

Protecting forests, natural ecosystems and human rights: a case for EU action

SUMMARY

In its Communication on “Stepping up EU Action to Protect and Restore the World’s Forests”, published on 23rd July 2019, the European Commission recognised that the EU consumption represents around 10% of the global share¹ of deforestation embodied in total final consumption of commodities such as palm oil, beef, soy, cocoa, maize, timber and rubber.¹

The Communication is a welcome basis for the development of decisive EU action to protect and restore forests and other natural ecosystems whilst protecting human rights. Implementing a comprehensive set of measures and initiatives, including new legislation, is essential to reduce the EU’s footprint on the world’s natural ecosystems. Any future EU action should include the most ambitious solutions. It is therefore of utmost importance to ensure that the proposed set of actions are developed further and made effective and complementary, especially any new legislative measures.

In particular, we call on the EU to:

- 1. Adopt new legislation that requires companies to conduct due diligence throughout their entire supply chain in order to identify, prevent, and mitigate environmental, social and human rights risks and impacts:** supply chains linked to the EU market must be sustainable, free from deforestation, forest degradation and conversion or degradation of natural ecosystems and comply with international standards and obligations on human rights, including the rights of Indigenous Peoples and local communities.
- 2. Introduce due diligence requirements on financial institutions to identify, prevent, and mitigate environmental, social and human rights impacts:** ensure that the EU finance and banking sectors are neither directly nor indirectly linked to deforestation, forest degradation, conversion or degradation of natural ecosystems or human rights violations.
- 3. Strengthen cooperation with producer and other consumer countries to address deforestation, forest degradation and conversion or degradation of natural ecosystems and related human rights violations.**
- 4. Ensure consistency of EU trade policy with these objectives:** the EU must guarantee the protection and restoration of forests and other natural ecosystems whilst defending human rights, ensuring good land governance, supporting local livelihoods and maintaining the cultural integrity of Indigenous Peoples, local communities and smallholders.
- 5. Improve existing policy measures and ensure they are coherent:** better implementation of existing legislation is needed but also improved coherence to ensure EU policies do not create negative incentives for the environment or people.
- 6. Ensure implementation of the EU’s and/or its Member States’ international commitments:** the EU should live up to all of its social and environmental commitments including on climate, biodiversity and human rights, and drive the global agenda on these issues.
- 7. Drastically reduce negative impacts of the EU food system on forests and other ecosystems:** EU Action should create new incentives to promote sustainable food systems and diets. This includes reducing waste and pressure on the global food system stemming from EU consumption.

¹ COM(2019) 352 final of 23 July 2019, page 4

I. INTRODUCTION

If everybody in the world lived like the average EU resident, humanity would have consumed the equivalent of 2.8 planets by the end of 2019.²

In order to tackle the global environmental crisis,³ and its grave social repercussions, it is important to take urgent action to eliminate the EU's destructive impact on forests and other natural ecosystems. This is crucial to preserve the climate and protect biodiversity. It will also help to reduce the EU's global ecological footprint, improve governance, ensure the protection of the rights of Indigenous Peoples and local communities, and support a global transition towards agroecological farming systems. As a major consumer trading bloc and financial player, the EU has the power and the duty to take urgent action.

Forests, as well as other natural ecosystems, are not immune to the detrimental effects of the EU's consumption. In its recent Communication on "*Stepping up EU Action to Protect and Restore the World's Forests*", the European Commission recognised that the EU consumption represents around 10% of the global share of deforestation embodied in total final consumption of commodities such as palm oil, beef, soy, cocoa, maize, timber and rubber.⁴

The Communication is a welcome basis for the development of decisive EU action to address deforestation, forest degradation and conversion or degradation of natural ecosystems. Implementing a comprehensive set of measures and initiatives,

including new legislation, is essential to reduce the EU footprint on the world's natural ecosystems. Any future action by the EU should include the most ambitious solutions.⁵

The inauguration of the new European Parliament and European Commission offers the opportunity to support this Communication. They must ensure that the proposed set of actions are developed further and made effective and complementary, especially any new legislative measures.

This should be done immediately. 2020 is the deadline for a number of forest-related international commitments such as target 15.2 of the UN Sustainable Development Goals (SDGs), which aims to halt deforestation by 2020, and Aichi biodiversity target 5, adopted in 2010 under the UN Convention on Biological Diversity (CBD), which states that "*by 2020 the rate of loss of all natural habitats, including forests, is at least halved and where feasible brought close to zero, and degradation and fragmentation is significantly reduced*". The Paris Agreement states that "Parties should take action to conserve and enhance, as appropriate, sinks and reservoirs of greenhouse gases [...], including forests", and 2020 should be the year it becomes fully operational. The Communication acknowledges the need for the EU to "*step up action and take an even stronger leadership role in protecting and restoring the world's forests*".

We support this statement and urge the EU to act without further delay.

II. RECOMMENDED ACTIONS

1. Adopt new legislation that requires companies to conduct due diligence throughout their entire supply chain in order to identify, prevent, and mitigate environmental, social and human rights risks and impacts.

The Communication states that one of the Commission's key actions will be to assess additional demand-side regulatory measures to ensure a level playing field and a common understanding of deforestation-free supply chains, in order to increase supply chain transparency and minimise the risk of deforestation and forest degradation associated with commodity imports in the EU.⁶

Such measures should be embodied in a legislative act, ensuring that all commodities and products placed on the

EU market are sustainable, traceable back to source and do not cause adverse environmental and social impacts such as deforestation, forest degradation, and the conversion or degradation of natural ecosystems. They should also require compliance with international standards and obligations on human rights, including the rights of Indigenous Peoples and local communities.

It is crucial that this new EU legislation follows a cross-commodity/product approach. Addressing each commodity separately would lead to a patchwork of different measures which would likely create loopholes and increase the administrative burden for industry and enforcement agencies. New legislative measures should be accompanied by a robust enforcement regime and include effective, proportionate and dissuasive penalties for non-compliance.

² www.wwf.eu/?uNewsID=346835

³ <https://www.ipbes.net/news/Media-Release-Global-Assessment>

⁴ COM(2019) 352 final of 23 July 2019, page 4

⁵ Although the Communication covers global forest protection and restoration, in this briefing we focus on actions to protect natural forests and ecosystems, as well as on the rights of the people depending on them. Such forests are greatly threatened by deforestation and forest degradation despite their disproportionately high importance for biodiversity, carbon storage and other ecosystem services, including those essential to Indigenous Peoples and local communities

⁶ Communication. Priority 1: Reduce the EU consumption footprint on land and encourage the consumption of products from deforestation-free supply chains in the EU.

Legislation should take into account existing best practices and legislation such as the EU Timber Regulation (EUTR), which aims to halt the import of illegal timber onto the EU market, the Illegal, Unreported and Unregulated (IUU) Fishing Regulation and the Conflict Minerals Regulation.

Climate change and preserving natural resources are of major concern for European citizens⁷ and people in producer countries whose livelihoods and ways of life depend on the maintenance of intact forest ecosystems. An overwhelming 87 per cent of EU citizens have expressed support for new laws to combat deforestation.⁸

In its resolution of 11 September 2018, the European Parliament called for the introduction of a framework to regulate supply chains of forest-risk commodities, including via the introduction of mandatory due diligence obligations.⁹ More recently the Director of the World Economic Forum's Tropical Forest Alliance emphasised the need to go beyond voluntary action and to strengthen regulatory regimes.¹⁰

Strong action at the EU level against forest destruction, ecosystem conversion, climate change and associated human rights abuses will demonstrate that the European institutions take the concerns of its citizens seriously and are willing to address global challenges.

We therefore ask the EU institutions to adopt a new legislation immediately.

2. Introduce due diligence requirements on financial institutions to identify, prevent, and mitigate environmental, social and governance impacts:

This should involve an obligation to have: (1) a due diligence policy in place, (2) standardised disclosure and transparency through regular public reporting on due diligence policies and practices, (3) proportionate penalties to ensure compliance, and (4) complaint mechanisms for third parties and affected individuals with a view to enabling forest communities to uphold and defend their rights.

Financial flows from EU-based financial institutions, and those operating in the EU, should be transparent and traceable. Financial institutions should be required to disclose their exposure to palm oil, soy, timber, beef and other soft commodities associated with deforestation, forest degradation and conversion or degradation of natural ecosystems and human rights violations.

Global Witness's recently published report, "Money to Burn", identifies the financial institutions behind the six key agribusiness companies involved in deforesting climate-critical forests in Brazil, the Congo Basin and New Guinea.¹¹ This reveals that EU based financial institutions were the main source of financing - providing nearly \$15 billion US dollars. According to a report from Forests Peoples Programme (FPP)¹², secretive international financial flows accompanied by incomplete due diligence by banks and investors are major obstacles to achieving "deforestation-free" supply chains and upholding human rights. It is therefore essential that the EU takes action to regulate the EU financial sector to ensure banks, investors, pension funds and insurers do not support or profit from deforestation, forest degradation and conversion or degradation of natural ecosystems and associated human rights violations.

The taxonomy being developed under the EU Action Plan on Financing Sustainable Growth, will determine which economic activities can be considered to contribute substantially to achieving a particular EU environmental objective while not significantly undermining achievement of other environmental objectives or human rights. It must therefore integrate rigorous criteria in relation to forests. This is essential to ensure that no economic activity associated with deforestation, forest degradation and conversion or degradation of natural ecosystems or human rights violations is considered to be sustainable under this taxonomy.

3. Strengthen cooperation with producer and other consumer countries to address deforestation, forest degradation and conversion or degradation of natural ecosystems and human rights violations. Ensure consistency of EU trade policy with these objectives.

Working in partnership with producer countries to reduce pressures on forests and to "deforest-proof" EU development cooperation is the second priority of the Communication.

The EU should actively engage with producer countries across the globe to support them in halting deforestation, forest degradation and conversion or degradation of natural ecosystems. Support for producer countries should be provided by the EU, among others, through financial or technical assistance. This must include support to protect the last remaining ecologically intact areas of forests and other ecosystems that are of extremely high importance for biodiversity, carbon storage and Indigenous Peoples and local communities. Crucially, the EU should step up action and increase funding for state and non-state actors to implement

7 <http://ec.europa.eu/comfrontoffice/publicopinion/index.cfm/Survey/getSurveyDetail/yearFrom/1974/yearTo/2018/surveyKy/2217>

8 <https://www.fern.org/news-resources/press-release-87-per-cent-of-europeans-support-new-laws-to-combat-global-deforestation-new-poll-shows-1963/>

9 European Parliament resolution of 11 September 2018 on transparent and accountable management of natural resources in developing countries: the case of forests (2018/2003/INI), at para. 56

10 Tropical Forest Alliance brings together over 155 partners from businesses, governments, civil society, Indigenous Peoples, communities and international organisations to help producers, traders and buyers of forest-risk commodities achieve their commitments to ensure deforestation-free supply chains <https://www.ft.com/content/f9f03ea6-b850-11e9-8a88-aa6628ac896c>.

11 https://www.globalwitness.org/documents/19810/Money_to_Burn_September_2019.pdf

12 [http://www.forestpeoples.org/sites/default/files/documents/Closing The Gap_0.pdf](http://www.forestpeoples.org/sites/default/files/documents/Closing%20The%20Gap_0.pdf)

initiatives to secure community land and territorial rights in forests. Furthermore, the EU should commit to creating a dedicated fund for forests under the new Neighbourhood, Development and International Cooperation Instrument (NDICI).

We welcome the Commission's proposed engagement with partner countries to help develop, strengthen and implement national frameworks on forests and achieve sustainable forest management, biodiversity, good governance of tenure and land use planning. This engagement must include support for inclusive multi-stakeholder processes and empowerment of local civil society. The commitment in the Communication to scale up efforts to support the rights of Indigenous Peoples and local communities dependent on forests as well as environmental rights defenders should be one of the new Commission's top priorities. In the latest Special Report on Climate Change and Land, the Intergovernmental Panel on Climate Change (IPCC) underlines the importance of securing community land to combat climate change.¹³

In addition, the EU should ensure that its trade and investment policy is consistent with, and contributes to, its international environmental commitments. To this end, the EU should not enter any Free Trade Agreement (FTA) that has adverse effects on forests, other natural ecosystems and human rights, including the rights of Indigenous Peoples and local communities. Furthermore, EU FTAs should contain provisions to address the above-mentioned impacts and include binding provisions on environmental protection (particularly to ensure the protection of forests and other ecosystems) and social and human rights protections. Such provisions should go beyond inclusion in the trade and sustainable development chapters and should be supported by effective implementation and enforcement mechanisms.

4. Improve existing policy measures and ensure they are coherent

We welcome the fact that, under its first priority, the Communication mentions that the Commission will enhance the ongoing implementation of the EU Forest Law Enforcement, Governance and Trade (FLEGT) Work Plan 2018-2022 and, in particular, strengthen implementation of the EUTR.¹⁴ The Commission should also focus on improving existing measures such as public procurement policies, to reflect the need for sustainable sourcing and sustainable supply chains.

We expect the European Commission to **create synergies and coherence** between EU policy agendas on the environment, human rights, trade, food, agriculture, development, biodiversity, energy, and climate, including within the objectives of its future work programme.

5. Ensure implementation of the EU's and/or its Member States' international commitments

The EU should live up to its commitments made with regard to the environment and human rights and drive the global agenda on reducing deforestation, forest degradation and conversion or degradation of natural ecosystems.

The EU has signed up to the Paris Agreement, the CBD, the Agenda 2030 for Sustainable Development, the Voluntary Guidelines for the Responsible Governance of Tenure (VGGT), the International Bill of Human Rights and the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) - it should ensure coherence when delivering on these commitments.

The EU should take action to deliver the SDGs and all relevant commitments on the environment, climate and human rights. Implementation should apply both within the EU and beyond its borders because biodiversity loss, climate change and human rights abuses are global problems that are partly driven by EU consumption.

6. Drastically reduce the negative impacts of the EU food system on forests and other ecosystems:

Consumption of certain agricultural commodities, such as meat and soy feed, is responsible for major environmental and social impacts, exacerbating the climate and biodiversity crisis as a result of their contribution to deforestation and forest and ecosystem degradation.¹⁵ The EU should take action to address its own share of these negative impacts, also in view of meeting the UN SDGs and Paris Agreement targets.

This will entail a radical change in the way food is consumed and produced. For the EU it will require the adoption of policies that drive a reduction in the EU's production and consumption of unsustainable meat and dairy products, including a thorough reform of the Common Agricultural Policy (CAP).

In addition, the EU must promote sustainable diets, raise consumer awareness of the impacts of consumption patterns and provide information on diets that have a lower environmental footprint and are better for human health.¹⁶

Action is also required to **reduce food waste across the supply chain**, restore degraded soils, ensure the uptake of agroecological farming practices and develop an EU **strategy for a sustainable food system**, with measurable targets and indicators.

¹³ <https://www.ipcc.ch/report/srccl/>

¹⁴ Communication, page 9.

¹⁵ According to the latest scientific findings, deforestation for agriculture is dominated (67%) by feed, particularly soy, maize and pasture (Poore et al., 2018). In parallel, the EU is importing very large quantities of animal feed that is not guaranteed deforestation-free and that is fuelling industrial livestock farming in Europe.

¹⁶ The latest scientific study by the Lancet Commission points out that "food is the single strongest lever to optimize human health and environmental sustainability on earth". It concludes that a healthy and sustainable diet entails "a greater than 50% reduction in global consumption of unhealthy foods" – notably red meat – and "a greater than 100% increase in consumption of healthy foods, such as nuts, fruits, vegetables and legumes". https://eatforum.org/content/uploads/2019/01/EAT-Lancet_Commission_Summary_Report.pdf

III. BACKGROUND

The EU uses 20% of the biocapacity of the planet, despite having only 7% of the world's population. Agricultural expansion, has been identified as one of the key drivers of deforestation, ecosystem conversion and degradation, as well as human rights abuses.

According to a recent study,¹⁷ deforestation in the tropics, largely caused by expanding forestry and agriculture, is increasingly driven by foreign demand. Between 2010 and 2014, 29% to 39% of deforestation-related emissions were linked to international trade. The study concludes that emissions linked to deforestation constitute around one-sixth (~15%) of the total carbon footprint of food consumed in the EU.

To reduce greenhouse gas emissions from land-use change, attention needs to be given to the role of international demand and trade. The EU, as a major trading bloc and a key player in the global markets of many commodities linked to deforestation, clearly has an important role to play. For example, the EU is one of the main importers of soy globally. In 2018-2019, over 80% of the EU imports of soymeal and over 30% of soybean imports originated from South America.¹⁸

The area currently at the heart of agribusiness expansion, particularly for soy, is Brazil's Cerrado. Between 2007 and 2014, nearly two-thirds of agricultural expansion in the MATOPIBA¹⁹ in North East Brazil was at the expense of the savannah, forests and other native vegetation in the Cerrado. At the same time, Brazil lost over 1.3 million hectares of tropical primary rainforest in 2018, mainly due to clear-cutting in the Amazon.²⁰

The EU is also the second biggest importer of Indonesian palm oil after India. In 2018, Indonesia's market share of palm oil in the EU amounted to 47 % (3.5 million tons).²¹ Between 2001 to 2017, Indonesia lost 24.4 million hectares of tree cover, equivalent to a 15% decrease since 2000, and 2.44 gigatons of carbon dioxide emissions.

Across the globe, 1.6 billion people are dependent on forests. Around 300 million people, made up of local communities and Indigenous Peoples, traditionally live in forests and primarily depend on them for their livelihoods.²² Customary lands of Indigenous Peoples and local communities harbour 80% of global biodiversity,²³ including some of the world's most important forests and ecosystems. Human rights violations, including livelihood and land tenure rights abuses, are both a driver and a result of deforestation, particularly deforestation from large-scale agriculture that feeds the European market.²⁴ In countries with poor law enforcement and where community tenure rights remain insecure, community forests are exposed to encroachment and expropriation.

In October 2018, the IPCC report stressed that action to stop deforestation and forest degradation, and to restore forests, is critical to avoid global temperature rise beyond 1.5 degrees.²⁵ According to the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) more than a third of the world's land surface is now devoted to crop or livestock production and around one million animal and plant species are now threatened with extinction.²⁶

17 <https://www.sei.org/publications/agriculture-deforestation-emissions/>

18 https://circabc.europa.eu/sd/a/205f3b77-1c1b-4e00-ae27-42d720e6b767/OILSEEDS%20TAXUD_Surv-DATA.xlsx

19 MATOPIBA is an acronym used to denote a region in North East Brazil, encompassing the states of Maranhão, Tocantins, Piauí and Bahia.

20 <https://blog.globalforestwatch.org/data-and-research/world-lost-belgium-sized-area-of-primary-rainforests-last-year>

21 https://eeas.europa.eu/sites/eeas/files/fspo-01_palm_oil_20190321_en.pdf

22 http://www.forestpeoples.org/sites/fpp/files/publication/2012/05/forest-peoples-numbers-across-world-final_0.pdf

23 https://www.forestpeoples.org/sites/default/files/documents/Closing%20The%20Gap_0.pdf

24 <https://rightsanddeforestation.org/policy-papers/dynamics-of-deforestation-and-rights-abuses/>

25 https://report.ipcc.ch/sr15/pdf/sr15_spm_final.pdf

26 <https://www.ipbes.net/news/Media-Release-Global-Assessment>

List of signatories

- Client Earth
- Conservation International
- Environmental Investigation Agency
- Fern
- Forest Peoples Programme
- Global Witness
- Greenpeace
- WCS EU
- WWF



global witness

