      2. Main oil companies in Belgium.
2. The consultant will give a view of the role, gaps and possibilities that different sectoral policiesprovide for tackling the issues identified in the previous studye. What roles are other policies playing on biofuel/energy markets?
   1. Energy policies (e.g.: RED, ESR, EU Climate Law, EU NDC, BE PNEC, BE transposition) - Social safeguards: which are already included, which could be improved. Formulate EU policy recommendations on how to improve the above-mentioned EU policies, [with the ultimate aim of excluding land-based biofuels of the energy-mix.]
   2. Trade policies**:** How are trade policies ([Trade Agreement between the European Union and Colombia and Peru](https://trade.ec.europa.eu/doclib/docs/2011/march/tradoc_147704.pdf), [EU-Mercosur](https://www.euractiv.com/section/transport/opinion/how-the-mercosur-deals-ethanol-boost-contradicts-eu-green-promises/), ) favoring investments that enable the export (from producing country) and import (into belgium) of sugar cane’s ethanol (e.g. reduced taxation for pesticides, tariff reduction, investment protections). Formulate EU policy recommendations on how to improve the above-mentioned EU-Colombia & Peru FTA and the EU-Mercosur Association Agreement, [with the ultimate aim of excluding land-based biofuels of the energy-mix.]
   3. HRDD perspective
      1. Where are the actors identified in question 1 falling short?
      2. Map significance/size of the actors involved or, put differently, the power relations between the actors (e.g. when a Belgian company is the biggest buyer of a specific processing facility this means it has more leverage and this a bigger responsibility). This should allow us to identify actors that bear biggest responsibility, and may be most interesting to target.
      3. What efforts they are already doing, to evaluate to what extend the are laggards or not.
      4. Stakeholder consultation is one of the things that we try to prioritize (consulting all possible stakeholders – field work would be quite extensive)
      5. We also stress the need for gender sensitive HREDD, which means assessing impacts, consulting stakeholders, and monitoring and reporting on progress should be done with a gender lens (making sure all vulnerable groups are being taken into consideration), and segregated data (on who has been consulted, what types of risks are most salient for which groups) should be available.
      6. Formulate EU policy recommendations on how to improve the recently launched Corporate Sustainable Due Diligence proposal, [with the ultimate aim of effectively addressing negative environmental and Human Rights impacts of biofuel production.]
      7. Who has leverage at what point in the value chain? (and then tax exemptions)
   4. Investors/Fiscal policies
      1. Further investigate the issue of “green bonds”/ Next Generation EU found in the first research. Which country gave them to the company? Which measures of control? How is it possible that it was received regardless of the environmental violations?
      2. European financial sectors and companies investing in biofuels (including BIO - Has BIO invested on sugarcane in other places?
   5. Requested profile

The senior consultant is expected to lead the research project which aim is to document the sugar cane value chain feeding the Belgian market from Peruvian and Brazilian exports.

The consultant should have strong data analysis and research skills, excellent economic knowledge and experience in biofuel markets. Strong background in EU and Belgian policy frameworks.

* PhD or Masters degree in an area relevant to the assignment.
* Strong background in trade and policy analysis
* At least 3 years’ experience in one of the following policy fields: Energy policies, Climate Policies, Trade Policies, HRDDD.
* Demonstrated analysis, synthesis and writing capacity in English.
* Ability write for policy makers and the wider public.
* Professional knowledge of French and Dutch is an asset
  1. Budget

20.000 EUR. The application must include logistics expenses and the cost of a field mission.

* 1. Deliverables

Deliverables will have to fit the requirements of MATS project (template under development), and OBE quality standards.

* A final report of 30-50 pages following the template provided in Annex 4 (English)
* A media briefing of 4 pages summarizing the main results. (English)
* Value chain data set in Excel
* Belgian policy recommendations
* EU policy recommendations
  1. Calendar

30 May Methodological guide

20 June Draft version of the documents and follow up meeting

10 July Final report

* 1. Communication and monitoring between the consultant and OXFAM

The consultant will be under the supervision of Oxfam-Belgique policy team.

The consultant will be accountable to a Steering Committee and will have to present periodic proof of progress for the research. A bi-weekly meeting between Oxfam-Belgique and the consulting team will also ensure a follow up of the project.

* 1. Responsibility, social security and medical coverage

In no instance can OBE be held liable for material or moral damage (including bodily) that can be caused by third parties to the service provider in the activities to be carried out by her and subject of this contract. Also, the service provider will sign up for all insurance policies necessary for the conduct of activities that can be undertaken by service providers as part of the execution of this contract.

OBE is released from any responsibility for social and medical insurance of service providers. Service providers will make it their responsibility to ensure all the steps necessary to guarantee their social security and medical coverage.

* 1. Security measures

OBE will send the security measures to the service provider, who undertakes to follow them at all times. Non-compliance removes any liability of OBE regarding the safety of the person or persons concerned and will immediately lead to the termination of this contract.

* 1. Confidentiality and use of information

The service provider undertakes to refuse any advertising, commercial or outside profits for their own account. He undertakes not to make any statement to the media in connection with the mission/support without the agreement of OBE, or use at any time the information, funds and equipment at their disposal of either OBE or of the partner or local institutions for purposes other than those outlined in the contract.

* 1. Ethical and professional conduct

Suppliers and their subcontractors cannot be in one of the following situations:

* be bankrupt or being wound up, be insolvent, having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, bee the subject of proceedings concerning those matters, or be in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
* have been convicted of an offence concerning their professional conduct by a judgment that has the force of *res judicata*;
* have been guilty of practices of collusion;
* have been the subject of a judgment that has the force of *res judicata* for fraud, corruption, involvement in a criminal organization or any other illegal activity.
* have been guilty, in the framework of another purchase process, of grave professional misconduct proven by any means that OBE can justify;
* have not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or those of the country where the contract is to be executed;
* do not respect basics social rights and working conditions, and the labour legislation of the country in which they are established or in the country where the contract is to be performed;
* employ child labour;
* be subject to a conflict of interests;
* be guilty of misrepresentation in supplying the information required by OBE;
* make gifts to personnel of OBE and/or the partner organisation.
* make threats to the personnel of OBE and/or the partner organisation
* be involved in the production of tobacco
* be involved in the production and sale of arms
* be involved in acts of piracy or terrorism

The supplier

* will make every effort to protect the environment (nature) and work sustainably.
* will be sensitive and respectful of local customs and cultures
* contribute to a work environment characterized by mutual respect, integrity, dignity and non-discrimination.
* will not work under the influence of alcohol and will not use or be in possession of illegal substances in Oxfam's premises, vehicles or accommodation.
* will not engage in relationships or behaviors based on exploitation, abuse or corruption.
* respect the rights of others, including the rights of children, and will not engage in the abuse or sexual exploitation of children, or any other person of any age.
* never trade money, job offers, jobs, goods or services for sexual acts or any other humiliating, degrading or exploitative behavior.

The supplier will sign a statement accordingly. Oxfam has the right to investigate.

Non-respect of one or more ethical and professional clauses may result in

1. Dissolving the contract
2. Excluding the supplier from future IQ’s from OBE
   1. Sanctions

In case of non-respect of the calendar a penalty equivalent to 1 % of the contract value will be deduced from the invoice for every day of delay. Beyond August 11th this will be considered as a unilateral termination of the contract by the service provider. These sanctions do not apply in case of force majeure.

* 1. Modification of contract

Any modification or termination requires the prior written agreement of both parties.

* 1. Cancellation of contract

The contract may be terminated by both parties in case of force majeure as defined in article 1.17. of the contract. Termination for force majeure must be announced by the party asserting it, in writing with a motivation and written proof provided by neutral instances. The other party shall notify its acceptance or refusal in writing, with a motivation.

In case of unilateral termination of the contract by the service provider without any motive able to be considered as one of force majeure, no incurred costs will be refunded and eventual advance payments will have to be refunded to OBE.

This contract may be terminated by OBE in case of non-compliance by the service provider with the ethical, legal and professional criteria (1.13.) the clause on confidentiality and use of information (1.12.) and the security measures (1.11). The contract will be automatically terminated upon the sending by OBE of a registered letter, stating the termination as well as the causes thereof. No incurred costs fees will be paid and eventual advance payments will have to be refunded to OBE.

* 1. Force majeure

Force majeure means any situation or event which is unforeseeable and exceptional, independent of the will of the parties and not due to the fault or negligence of any of them (or any of its subcontractors, agents or employees) which prevents either party to perform any of its contractual obligations and which could not be overcome despite all due diligence (e.g. evacuation).

A case of force majeure must always be notified immediately when it occurs, in writing, providing motive and proof by neutral instances.

In case of force majeure resulting in a disruption in the field, the actual costs incurred and already spent by the service provider will be reimbursed on the basis of supporting documentation (transport, hotel). The fees will be paid in proportion to the number of days of actual execution of the contract. The eventual continuation of the mission will be the object of an addendum to this contract.

* 1. Legal disputes

The contract shall be governed by and in accordance with the laws of the federal state of Belgium and shall be subject to the exclusive jurisdiction of the Dutch Speaking Tribunal of Commerce of the Judiciary Arrondissement of Brussels.

* 1. Payment conditions

50% will be provided at signature of the contract, and 50% after validation of the agreed outputs.

OBE can only pay on an account number belonging to the legal entity (enterprise or moral person) with which the contract has been signed and only on an account number in the country where this entity is established.

1. Submission

Send all required documents before 10 May, midnight CET to OBE.TENDER@oxfam.org, with the title: Sugarcane based ethanol value chain Consultancy

* 1. Administrative details
* Name of the enterprise and the responsible;
* address;
* telephone, fax and e-mail;
* legal status
* VAT-number and/or chamber of commerce reference.
* Name and address of the bank, account number, IBAN and SWIFT code OBE can only pay on an account number belonging to the legal entity (enterprise or moral person) with which the contract has been signed and only on an account number in the country where this entity is established.

Join a copy of your register of commerce.

* 1. Financial quote
* the research’s consultancy fees
* operational costs: travel, accommodation, daily fee, software, etc.
* VAT: if not applicable, mention the legal provision
  1. CV and experience
* curriculum vitae
* prior reports or publications which have been previously developed by the consultant in relation to the topic.
  1. Methodology

A methodological proposal to conduct this study/research, including understanding of the study’s issues and of the terms of reference; background of the study/research; presentation of the objectives (overall & specific); location; target countries; presentation of the methodological framework: study design, data collection, data processing, data analysis, ethical considerations.

* 1. Calendar

A timeline, clearly detailing the research’s implementation, execution, monitoring and final presentation

* 1. Ethical and professional conduct

Suppliers have to sign a declaration on ethical and professional conduct.



* 1. Clarifications and contact

You can contact OBE before the date for submission quotes to seek clarification.

OBE can contact you

* to inform you of errors, lack of accuracy, omissions or other faults in the IQ.
* to ask you to complete your file.
* to negotiate the price.

All communication has to be in writing (e-mail, fax or letter)

1. Award

OBE will appoint a selection committee of at least three (3) persons, which will

- check whether the bidders meet the exclusion criteria

- assess each quote which has passed the exclusion stage.

* 1. **Exclusion**
* Any quotes that arrive after the deadline date can be excluded;
* Any quote that exceeds the budget may be excluded
* Any quote without proof of legal existence will be excluded
* Any quote without signed declaration of compliance with the ethical and professional code of conduct will be excluded
  1. **Award**

OBE awards the contract to the bidder offering the best value for money. The selection committee will evaluate the qualitative criteria of the quotations and award points for each criterion. The quote with the most points wins.

|  |  |  |
| --- | --- | --- |
|  | Positive indicators | Points |
| Expertise of the institution | Knowledge of key influencing opportunities linked to Oxfam.  Knowledge of EU and Belgian legislative procedures  Knowledge of policies relevant to the study (energy, climate, HRDD, trade, tax) | 10 |
| Profile and experience of consultants | Knowledge of key influencing opportunities linked to Oxfam.  Knowledge of EU and Belgian legislative procedures  Knowledge of policies relevant to the study (energy, climate, HRDD, trade, tax) | 10 |
| Political perspective in line with Oxfam | Demonstrates some knowledge about Oxfam and our values, including Oxfam feminist principles and human rights based approach | 5 |
| Understanding of assignment |  | 10 |
| Proposed methodology | Proposed sources, contacts, quality of questions, tools, etc | 10 |
| Gender |  | 5 |
| Practical delivery | Quality of English  Possibility to provide finished outputs | 5 |
| Proposed calendar |  | 5 |
| Cost |  | 10 |
| General presentation | (présentation, forme, fond) | 2 |
| *Total* |  | *62* |

OBE is not under any obligation to choose the quote with the lowest price.

* 1. **No obligation to award**

Please note that OBE is not bound to select any of the proposals submitted.

* 1. **Communication of award and signing of contract**

The unsuccessful bidder will receive a no award notification, which will contain the reasons for this non-selection. The successful bidder will receive a notification of award. This notification shall be accompanied by the contract.

If the successful bidder makes changes to the contract without the prior consent of OBE, OBE will not sign and the contract may then be awarded to the candidate in second place or Oxfam can decide not to proceed to a purchase.

The contract will enter into force after signature by the supplier and OBE, copy received by e-mail being proof.

1. In 2003, the EU directive on the promotion of the use of biofuels in transport (Council Directive 2003/30/EC) set voluntary biofuel targets by 2005. These were later made mandatory through the Renewable Energy Directive of 2009 (REDI), and further increased by 2018 (REDII). [↑](#footnote-ref-1)
2. <https://ec.europa.eu/info/news/commission-presents-renewable-energy-directive-revision-2021-jul-14_en> [↑](#footnote-ref-2)
3. https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021R1119&from=EN In preamble 6, article 4.2 and article 5.3. [↑](#footnote-ref-3)
4. Might be particularly important given the COVID pandemic. [↑](#footnote-ref-4)