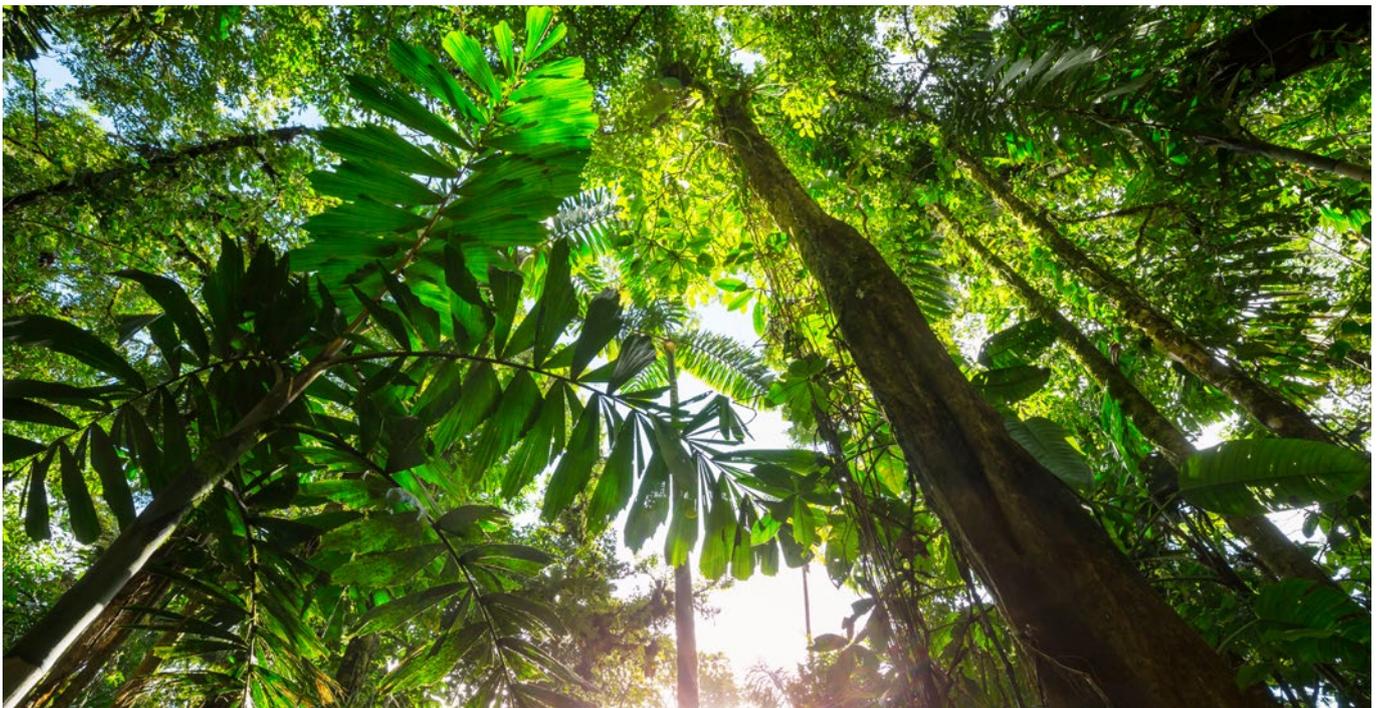




TROPICAL FOREST ALLIANCE DISCUSSION ROUNDTABLES ON EU ACTION TO PROTECT FORESTS: SUMMARY OF FINDINGS

EXECUTIVE SUMMARY
22 JULY 2020



INTRODUCTION

Between January and July 2020, the Tropical Forest Alliance (TFA) and Efeca carried out a programme of engagement with industry and civil society representatives on the priorities of the European Commission's Communication on Stepping up EU Action to Protect and Restore the World's Forests. Through surveys and a series of online roundtable discussions, this enabled stakeholders, in particular industry representatives, to share their perspectives, experiences and inputs on issues across a range of commodities and sectors. The findings of this process are presented here to both ensure these views are shared with the European Commission, and to inform the development of evolving EU policies on deforestation.

This summary of findings document represents the main points made during the roundtable discussions and does not necessarily reflect the views of all participants. In this regard, it captures the issues on which participants' views converged, and where they diverged – though discussions were characterised by a high degree of consensus.

KEY FINDINGS

1. THE NEED FOR A 'SMART MIX' OF MEASURES

While industry has an important role to play in tackling deforestation – and, in many cases has made efforts to do so – there are limits to what it can achieve either through voluntary measures or regulation. A 'smart mix' of measures is, therefore, needed.

This smart mix should include the participation of a range of different actors – including industry, government, civil society and others. This broad participation is necessary in order to create an enabling environment in which industry can take action, and as some activities must be carried out by these other players.

Examples of this smart mix of action include partnerships on the ground in producer countries; action within the EU to create a clear market demand for sustainable products; action by other consumer countries; and action by financial institutions and their regulators. All these measures need to be underpinned by robust, consistent and practical systems of verification.

2. PRODUCER PARTNERSHIPS

The development of various partnerships with producer countries – including those with governments, industry, farmers and civil society – form a critical part of the smart mix of measures. They should rest on open, inclusive dialogue, working collectively and responding to producer country needs to develop shared solutions that deliver shared benefits.

These are necessary to provide many of the enabling conditions necessary for the production of commodities in ways that do not drive deforestation or negative impacts on other ecosystems. This includes improvements in standards of governance and law enforcement and in the provision of basic services, as well as infrastructure and support for farmers. Industry alone, generally, cannot provide these conditions, though it plays an important role.

The EU also has a key role to play through development assistance. This includes providing support and coordination for existing regional, national and sub-national partnership initiatives, including multi-stakeholder processes and national traceability systems. In general, more assistance should be provided for activities specifically geared at reducing the negative impacts of agricultural commodities.

Priority should be afforded to those regions, countries and sub-national jurisdictions where the greatest impact can be made and where European supply chains can use their associated leverage. It is also important to target assistance for local landscape-driven initiatives, which can often be more ambitious than central or provincial strategies.

European industry, as well as businesses in producer countries, could play a valuable role in some of these initiatives, helping to develop sustainable means of agricultural production.

The Voluntary Partnership Agreement (VPA) model provides a good framework for tackling major challenges and achieving long-lasting change in producer countries. This can be done through tackling underlying problems of governance and law enforcement, placing key decision-making powers in the hands of stakeholders in the producer countries, incentives, trade preferences and the provision of capacity-building assistance. The VPA would need some modification, though, in adapting it to agricultural commodities, particularly in basing it on a sustainability rather than a legality standard.

Although the VPA model is in many ways a good one, negotiating such an agreement for other agricultural commodities than cocoa, and for other countries than Ghana and Côte d'Ivoire, is likely to prove challenging. The EU should therefore explore supporting initiatives that could in time become elements of a VPA-type bilateral agreement, such as the establishment of similar kinds of multi-stakeholder processes and national traceability systems. These objectives could be better pursued at sub-national or landscape levels, at least in the short term.

The EU should also explore the scope for incorporating sustainability conditions in trade and investment agreements, strengthening trade and sustainable development chapters in existing agreements, and improving the sustainability impact assessment process. There is a need for greater coherence among EU policies in different areas, such as trade, agriculture, environment and development.

3. DEMAND-SIDE MEASURES

Alongside action on the ground in producer countries, action is also needed in the EU to ensure that sustainably produced commodities are favoured or required on the EU market, while unsustainably produced commodities are disfavoured or excluded.

Roundtable participants expressed noticeably clear support for the introduction of mandatory EU-wide due diligence legislation covering human rights and environmental impacts, through both a broad horizontal approach to due diligence, and a commodity-specific approach. This should drive a better understanding of supply chains and their exposure to the risks of environmental harm and human rights abuses, drive continual improvement, encourage the development and evolution of plans to address the risks, and transform global commodity supply chains (not just clean up EU supply chains), through capacity building and supplier engagement.

Commodity-specific legislation is needed to clearly define the criteria on which the due diligence obligation for each commodity is based, and to create a level playing field across the EU to ensure that the same criteria are followed by all companies.

Roundtable participants recognised that the UN Guiding Principles and OECD guidance describe a standard of conduct that does not assume all challenges can be overcome immediately. They recognized, rather, that due diligence is a process of gradual improvement in the analysis and mitigation of risks, which leads to a steady reduction in the problems the legislation is designed to tackle. It should reward continued engagement with and support for suppliers who perform less well to start with, acting as an enabler of good practice and future progress rather than an incentive to abandon suppliers.

The due diligence criteria must be wider than simple legality and should build where possible on existing systems and definitions such as the various OECD guidance documents and the Accountability Framework Initiative.

Monitoring companies' compliance with the legislation is a task primarily for competent authorities appointed by Member State governments, which must be adequately resourced and equipped with sufficient enforcement powers and penalties. There could also be a role for a civil liability mechanism through which third parties could pursue legal action. The responsibilities of businesses, and the extent to which their conduct of due diligence provides a defence to claims of liability, will need to be carefully defined. The due diligence obligation should be implemented by all actors throughout the supply chain, with no threshold by company size or turnover.

The legislation should include a requirement to publish a report on a company's due diligence system, its implementing activities and future plans, with the aim of improving transparency and facilitating scrutiny of the evolution of due diligence systems. Systems for complaints and remediation should also be included. Other potential demand-side measures to support the growth of market share for sustainable commodities should be considered. Options include public procurement, differentiation of import duties and the reform or reinterpretation of EU competition law.

Labelling of products as "deforestation-free" should not, however, be pursued; roundtable participants felt governments needed to undertake the responsibility of regulating their markets, rather than relying on consumers to exercise informed choices.

4. INTERNATIONAL COOPERATION

Engaging in dialogue with other consumer countries is an important part of the "smart mix" to encourage these countries to adopt the same or similar measures. This serves to both increase the chances of scaling up positive outcomes and avoid the diversion away from the EU and towards other markets of commodities produced unsustainably.

The EU should promote joint initiatives to develop and implement sustainability standards and policy measures and to share data and examples of best practice, building where possible on existing networks, including industry associations and groupings, reaching both producers and consumers of forest risk commodities to build a sense of shared responsibility and shared interest.

5. FINANCE

The redirection of ‘grey finance’ away from unsustainable and towards sustainable activities is essential but will not happen without intervention by EU and global regulators. This includes possible requirements on financial organisations to report specifically on their deforestation risk exposure, and the application of a due diligence obligation.

Investment in sustainable activities needs to be scaled up and made more accessible to smallholders and small- and medium-sized businesses, through approaches such as blended finance and specific green finance instruments. This includes such mechanisms as climate finance, green bonds, REDD+ resources and ecosystem service payments.

6. VERIFICATION

Industry and governments must be able to have access to and rely on clear, consistent and credible tools for assessing, verifying and mitigating deforestation risk and tracking the movement of products through supply chains. Roundtable participants stressed the importance of the EU building on existing actions and initiatives, including on traceability and transparency, rather than starting from scratch and inventing entirely new systems.

Certification systems provide important tools but have their limits. Recognition for other forms of supply chain assurance, complementary to certification, is likely to be increasingly necessary. The EU should play a role in bringing together and coordinating some of the necessary data and intelligence on deforestation risk into a central point, including through the proposal for an “EU Observatory” included in the Communication on Stepping up EU Action to Protect and Restore the World’s Forests.