



SABOTAGE

**HOW COMPANIES
LOBBY AGAINST EU
PROTECTION OF THE
WORLD'S FORESTS**

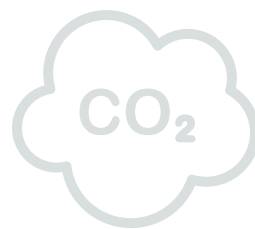
GREENPEACE



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1. WHAT IS AT STAKE?



The world loses an area of forest the size of a soccer pitch every 2 seconds. The expansion of agriculture is responsible for 80% of this deforestation, and in many parts of the world logging degrades forests, leading to their eventual destruction. Unless we urgently protect the world's forests and other ecosystems from further damage and destruction, the twin crises of the climate emergency and impending collapse of biodiversity will worsen. The sixth major extinction of species in Earth's history is already underway, but there is still time to act.

The European Union is a major consumer and financier of products from global forest and ecosystem destruction. The conversion and degradation of forests and other natural ecosystems in Brazil, Indonesia, many African countries, but also 'at home' in Europe, accelerate climate breakdown, worsen the biodiversity emergency, and put us at greater risk of future pandemics. For over a decade, and in spite of the Paris climate agreement, most national governments and the EU have refused to accept their responsibility for forest and ecosystem destruction. Now, the EU's flagship package of environmental plans, the European Green Deal, may spur the EU into action, turning the bloc from a participant in destruction and related human rights violations into a global champion of forest and ecosystem protection.

An EU law to protect the world's forests and ecosystems from the impact of European consumption cannot come soon enough.

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IT IS OUR DUTY TO ENSURE THAT OUR SINGLE MARKET DOES NOT DRIVE DEFORESTATION IN LOCAL COMMUNITIES IN OTHER PARTS OF THE WORLD. THIS IS WHY, LATER THIS YEAR, WE WILL PROPOSE NEW LEGISLATION TO MINIMIZE THE RISK OF PRODUCTS LINKED TO GLOBAL DEFORESTATION BEING PLACED ON THE EU MARKET.
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EU Commission President von der Leyen at the One Planet Summit, January 11, 2021

In 2020, nearly 1.2 million people told the EU they want strong legislation during an EU public consultation on the new law, making it the largest public consultation on environmental issues in the history of the EU. People in Europe want to be sure that the products they buy containing for example meat, palm oil, wood, soy or rubber – or their savings in the bank – will not make them complicit in ecosystem destruction.

However, many industries and companies that are producing and trading in these products are trying their best to ensure that they can carry on doing business as usual, and want any EU law to have minimal impact on their operations. Many companies profiting from products of forest destruction are already using voluntary and market-based certification schemes, but their commitments and certification labels have not protected forests and other ecosystems. Too many empty corporate promises and certification schemes have just allowed the companies to continue profiting from ecosystem destruction and human rights abuses, while pretending to clean up their supply chains.

The true face of these corporations is seldom the one they show to the public. While companies make public pledges for “zero deforestation”, many of them are lobbying EU decision-makers to make sure that the legal requirements for their businesses are as few as possible and as weak as possible.

Though many of the companies lobby EU politicians and civil servants directly, others do so indirectly through their numerous business platforms and associations, allowing the companies to appear a step removed. Those profiting from forest destruction make arguments against strong regulation that range from “it’s not really our fault, “it’s a someone else on the supply chain” and “if it’s legal it’s not a problem” to “it’s not for the EU to solve” and “go easy on us”.

This analysis by Greenpeace’s European Unit shows that despite their “green” marketing, many companies and their industry associations are eager to weaken any legislation that would require them to change their business practices – or, worse, to try carve out loopholes and exemptions for themselves.

If EU decision-makers gave in to all the arguments that businesses and their associations include in their lobbying efforts, the EU’s complicity in the global destruction of forests and ecosystems, and the worsening climate and biodiversity crises, would persist.

Documentation of land cover, forest clearance and plantation development in Papua, Indonesia. © Ulet Ifansasti / Greenpeace



2. WHOSE INTERESTS ARE AT STAKE?

Several industries and well-known corporations have a keen interest in the European Commission's upcoming legislative proposal on forest-and-ecosystem-risk commodities, and the reaction of the European Parliament and national governments. They have been ratcheting up their lobbying efforts since the Commission's preparatory work officially kicked off in 2020, with the launch of the [EU's Biodiversity Strategy](#) where the Commission promised to introduce new measures on products associated with deforestation or forest degradation and during the drafting of the [European Parliament's resolution](#) on an EU legal framework to halt and reverse EU-driven global deforestation.

To find out exactly whose interests are at stake and what the affected industries are lobbying for, Greenpeace's European Unit analysed the public responses and additional materials submitted to the Commission's public consultation by businesses and their associations; public statements in the press and on social media during autumn 2020; and additional lobby materials by the industries targeting the Commission and the Parliament. The Greenpeace European Unit then took a closer look at the statements and positioning of all the 86 companies and corporate associations whose contributions to the public consultation were publicly accessible and which were most active in the debate. These companies and industry associations are part of, or represent, the following sectors:

- Meat and dairy industries, especially European ones
 - Animal feed suppliers and producers, especially of soy
 - Palm oil producers and users, including chemical industries
 - European forest and wood-based industries
 - European retailers and supermarkets
 - Multinational consumer goods industries in the food and drinks sector
 - Cacao and confectionery producers
 - European rubber and tyre manufacturers
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It is not surprising that these sectors are particularly interested, as they all are users and producers of commodities that have been identified as key drivers of deforestation, forest degradation and other ecosystem destruction in numerous pieces of research and science, including by the European Commission.

Companies are not only lobbying decision-makers directly; their messages are also delivered by their industry associations and other platforms that engage in lobbying. This echo chamber helps to obfuscate whose interests are being argued for (see box 5).

Most of the above-mentioned industries have, over the years, deferred to industry-led voluntary measures and pledges. Now they have to face the fact that new regulatory measures are coming.

Given the mounting evidence showing the repeated failure of these voluntary measures, only a few companies still argue that no EU rules or action are needed. Open opposition to any legal rules that fight deforestation will not be well-received by the public, so many apparently prefer to try to weaken the legislation using alternative channels instead.

Despite commitments to their customers to only supply deforestation-free products, a closer look at companies' arguments and proposals for EU rules reveals that many of them would like to water down the scope and objectives of the legislation and minimise their own responsibility.

This analysis shows what different industry representatives and corporations are asking from EU decision-makers and exposes the misleading arguments they use to rationalise their position.

Forest fires in the Amazon, Jaci-Paraná Extractive Reserve, in Porto Velho, Brazil. © Christian Braga / Greenpeace



3. CORPORATIONS COMMIT TO “FIGHTING DEFORESTATION, BUT...”

From small businesses to multinational corporations, all of the 86 companies and industry associations analysed committed – at least on paper – to (among other things) protect the environment, and fight deforestation and climate change.

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GLOBAL DEFORESTATION IS A PRESSING CHALLENGE FOR SOCIETY AND FOR OUR COMPANIES. WE ACKNOWLEDGE THAT OUR BUSINESSES HAVE A RESPONSIBILITY IN THIS FIGHT BECAUSE OUR SUPPLY CHAINS ARE GLOBAL AND INCLUDE COMMODITIES THAT MAY CONTRIBUTE TO DEFORESTATION. THIS IS WHY WE ARE COMMITTED TO ENDING DEFORESTATION IN OUR SUPPLY CHAINS AND HAVE IMPLEMENTED MEASURES TO THIS END OVER THE LAST TEN YEARS.

Statement of 11 business leaders in May 2021

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BUNGE IS COMMITTED TO: ELIMINATING DEFORESTATION FROM OUR AGRICULTURAL SUPPLY CHAINS WORLDWIDE BY 2025, REDUCING [GREENHOUSE GAS] EMISSIONS, PROTECTING PEAT LAND AND OTHER CARBON-CAPTURING ECOSYSTEMS, CONSERVING FRESHWATER AND BIODIVERSITY, SUPPORTING LIVELIHOODS, AS WELL AS RESPECTING LABOR AND LAND USE RIGHTS.

Bunge consultation response

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However, industry statements reveal a playbook with similar themes repeated. Companies tell a story to policymakers: that their industry is not culpable, passing the blame onto others; that the industry has its own schemes to deal with the problem; that some other entity than the EU should deal with the problem; or that the change demanded from businesses is too radical.

3.1 “IT’S NOT REALLY OUR PROBLEM”

Even if they in principle support the EU’s commitment to fight deforestation, many industry representatives are quick to assert that their specific business, sector or region is not responsible for deforestation or other ecosystem destruction, and rather others are to blame.

This argument seems to be particularly popular among European forest industry representatives, most of whom argue that timber products should not be regulated under the new EU legislation, and instead the focus should be on other commodities.

The industry representatives quoted on the side cover almost all of Europe’s paper, pulp and woodworking companies. The Confederation of European Paper Industries for example represents 495 pulp, paper and board producers, covering about 92% of European paper and pulp production. It also includes some of the world’s biggest companies in the sector like UPM, StoraEnso, International Paper, SCA and Mondi – all claiming their sector is not contributing to deforestation.

An area of forest in southern Finland which was logged by UPM, a Finnish forest industry company, and later burned.
© Jani Sipilä / Greenpeace

AGRICULTURAL PRODUCTION IS THE MAIN DRIVER OF DEFORESTATION WITH SOY, PALM OIL AND COCOA REPRESENTING 80% OF EU IMPORTS FROM DEFORESTED AREAS. THE MAIN AGRICULTURAL DRIVERS SHOULD BE TACKLED THROUGH A SET OF PROPORTIONATE AND TARGETED MEASURES.

*Finnish Forest Industries Federation (FFIF)
consultation response*

WHILE EUROPEAN PULP, PAPER AND BOARD PRODUCTION DOES NOT CONTRIBUTE TO DEFORESTATION, THE ASSOCIATION BETWEEN DEFORESTATION AND THE USE OF PAPER CONTINUES TO THROW SHADE ON THE REPUTATION AND IMAGE OF SUSTAINABLY ACTING PRODUCERS IN EUROPE.

*Confederation of European Paper Industries (CEPI)
consultation response*

EU ACTION SHOULD BE COST-EFFECTIVE AND FOCUS ON THE MAIN TRADED COMMODITIES DRIVING DEFORESTATION. [...] THERE IS NO NEED FOR THE ADOPTION OF ADDITIONAL EU LEGISLATION FOR WHAT CONCERNS WOOD FOREST PRODUCTS.

*European Confederation of Woodworking Industries,
CEI-Bois, consultation response*



THE EU SHOULD ALLOW SECTORS AND COMPANIES TO PRESENT ITS DEFORESTATION FOOTPRINT. SECTORS WITH VERY LOW DEFORESTATION FOOTPRINT, AS IT IS THE CASE OF BRAZILIAN SOYBEAN, SHOULD BE EXCLUDED FROM FUTURE REGULATIONS.

Brazilian Association of Vegetable Oil Industries, ABIOVE, consultation response

WITH THIS INFORMATION, WE CAN SAY THAT AROUND 84 % OF THE PARAGUAYAN SOYBEAN AREA IS NOT TIED TO LAND CONVERSION FROM FOREST SINCE 2005.

Paraguayan Chamber of Oilseed and Cereal Processors (CAPPRO) additional consultation response

ALL OF THESE STUDIES INDICATE THAT COMMODITIES SUCH AS CATTLE, SOYBEANS AND PALM OIL CONTRIBUTE TO THE BULK OF DEFORESTATION (40% ACCORDING TO FAO). FURTHERMORE, THE SUMMARY REPORT OF THE PUBLIC CONSULTATION IN THE CONTEXT OF THE COMMUNICATION ON STEPPING UP EU ACTION AGAINST DEFORESTATION SHOWS THAT RUBBER IS CONSIDERED AS A LOW RISK COMMODITY.

European Tyre & Rubber Manufacturers Association (ETRMA) additional consultation response

THE OVERALL DEFORESTATION FOOTPRINT OF OIL PALM IS LOW WHEN COMPARED WITH OTHER COMMODITIES. [...] IT IS GENERALLY UNDERSTOOD THAT FOREST LOSS FROM BEEF AND LIVESTOCK IS NEARLY TEN TIMES HIGHER THAN THAT OF PALM OIL; SOYBEAN DEFORESTATION IS ALMOST DOUBLE; AND MAIZE DEFORESTATION IS ALSO HIGHER THAN PALM OIL. [...] DESPITE THIS, THERE IS A DISPROPORTIONATE FOCUS ON PALM OIL AMONG EUROPEAN STAKEHOLDERS WHEN CONSIDERING DRIVERS OF GLOBAL DEFORESTATION.

Indonesian Palm Oil Association IPOA / GAPKI additional consultation response

The extraction of wood from the world's forests is the main driver of global forest degradation, which is a known precursor to deforestation, and often the first step before clearing away the whole forest. Especially in the Asia-Pacific region, forestry products – as well as palm oil – have been found to account for around a third of the deforestation embodied in products from the regions. According to a recent study commissioned by WWF, wood products were fourth on the list of commodities with most embodied deforestation consumed in the EU. Cutting and intensively “managing” forests for pulp, paper, or throwaway products, or even to burn wood for energy, is devastating to not only tropical but also Northern forests. In Europe, forestry is the second biggest threat to species protected by EU laws.

Not surprisingly, the other industries referred to by the forest industry representatives as more responsible for deforestation and ecosystem destruction, are equally eager to deflect the blame elsewhere.

The boldest and most shameless industry representatives turn the blame on small-scale and subsistence farmers. The Indonesian fFEEF Association (GAKPI) and palm oil trading giants Golden Agri-Resources have lobbied MEPs with ‘factsheets’ to that end. The European Tyre & Rubber Manufacturers’ Association (ETRMA) blames the structure of the sector for the lack of traceability, lobbying on behalf of companies like Pirelli, Nokian Tyres, Michelin and Bridgestone.

The latter two, respectively, have been accused by Mighty Earth to be linked to labor and environmental concerns on Liberian rubber plantations and to deforestation in Indonesia to make way for rubber plantations.

Golden Agri-Resources is one of Indonesia’s largest palm oil traders, supplying leading consumer goods companies like Unilever, Mondelez and Nestlé. According to Greenpeace International investigations, GAR has been purchasing palm oil from producer groups linked to deforestation for years, as well as from producer groups linked to thousands of devastating forest and peatland fires in Indonesia in 2019 and has had senior staff condemned for bribing parliamentarians in Indonesia.

Deforestation trends linked to palm oil in Indonesia

Introduction

Studies show that deforestation from large scale plantations is declining, but deforestation from small scale agriculture and as a result of fire is on the rise. The latest research on the causes of deforestation must inform government and industry efforts to clamp down on deforestation. This factsheet focuses on deforestation from palm oil and highlights the latest findings from sources operating in Indonesia.

Forests in Indonesia

To understand the challenge of protecting forests in Indonesia, one must first understand the underlying legal framework of spatial planning. According to the Ministry of Environment and Forestry, Indonesia has a land area of 188 million hectares (ha), of which 120.6 million ha is legally designated forest area and 67.4 million ha as legally designated non-forest area.

Extent of land cover types in forest area and non-forest area in Indonesia (2017)

Land cover	(in million hectares)			%
	Forest Area	Non-Forest Area	Grand Total	
A. Forested	85.8	34.2	120.0	61.6
- Primary forest	44.7	1.5	46.2	24.6
- Secondary forest	37.8	5.4	43.2	23.0
- Plantation forest	3.4	1.3	4.7	2.5
B. Non-forested	34.2	53.2	87.4	46.4
Total Terrestrial Area	120.0	67.4	187.4	100

Source: The Indonesian Ministry of Environment and Forestry, 'The State of Indonesia's Forests 2018'

Factsheet sent in July 2020 on behalf of Golden Agri-Resources, a dominant Indonesian palm oil producer and trader, to MEPs working on the European Parliament's position on future EU legislative action on deforestation

IT SHOULD BE UNDERLINED TO EUROPEAN UNION POLICYMAKERS THAT EVEN IF PALM OIL DEFORESTATION STOPPED TOMORROW, IT WOULD NOT STOP DEFORESTATION IN INDONESIA. DEFORESTATION FROM OTHER SMALLHOLDER AGRICULTURAL OPERATIONS, URBANISATION AND OTHER EVENTS WOULD CONTINUE REGARDLESS.

Indonesian Palm Oil Association (IPOA / GAKPI) consultation response

DESPITE THE INDUSTRY'S WORK AT INTERNATIONAL LEVEL THROUGH THE GPSNR, IT IS IMPORTANT TO UNDERSTAND THAT, BECAUSE OF ITS VERY STRUCTURE AND DIFFERENTLY FROM OTHER COMMODITIES, THE WORK ON TRACEABILITY IN THE NATURAL RUBBER INDUSTRY IS STILL AT ITS EARLY STAGES. THIS LIMITED EXPERIENCE TRANSLATES IN A STILL LIMITED IMPACT ON LOCAL BUSINESS PRACTICES AND HABITS. THIS IS PARTICULARLY TRUE IN THE CASE OF SMALLHOLDERS, WHO ARE KEY ACTORS IN THE NATURAL RUBBER VALUE CHAIN.

European Tyre & Rubber Manufacturers Association (ETRMA) consultation response

3.2 “WE ALREADY DEALT WITH THE PROBLEM”

While assuring their full support to the EU's efforts to fight deforestation and forest degradation, many companies or industry lobbyists claim that they already have the matter under control, via existing voluntary industry guidelines or certification schemes.

Representatives of the European meat industries are coming under increasing scrutiny over the environmental impacts of globally sourced feed like soy to feed chicken, pigs and other industrial farm animals. Three of the biggest European meat industry associations – AVEC, UECBV and CLITRAVI (see Box 1) – all opposed a mandatory product-specific due diligence approach for forest-and-ecosystem-risk commodities like soy and meat. AVEC and UECBV specifically stated in their response to the Commission's consultation that any due diligence approach should be voluntary.



WHILE VERY OFTEN SOY SUPPLY IS ASSOCIATED WITH DEFORESTATION RISKS, OUR MEMBERS ARE WORKING IN CLOSE COLLABORATION WITH FEED SUPPLIERS TO MAKE SURE THAT SUPPLY COMES FROM FULLY LEGITIMATE AGRICULTURAL PRODUCTION IN THE PRODUCING COUNTRIES. IN PARTICULAR THEY SUPPORT INITIATIVES FROM THE FEED SECTOR (FEFAC) SUCH AS SOY SOURCING GUIDELINES IN ORDER TO ACCOMMODATE THE PROMOTION OF CERTIFIED DEFORESTATION-FREE SUPPLY CHAINS. AVEC IS ALSO KEEN ON SUPPORTING PUBLIC-PRIVATE COLLABORATION WITH EXPORTING COUNTRIES TO INCREASE THEIR CAPACITY TO DELIVER ON TACKLING DEFORESTATION.

EU Poultry Meat Sector AVEC feedback to Commission roadmap on action on deforestation and forest degradation

Documentation of land cover, forest clearance and plantation development in Papua, Indonesia.
© Ulet Ifansasti / Greenpeace



The voluntary guidelines of the European Feed manufacturers' Federation (FEFAC), reviewed in 2021, do not require that soy must be sourced free from deforestation or other ecosystem conversion.

BOX 1: YOURS VOLUNTARILY, THE EUROPEAN MEAT LOBBY

Numerous studies on the key commodities driving deforestation globally put soy and beef in the top five. In Europe, the meat industry, particularly industrial poultry and pig meat production, are by far the biggest consumers of soy, the most important protein-rich feed for the sector.

Despite the obvious risks in the meat and feed sectors, many of the biggest representatives of the European meat industries oppose effective legislation that would ensure the meat sold in European supermarkets is not linked to forest and ecosystem destruction or human rights violations.

This message is touted by the three major European meat industry associations: AVEC, “the voice of Europe’s poultry meat sector” whose members represent 95% of EU poultry meat production; UECBV, an association representing some 20,000 firms in meat and livestock trading and processing from the farm gate onwards; and CLITRAVI, which also represents meat processing industries and slaughterhouses across Europe and shares some of its members with UECBV.

Together with the farmer’s union Copa-Cogeca, these organisations have synced up on EU politics under the umbrella of the European Livestock Voice and the “#MeatTheFacts” campaign. These platforms have aggressively rejected criticism on the environmental impacts of overproduction and consumption of meat.

While these organisations do not have much of a public profile, many of their biggest corporate members do. UECBV’s members include companies like the French Bigard, Danish Crown, Dutch meat company Vion, and the German Tönnies slaughterhouses where poor working conditions reportedly contributed to a massive coronavirus outbreak in the summer of 2020. All of these companies are, through their industry associations, lobbying against effective legislation, and some appear to be playing a duplicitous game.

Danish Crown has come under fire for both its links to deforestation and forest fires through trade with notorious JBS – the biggest animal protein company in the world and second biggest food company after Nestlé – and Minerva. Danish Crown is also reported to be linked to deforestation caused by soy production. Even though Danish Crown has called for a more progressive set of EU measures, it continues to do business with these meat giants. Its response to the public consultation supports mandatory due diligence to ensure products placed on the EU market comply with a deforestation-free requirement. However, at the same time, Danish Crown has its industry associations pulling in the opposite direction.

In addition, industry associations like AVEC and UECBV do not only represent Europe’s biggest meat companies, but also some of the world’s biggest meat multinationals like JBS. For example, Moy Park is a poultry meat producer owned by a subsidiary of JBS, Pilgrim’s pride, and operating in Ireland, France, the Netherlands and the UK. It is a member of the British Poultry Council, which is a member of AVEC.

The “we have it covered by certification” pledges are not exclusive to the meat industries. Similar arguments were made by lobbyists from other industry sectors:

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FURTHERMORE, HIGH STANDARDS OF SUSTAINABLE FOREST MANAGEMENT PRACTICE, LARGELY APPLIED IN EUROPEAN STATE FORESTS, ARE CONFIRMED BY VOLUNTARY FOREST CERTIFICATION SYSTEMS.

European State Forest Association, EUSTAFOR consultation response

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ON TOP OF THIS COMPLIANCE [WITH BRAZILIAN LEGISLATION], MOST PART OF IBÁ MEMBERS SUBMIT THEMSELVES TO A RANGE OF VOLUNTARY AND INTERNATIONALLY RECOGNIZED STANDARDS, SUCH AS FSC, PEFC AND ISO.

Brazilian Tree Association, Indústria Brasileira de Árvores, consultation response

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IN EUROPE THE MAJORITY OF THE PALM OIL USED IN THE FOOD MARKET IS ALREADY CERTIFIED. EPOA URGES TO BUILD ON THIS ACHIEVEMENT AND ASK ALL STAKEHOLDERS IN THE EUROPEAN PALM OIL SUPPLY CHAIN TO REPORT ON THEIR COMMITMENTS.

European Palm Oil Alliance consultation response

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ISPO CAN AND SHOULD SATISFY BOTH LEGALITY AND SUSTAINABILITY REQUIREMENTS UNDER ANY DUE DILIGENCE REGULATION. MOREOVER, ANY DUE DILIGENCE REGULATION SHOULD PROVIDE AN ADEQUATE REGULATORY PATHWAY FOR NATIONAL SUSTAINABILITY AND LEGALITY SYSTEMS THAT HAVE BEEN DEVELOPED FOR THE EU'S SO-CALLED FOREST RISK COMMODITIES.

Indonesia Palm Oil Association consultation response, referring to Indonesia's national palm oil certification scheme (ISPO)

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However, voluntary and mandatory certification schemes have been repeatedly exposed for their loopholes and systematic failures. The governance of most schemes is dominated by the industries themselves, and their standards are inconsistent, often very weak and poorly implemented, so that companies linked to deforestation and rights abuses can still be certified. Furthermore, instead of companies taking responsibility for only providing products that are not destructive, they pass the final responsibility to the consumer to choose a product based on a range of confusing and misleading labels. Some schemes have been stretched to cover a whole sector in a country. One example is the Indonesia Sustainable Palm Oil (ISPO) scheme which was co-developed by the Indonesian government and the palm oil industry. Compliance is mandatory for the whole industry, and the industry representative claims that the sustainability of all the certified palm oil is guaranteed. However, the scheme hardly goes beyond the existing legal requirements in Indonesia. It fails to guarantee that production is free from deforestation or rights abuses, and has a low uptake even though it is mandatory (1).

After three decades of trying, certification schemes have failed to halt deforestation in key commodity supply chains. It is this historic failure of the, mostly voluntary, industry commitments that makes a new comprehensive set of legal measures necessary.

3.3 “IF IT’S LEGAL, IT’S NOT A PROBLEM”

Producing a product in accordance with the law does not mean it was produced sustainably, let alone free from links to deforestation or human rights abuses. Even though this is already recognised by many industry representatives engaging with the upcoming forest-and-ecosystem-risk commodity legislation, a few industry sectors still argue that if production is legal, it’s good enough.

European forest industry representatives in particular use this argument regularly. They argue that existing EU legislation which requires that wood products sold in the EU are not illegal (2) is enough and that on this basis timber should be exempt from the new legislation on forest-and-ecosystem-risk commodities altogether.

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IF A DUE DILIGENCE APPROACH WAS TO BE DEVELOPED UNDER THE NEW EU LEGAL FRAMEWORK, IT SHOULD NOT CONCERN THE PRODUCTS COVERED BY EUTR.

Confederation of European Forest Owners (CEPF) consultation response, referring to the EU Timber Regulation that only requires legality of wood products

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DIFFERENT MEASURES SHOULD APPLY TO DIFFERENT COMMODITIES AND PRODUCTS. FOR WOOD-BASED PRODUCTS THE MOST APPROPRIATE AND PROPORTIONATE IS THE EU TIMBER REGULATION AND VOLUNTARY CERTIFICATION SYSTEMS.

Confederation of European Paper Industries (CEPI) consultation response

(1) As of April 2020, just over a third of Indonesia’s plantation companies (557 of 1,500) and less than 1% of smallholdings had been certified as sustainable by the ISPO. Source: Jong, H. N. (2020, 29 April). For further details see Destruction: Certified, Greenpeace 2021

(2) The EU Timber Regulation, which applies since 2013, requires that any timber and timber products sold on EU markets had to be legally harvested, according to the legislation of the country of origin.

Again, “legality” is no proof a product is deforestation-free, especially in places with insufficient legislation and weak law enforcement, or where laws protecting the environment and Indigenous Peoples’ rights are under attack (see Box 2).

BOX 2: LEGAL OR ILLEGAL – DOES IT MATTER?

A good deal of forests and other ecosystems, both in and outside of Europe, lack sufficient and robust legal protection. In the South American soy producing countries Paraguay, Argentina and Brazil, for example, it has been estimated that under the current laws over 100 million hectares of forest could be legally cleared – an area equivalent to the entire amount of tropical forest the world lost in the past two decades.

In Brazil, President Bolsonaro’s administration is systematically dismantling the environmental agencies and undermining law enforcement. New legislation is expected to further open up the Amazon rainforest and other ecosystems to exploitation. A series of bills, if passed, would further weaken environmental protection, legalise land grabs, incentivise illegal logging, and further threaten Indigenous Peoples’ rights.

A recent scandal involving Brazilian Amazon timber sold on EU markets further underscores the problem of legality. The Brazilian Federal Police is reportedly investigating Environmental Minister, Ricardo Salles, on suspected corruption, facilitation of smuggling, and malfeasance committed by public agents and businessmen in the timber industry. According to Brazil’s supreme court, the head of the Brazilian environmental agency IBAMA had issued an order to allow illegal timber to be exported from Brazil, circumventing applicable regulations and safeguards. According to police authorities, the order has allegedly been prepared at the request of Brazilian timber companies, associations and exporters, including Tradelink Madeiras LTD, part of the international timber trading group Tradelink.

The current environmental crisis in Brazil clearly exemplifies how only relying on formal legal criteria gives reckless governments, such as Bolsonaro’s, not just a blank cheque, but a reward for environmental destruction and corruption.

Representatives of several Brazilian and other South American producer organisations of soy and planted trees, and some Indonesian palm oil producers, echo the legality argument.

“ WE STRONGLY FEEL THAT THE EU SHOULD RECOGNIZE AND CONSIDER THE PROTECTION AWARDED AGAINST DEFORESTATION AND FOREST DEGRADATION BY THE THIRD COUNTRY JURISDICTIONS, WHEN APPLICABLE, IN OUR CASE, THE BRAZILIAN FOREST PROTECTION LAWS.

Brazilian Tree Association (IBA) consultation response

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“ IMPOSING A CUT-OFF DATE WOULD MEAN EXCLUDING FARMERS EVEN WHEN THEY EXPAND AREAS LEGALLY. WE’VE ALWAYS SAID WE WOULD NOT DO IT. [...] FARMERS IN BRAZIL, AS IN EUROPE, OWN THEIR LAND AND, AS LONG AS THE RESPECTIVE NATIONAL LEGISLATION IS COMPLIED WITH, THEY CAN DO WHAT THEY WANT ON THEIR PROPERTIES.

President of Brazilian Association of Vegetable Oil Industries (ABIOVE), Financial Times 18 January 2021

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“ THE EU HAS THE OPTION OF INTRODUCING DUE DILIGENCE FOR LEGALITY (SIMILAR TO THE FLEGT ARRANGEMENT) OR ATTEMPTING TO INTRODUCE SUSTAINABILITY REQUIREMENTS FOR THOSE IMPORTS. INTRODUCING SUSTAINABILITY CRITERIA WILL DISRUPT TRADE BETWEEN THE EU AND INDONESIA, AND MAY CONSEQUENTLY EXPOSE ANY EU REGULATION TO CHALLENGES UNDER THE WTO AGREEMENTS IN A SIMILAR FASHION TO THE CURRENT DISPUTE REGARDING CRITERIA FOR THE RED DIRECTIVE.

Indonesian Palm Oil Association (IPOA / GAPKI) consultation response

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“ [...] ACCORDING TO FOREST TRENDS, ALMOST HALF (49%) OF TOTAL TROPICAL DEFORESTATION BETWEEN 2000 AND 2012 WAS DUE TO ILLEGAL CONVERSION FOR COMMERCIAL AGRICULTURE. ACCORDINGLY, AND WHILE CARGILL IS COMMITTED TO TRANSFORMING OUR AGRICULTURAL SUPPLY CHAINS TO BE DEFORESTATION FREE (LEGAL AND ILLEGAL), ILLEGALITY IN AGRICULTURAL LAND CONVERSION SHOULD BE ONE OF THE INITIAL PRIORITIES TO BE TACKLED IN A STEPWISE APPROACH TO TRULY SUSTAINABLE SUPPLY CHAINS.

Cargill consultation response

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Agribusiness giants like Cargill are fully aware that only tackling illegal deforestation would not meaningfully address the problem. Still, they plead for indefinitely delaying the adoption of proper sustainability requirements. Ten years ago, Cargill announced it would end deforestation in its supply chains by 2020. It recently admitted it missed that deadline and set a new target for 2030. Cargill is America’s second biggest private company, a top exporter of Brazilian soy and one of the top three meat packers globally.

3.4 “IT’S NOT FOR THE EU TO SOLVE”

Another popular argument industry representatives use to push back against new legislative action by the EU is that it should not be up to the EU to “unilaterally” regulate products placed on its own internal market to curb the impacts of its own consumption. Rather, these industries argue, the EU should not be allowed to set requirements for forest-and-ecosystem-risk commodities without the endorsement of its trading partners. Such reasoning goes against common practice. The EU already regulates most products sold on its markets at least with regards to health and safety. It would be well within its remit to do so based on environmental or social impacts as well. Still, representatives of Indonesian and Malaysian palm oil industries commonly use this argument (see box 3).

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TO FACILITATE THE SCALING UP OF SUSTAINABLE PRODUCTION AND SUSTAINABLE LIVELIHOODS, THE EU SHOULD ADOPT A WIN-WIN MINDSET AND PARTNER WITH THE GOVERNMENT OF INDONESIA. A PUNITIVE APPROACH SUCH AS MARKET ACCESS RESTRICTIONS IS LIKELY TO LOWER PRODUCING COUNTRIES’ WILLINGNESS TO ENGAGE WITH THE EU.

Golden Agri-Resources (GAR) consultation response

COOPERATION BETWEEN INDONESIA AND THE EU SHOULD MAINTAIN THE FOLLOWING PRINCIPLES: [...] UPHOLD INDONESIAN SOVEREIGNTY. THERE SHOULD BE NO IMPOSITION ON INDONESIA’S SOVEREIGN RIGHT TO REGULATE ITS DOMESTIC PALM OIL INDUSTRY, INCLUDING THE FUTURE DEVELOPMENT AND EVOLUTION OF ISPO.

Indonesian Palm Oil Association (IPOA / GAPKI) consultation response

“

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 DISGUIISING PROTECTIONIST AND DISCRIMINATORY POLICIES UNDER AN ‘ENVIRONMENTAL BLANKET’.

Malaysian Palm Oil Council (MPOC) consultation response

”

Collaboration between countries – including between the EU and its trade partners – is of course necessary. However, calls to focus on “collaboration” or on action at the local or global level tend to come from the same industry representatives that support only weak EU legislative requirements.

These “discourses of delay” of environmental or climate action argue that something or someone else should act first.



THE MAIN ISSUE WITH THE APPROACH TAKEN IN THIS CONSULTATION IS THAT IT LOOKS FOR EU ACTIONS THAT SHOULD HAVE AN IMPACT ON COUNTRIES ON WHICH THE EU DOES NOT REGULATE AND ON WHICH THE EU HAS NO CONTROL ON. IT IS FOR THIS REASON THAT THE WORK SHOULD BE DONE LOCALLY – IN THE PRODUCING COUNTRIES – OR GLOBALLY.

*European Tyre & Rubber Manufacturers Association (ETRMA),
consultation response*

BOX 3: GOVERNMENT-BACKED INDUSTRY LOBBIES

Corporate and government interests are often hard to tell apart when it comes to regulating commodities that play a dominant economic role in the producing countries.

In the case of palm oil industries in Indonesia and Malaysia, the governments of both countries have taken a stand at the EU level to protect the financial interests of their industries and corporations.

The Malaysian government and national legislature charged the Malaysian Palm Oil Council, representing the Malaysian palm oil industry’s interests, with promoting Malaysian palm oil globally. The Indonesian Palm Oil Association (GAPKI) consists of state-owned plantation companies, as well as private companies and some cooperatives. But its most senior staff have been drawn from the palm oil industry.

“It is GAPKI’s view that introducing sustainability criteria will disrupt trade between the EU and Indonesia, and may consequently expose any European Union regulation to challenges under the WTO Agreements in a similar fashion to the current dispute regarding criteria for the EU Renewable Energy Directive.”

GAPKI/IPOA consultation response

Previous EU policies affecting palm oil consumption in Europe have escalated into governmental disputes and diplomatic clashes. In the EU’s renewable energy rules, the original legislation from 2008 set new targets for biofuel consumption in transportation in the name of climate change mitigation and opened up new export opportunities for palm oil producers. When research revealed that growing palm oil production for biofuels was in fact not helping the climate, the EU replaced some of the original incentives with new sustainability requirements, causing fury in the palm oil biodiesel industry.

Other trade disputes at the governmental level, such as legal action at the World Trade Organisation against the European Union by both the Indonesian and Malaysian governments over biofuel sustainability requirements, are defending the interests of some of the biggest corporations in the business.

3.5 “MAKE IT EASY ON US”

Despite the arguments made by a number of corporations as to why strong new EU legislation is not necessary, there are also a good number of corporations welcoming new rules to address the EU’s impact on deforestation and forest degradation. Many of these corporations are closer to European consumers, and have names and brands that ordinary people recognise. Still, several of these well-known brands also have obvious and often exposed links to deforestation and ecosystem destruction through their supply chains.

A closer look at the type of EU legislation that several corporations would like to see, reveals that they lobby for rules that only encourage “continuous improvement” of supply chains over time via internal corporate governance procedures, rather than rules that require a clear end result, such as placing only products free from forest and ecosystem destruction on European supermarket shelves.

While improved corporate governance is also much needed (3), and the Commission is preparing horizontal due diligence rules to address the environmental and human rights impacts of the corporate sector as a whole, such rules will not directly regulate the commodities identified as the biggest drivers of deforestation to guarantee their sustainability. More importantly, they do not effectively ensure that commodities and products meet clear environmental and human rights standards.



COMPANIES SHOULD BE EXPECTED TO DEMONSTRATE THAT THEY ARE TAKING REASONABLE STEPS TO PREVENT AND ADDRESS DEFORESTATION THAT THEY ARE OR COULD BE INVOLVED WITH THROUGH THEIR OWN ACTIVITIES OR THEIR BUSINESS RELATIONSHIPS ACROSS THE VALUE CHAIN. IT ALSO MEANS THAT, [...] COMPANIES MAY NOT BE ABLE TO PREVENT ALL IMPACTS. LEGISLATION SHOULD THEREFORE ENCOURAGE ONGOING IMPROVEMENT IN COMPANY APPROACHES OVER TIME AND RECOGNIZE THE IMPORTANCE OF ENCOURAGING EFFORTS TO ADDRESS THE ROOT CAUSES OF DEFORESTATION.

PEPSICO consultation response on what due diligence should mean

REGARDING DUE DILIGENCE VS POTENTIAL PROHIBITION APPROACH, WE BELIEVE THE FORMER IS THE RIGHT TOOL FOR CONTINUAL IMPROVEMENT, ASSESSING RISK, FOCUSING ON PRIORITIES – THUS ‘IMPROVING BY ENGAGING’.

SAPPI Paper & Pulp consultation response

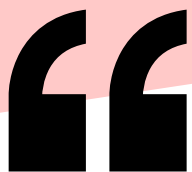
(3) The European Commission is preparing two new legislative proposals that would involve “due diligence” as a means of implementation. One is a new EU company law to improve corporate governance through a cross sectoral ('horizontal') due diligence framework for environmental, social and 'good governance' risks, without imposing any requirements on products and services. The other is the new forest-and-ecosystem-risk commodity law that would regulate a clearly defined range of commodities and products, with strict environmental and human rights criteria for their placement on the EU market. Both are complementary and necessary, yet they have very different approaches and purposes and the focus of this analysis is on corporate influence on the latter piece of legislation.

Arguments like these suggest that ensuring a traceable supply of sustainable products is practically impossible. FoodDrinkEurope, an industry association that represents hundreds of food manufacturers and retailers (see box 5), also argued in its EU consultation response that EU legislators should only “encourage” the adoption of sustainable and responsible practices and “advance corporate awareness”, confining the role of legislators to gentle nudging and persuasion, rather than setting clear rules and standards.



FEFAC WOULD CALL ON THE COMMISSION TO FAVOUR THE LEGISLATION THAT ENCOURAGES INVESTMENT IN SUSTAINABLE SUPPLY CHAINS (INCLUDING CERTIFICATION AND PUBLIC-PRIVATE SECTOR AGREEMENTS) AND REFRAIN FROM ANY 'PENALTY SYSTEM' THAT ONLY STIMULATES THE GEOGRAPHICAL AVOIDANCE OF DEFORESTATION-RISKS...

European Feed Manufacturers' Federation (FEFAC) feedback to Commission roadmap on action on deforestation and forest degradation



THE FOOD AND DRINK INDUSTRY IS COMMITTED TO [...] SUPPORT THE ESTABLISHMENT OF A HARMONISED FRAMEWORK AT EU LEVEL THAT ENCOURAGES ALL ACTORS OF THE FOOD VALUE CHAIN TO ADOPT SUSTAINABLE AND RESPONSIBLE BUSINESS PRACTICES. THIS ENTAILS IDENTIFYING AND ADDRESSING THEIR POTENTIAL IMPACTS ON HUMAN RIGHTS AND THE ENVIRONMENT. AN APPROPRIATE FRAMEWORK SHOULD AIM TO ADVANCE CORPORATE AWARENESS ON HUMAN RIGHTS AND ENVIRONMENTAL RESPONSIBILITY AND TRANSLATE INTO COLLABORATIVE, IMPACTFUL AND EFFECTIVE ACTIONS.

FoodDrinkEurope consultation response

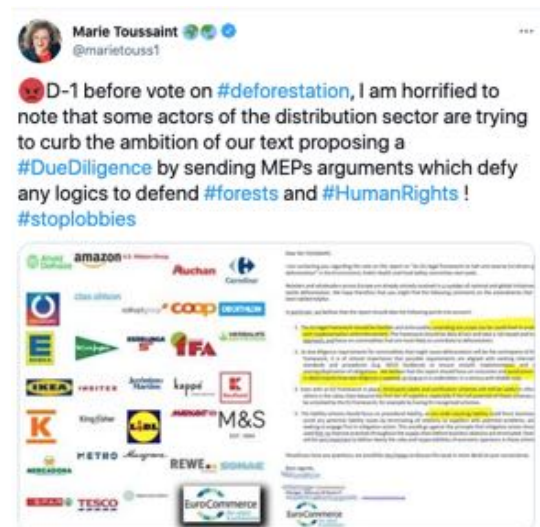
In addition, the few industry lobbies that are open to some new EU rules are at most willing to accept incremental improvement with little constraint on their businesses, and without exposure to legal risks when their supply chains harm the environment or people. They ask the EU to provide businesses with incentives, or at least to refrain from any penalties other than, in one case, “procedural liability”.

LEGISLATION SHOULD FOCUS ON THE SPECIFIC COMMODITY LINKED TO DEFORESTATION RATHER THAN ATTACH REQUIREMENTS OR PENALTIES TO PRODUCTS THAT USE THOSE COMMODITIES.

PEPSICO consultation response

THE LIABILITY SCHEME SHOULD FOCUS ON PROCEDURAL LIABILITY, AS TOO WIDE-REACHING LIABILITY COULD FORCE BUSINESSES TO AVOID ANY POTENTIAL LIABILITY ISSUES BY TERMINATING ALL RELATIONS TO SUPPLIERS WITH POTENTIAL PROBLEMS, WITHOUT SEEKING TO ENGAGE FIRST IN MITIGATION ACTION.

Letter by EuroCommerce to MEPs in October 2020



Tweet by MEP Marie Toussaint exposing the lobbying of EuroCommerce, on behalf of several retailers and supermarkets, that aims to weaken many of the key requirements of the Parliament's position on upcoming EU legislation on deforestation.

The European feed industries also call for encouragement and support for incremental and procedural advancements, rather than clear “deforestation-free” requirements for products. The sector coordinates under three organisations: COCERAL, FEDIOL and FEFAC. Together they represent the EU grains and oilseed trade and the crushing, refining of vegetable oils and manufacturing of compound feed. The three often speak with one voice in policy debates and have actively lobbied EU decision-makers opposing rules that would make corporations responsible for breaking sustainability requirements or clear benchmarks for what deforestation-free should mean.

“

COCERAL, FEDIOL AND FEFAC ARE NOT IN FAVOUR OF LINKING A DUE DILIGENCE OBLIGATION WITH THE SETTING OF A UNILATERAL STANDARD FOR FOREST-RISK COMMODITIES (I.E. NO-DEFORESTATION CRITERIA), BECAUSE THIS WOULD WORK AS A NEGATIVE SIGNAL TO THE ENGAGEMENT WITH PRODUCER COUNTRIES AND ACT AS A DETERRENT TO COMPANY INVOLVEMENT IN HIGHER RISK AREAS...

WE SUPPORT A HARMONISED MANDATORY DUE DILIGENCE SYSTEM BASED ON KEY PROCESS REQUIREMENTS, BUILT ON EXISTING AUTHORITATIVE GUIDELINES, NOTABLY THE UNGP AND OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES AND RESPONSIBLE BUSINESS CONDUCT AND THE OECD/FAO GUIDANCE FOR RESPONSIBLE AGRICULTURAL SUPPLY CHAINS.

COCERAL, FEDIOL and FEFAC joint position paper



Tweet by the European feed industry associations tagging several MEPs ahead of a vote in the European Parliament in October 2020 on new EU legislative measures to tackle deforestation

Global feed multinationals like Bunge and ADM echoed this due diligence approach, which focuses on the improvement of business processes, instead of demanding compliance of products with clear sustainability criteria.

BOX 4: THE SOY GIANTS

The feed industry is a multibillion-euro business that keeps industrial animal farming in Europe (and elsewhere) running, and it is represented by numerous trade associations and by multinational corporations often unknown to the public. The feed industry is mostly made of producers of oil seeds like soy, sunflower or rapeseed, and of grains like wheat or barley, which are all turned into protein-rich feed for farm animals. While for sunflower and rapeseed feed production is secondary, for soy it is actually the main purpose of production.

Almost half of the world's soy was produced in Brazil and Argentina in 2017 and EU soy imports from Brazil have increased over 30% since then, making EU the second biggest Brazilian soy importer after China. In Brazil, soy production has more than quadrupled in the past two decades. Having cleared large areas of the Amazon rainforest already, the soy industry continues to be linked to the conversion of substantial tracts of the savannah and forest of the Brazilian Cerrado, which has already lost half of its original vegetation to agricultural expansion. The Gran Chaco forests in Argentina and Paraguay also continue to suffer high rates of conversion to the benefit of the industry.

Six of the biggest and most powerful agribusinesses dominating the trade in South American soy – but mostly headquartered in the US or Europe – are Archer Daniels Midland (ADM), Bunge, Cargill, Louis Dreyfus Company, Cofco International and Glencore-affiliated Viterro. These giants have come together as the Soft Commodity Forum “to advance collective action on a conversion-free soy supply chain” and have been the target of pleas not only by civil society organisations but also by other food giants like Unilever or Nestlé to clean up their soy supply chains.

When it comes to EU legislation on deforestation, all six pledge their commitment to tackling deforestation and protecting nature. But most of them also indirectly participate in the policy debates through membership in numerous different industry associations that have varying opinions on adequate legislative action in the EU.

The most aggressive opposition comes from the South American industry associations: The Paraguayan Chamber of Oilseed and Cereal Processors, CAPPRO, the Argentinian edible oil and cereal exporters CIARA-CEC and the Brazilian Association of Vegetable Oil Industries, ABIOVE, have all argued, in their consultation responses, against new EU rules that would regulate soy supply chains by imposing sustainability product standards backed by mandatory due diligence.

Among the many members of ABIOVE are 14 powerful companies (4) that produce meat, vegetable oils and biodiesel in Brazil. ABIOVE clearly implied that nothing beyond compliance with national laws in the producing country should be required from their sector.

(4) ADM, AMAGGI, Baldi, Binatural, BUNGE, CARGILL, CJ Selecta, COFCO, Fiagrill, IMCOPA, LDC, JBS, Oleos Menu

While ABIOVE seems to reject all mandatory due diligence requirements (5), whether for products or company operations, its member companies themselves take a more conciliatory stance, and accept mandatory due diligence as part of new corporate governance legislation or systems (e.g. in their own consultation responses):

“A due diligence obligation should establish a framework of set environmental risks and set human rights risks, which companies then tackle in order of salience / or on a risk-based basis across a company’s operations and supply chains, drawing on sector specific guidance (where appropriate), recognizing that frequently, environmental impacts are driven by local socio-economic development challenges.”

Cargill consultation response

This leaves the question whether these companies’ double-dealing is a conscious decision.

Documentation of land cover, forest clearance and plantation development in Papua, Indonesia. © Ulet Ifansasti / Greenpeace



(5) In their consultation response, ABIOVE only supported “A general approach focusing on sustainable corporate governance initiatives addressing human rights, environmental duty of care, and sector-based due diligence defined along the UN principles and OECD/FAO guidelines” but rejected all specific due diligence measures.

BOX 5: ENTANGLED MULTINATIONALS

Many of the multinational conglomerates that use forest-and-ecosystem-risk commodities to produce, manufacture and process food for European markets are involved in various industry associations and corporate or multi-stakeholder platforms that state an intention to tackle deforestation. Together they created a complex and multilayered network of corporate commitments that are difficult to keep track of, and which hide the corporate influence on EU legislation.

For example, the Tropical Forest Alliance (TFA) says it “catalyses the power of collective action to drive the world's transition to deforestation-free supply chains, ensuring a forest-positive future.” It includes both civil society organisations as well as some of the world’s largest food companies. In late 2020, it got over 50 organisations to join a position paper “calling on the EU to adopt a smart mix of measures to address imported deforestation.” The paper welcomed all the needed EU measures:

“Commodity-specific legislation is needed to define clearly the criteria on which the due diligence obligation for each commodity should be based, and to create a level playing field to ensure that the same criteria are followed by all companies placing commodities on the EU market, whether or not they are based in the EU.”

In contrast to TFA’s position paper, its ‘partners’ such as Golden Agri-Resources, FEDIOL, FEFAC, COCERAL and PepsiCo, did not support specific deforestation-free requirements for products in their EU consultation responses. This kind of a mix-and-match approach to advocacy casts doubt on the truthfulness of some companies’ public messages, and provides opportunities for less progressive companies to maintain a greener image, while actually lobbying for weaker environmental rules themselves.

Similarly, Nestlé is a signatory of the TFA statement and is open to a mandatory product-specific due diligence approach. However, Nestlé is also a member of FoodDrinkEurope. This industry association, which also represents businesses like the feed giant ADM and Cargill and meat industry CLITRAVI, rejects mandatory deforestation-free requirements that would be backed up by due diligence for products and rather favors a toothless “general approach” (see boxes 1 and 4).

Finally, many of the most outspoken retailers are sending mixed messages. For example, retailers like Ahold Delhaize, Carrefour, Coop, Marks & Spencer and Tesco are key supporters of the industry’s Cerrado Manifesto, which demanded the soy industries stop destroying the ecosystems of the Brazilian Cerrado. At the time, many of the retailers had already violated these commitments via their own supply chains, and lobbied members of the European Parliament through an email their industry association EuroCommerce sent to MEPs in October 2020. It pressed for weaker EU regulation: “It should be refrained from prescribing too much in detail how due diligence is practised” and any “cut-off date that is too far in the past would significantly limit the number of possible suppliers” of for example soy.

4. WHAT NEEDS TO BE DONE

It's crunch time for the EU to hammer out the kind of new regulation that is needed to force businesses to change. While many businesses in Europe and beyond commit to recognise and uphold the rights of Indigenous Peoples and local communities, and fight climate change and forest and biodiversity loss, some – as this analysis shows – are eagerly trying to weaken the new EU legislation.

Here the key elements of a strong EU law that protects global forests and ecosystems and acknowledges the rights of Indigenous Peoples and local communities:

- A **mandatory and product-based due diligence** framework that requires companies that place forest-and-ecosystem-risk commodities on the EU market to ensure that their commodities and products comply with **strict sustainability criteria**.
 - This framework must address not only **deforestation but also forest degradation and the conversion or degradation of other natural ecosystems, as well as human rights violations**.
 - It is key that the framework sets clear requirements for the sustainability of forest-and-ecosystem-risk commodities and derived products, and not only procedural obligations for the companies involved in the placing of these commodities and products on the EU internal market (see section 3.1).
- The legal requirements **must apply to all forest-and-ecosystem-risk commodities** as well as products derived from or containing them, **including livestock products such as beef, leather and poultry, soy, palm oil, timber and wood products, cocoa, coffee, rubber and maize** – all known drivers of deforestation, ecosystem conversion and forest and ecosystem degradation. The list must be determined on the basis of objective and science-based criteria with the option to review and add commodities in the future if they satisfy the relevant criteria.
- Clear requirements for **supply chain transparency and traceability**, so that products sold in Europe can be traced back to their origins and their conformity to the sustainability requirements can be independently verified.
- **Applicability to the financial sector** to ensure that no financing is going to business activities that do not meet the sustainability requirements.
- **No “green lane” for certified products or “speed lane” for certification schemes**, meaning no exemption for certified products from the due diligence obligation, and no liability exclusions or limitations for the operators who use certification schemes as part of their due diligence procedures.
- A **robust enforcement framework** with a) proportionate penalties which are stringent enough to deter non-compliance; b) a network of well-resourced, competent authorities that proactively carry out checks and controls; c) an effective EU member state complaint mechanisms and review procedures; and d) rights for third parties to seek redress before EU courts if they are harmed by any adverse impacts addressed by the proposal or by non-compliance with its requirements.

These key benchmarks of effective legislation were supported by the European Parliament in its own-initiative legislative report on the “EU legal framework to halt and reverse EU-driven deforestation” adopted in October 2020.

In a recent statement, the European Environment Commissioner affirmed that the Commission’s proposal for new legislation will “not limit the focus to illegal deforestation” but will “take an honest look to see whether specific commodities are associated with deforestation and forest degradation”.

In addition to a strong law, further actions by the EU will be needed.

Examples include support to governments, civil society, smallholders, Indigenous Peoples and local communities in producer countries to tackle drivers of forest and ecosystem destruction and facilitate compliance with EU market requirements. Enhancing dialogue with other consumer countries is also essential to ensure that the rules applying to forest-and-ecosystem-risk commodities are adopted far and wide. This will address the risk of environmentally and socially harmful commodities and products just being moved to markets outside the EU – known as ‘leakage’. Policies are needed that drive a reduction in the EU’s production, consumption or wasteful use of some of these commodities such as meat, dairy, wood-based biomass or crop-based biofuels to further reduce the EU’s land and forest footprint.

“NO SINGLE MARKET CAN DELIVER THE CHANGES ON THE SCALE WE NEED. BUT AS I SAID AT THE OUTSET, IF WE GET THIS INITIATIVE RIGHT, THE SNOWBALL EFFECT COULD BRING ABOUT GENUINE TRANSFORMATION ON A MASSIVE SCALE.”

Virginijus Sinkevičius, European Commissioner for Environment, 27 May 2021



5. CONCLUSIONS

Most corporations and business organisations seem to understand that further regulatory measures are needed to clean up European markets and corporate supply chains, and are finally coming despite years of resistance. However, a closer look at some of the industry statements reveals a long list of ‘yes, but’ arguments and recommendations to policymakers that would in practice weaken the

efficiency or implementation of the needed legislation regulating forest-and-ecosystem-risk commodities.

To summarise the analysis presented in this report, several industry organisations and companies commonly use one or more of the following arguments:

EXCUSES

1. If there is a deforestation problem, it is not their fault but rather the fault of another industry, in another region.
2. They already address deforestation and related issues through voluntary industry guidelines, certification or some other non-regulatory measure.
3. Commodities and products that are legal in the country of origin are good enough to be placed on the EU market.
4. The EU should not regulate its market to curb the negative impact of its consumption – instead it should wait for international regulations or only act through collaboration and bilateral agreements.
5. New EU rules should offer the industries carrots, not sticks, and be based on existing industry measures or guidelines that encourage continuous improvement rather than requiring compliance with environmental and human rights.

REALITY CHECK

The sectors are pointing fingers at each other, rather than taking responsibility.

Unfortunately, these schemes have clearly fallen short of delivering systemic change so far.

Sadly, weak legal requirements in regions from the Amazon to the Russian Taiga allow for extensive forest and ecosystem destruction and do not adequately protect the rights of Indigenous People and local communities.

Of course, collaboration is necessary, but it cannot be an excuse to let the EU off the hook. It has a responsibility to tackle the impacts of its commodity use promptly, and has the power to regulate its market.

Self-regulation has been the rule so far and it has led to the situation we are in today. Clear, strong and enforceable rules are more important than ever to address the current climate and biodiversity emergency.

These arguments are commonly used by the most prominent industry representatives of European meat industries; the South American soy industries and the European feed sector; the South East Asian palm oil industries, and the European forest and wood industries. They are also sometimes used by the European rubber and cocoa industries.

The corporate actors mentioned in this report use these arguments, and lobby directly or through numerous industry associations and platforms with mixed and sometimes contradictory messages. To truly understand the level of commitment businesses are willing to keep one must look at the lobby demands beyond the public declarations and pledges.

There are a few businesses that argue for well substantiated and meaningful elements to be incorporated in the new EU legislation. Some have called on the importance of the legislation to protect not only forests but also other vulnerable ecosystems; include the financial sector; and add a due diligence obligation to ensure that forest-and-ecosystem-risk commodities and derived products meet clear environmental and human rights requirements.

Greenpeace calls on the European Commission, national governments and members of the European Parliament to:

- Swiftly adopt ambitious and effective legislation on forest-and-ecosystem-risk commodities to keep products linked to destruction of forests and other ecosystems and related human rights violations off the EU market, and to require financial institutions in Europe to stop funding forest destruction or human rights abuses
- Look beyond the corporate public statements, and analyse the true intentions and impacts of industry or lobby proposals put forward for the legislation on forest-and-ecosystem-risk commodities
- Ensure the demands of civil society groups, including Indigenous People and local communities that are directly affected by the EU's consumption, are heard and fulfilled

Greenpeace calls on the companies dealing with forest and ecosystem risk commodities to:

- Fundamentally shift their business models and supply chains to exclude ecosystem destruction and human rights abuses; respect the rights of Indigenous People and local communities; allow for full transparency and traceability; and align with the targets of the Paris climate agreement and the global convention on biodiversity
- Support ambitious and effective legislation on forest-and-ecosystem-risk commodities, including requirements for financial institutions in Europe to stop funding forest and ecosystem destruction or human rights abuses
- Be transparent with their position and influence on new EU legislation without hiding behind industry associations or platforms
- Disassociate themselves from any platform that lobbies or includes corporations that lobby for weak legislation

X. METHODOLOGY

To find out exactly whose interests are at stake and what different industries are lobbying for, Greenpeace European Unit analysed the public responses to the European Commission's public consultation. Out of the 1,148 entities that responded to the consultation, more than half requested to remain anonymous. Of the respondents who allowed publication of their name, 86 classified themselves as a business or business association, and two as an organisation.

Complementing the publicly available consultation responses, and their annexes, the Greenpeace European Unit monitored public statements in the press and on social media from autumn 2020 to spring 2021.

This allowed for a better understanding of the views of the corporations and industry associations engaged in the debate. Finally, the analysis was complemented by access to documents requests to the Commission on meetings between the Commissioners, their cabinets and some of the industry representatives discussed in this report, as well as by an analysis of lobby letters received by members of the European Parliament.

To identify the businesses' true level of ambition and commitment to cut ecosystem destruction or rights abuses out of their supply chains, the analysis focused on:

- Whether businesses supported a **"mandatory due diligence requirement"** and **"a deforestation free requirement"** for commodities sold on the EU markets to ensure their origin is traceable and links to forest and ecosystem destruction and human rights abuses are negligible
- Whether businesses supported legislation that would tackle deforestation and other ecosystem destruction – **either deemed legal or illegal** where it was produced
- What kind of **range of products and commodities** businesses were open to include in the scope of any new EU legislation or action, or whether they lobbied for exemptions for products their sector deals with
- To what extent businesses supported **voluntary measures, initiatives or certification schemes** or whether they were open to legally binding requirements
- Whether businesses supported **clear legislative action at EU level** or whether they rather argued in favour of incentives, finance, partnerships and other "encouragements" supported by governments without consequences in case they do not deliver the needed results

Based on these benchmarks, the analysis exposes some of the commonalities among the narratives of corporate actors who are reluctant to welcome new EU legislative action. It looks at the biggest corporate influencers in each of the sectors examined, and how they are represented.