

In our Palms

Ensuring 'No Deforestation' in EU Commodity Supply Chains



Executive summary

The European Union (EU) has pledged to halt deforestation. To do so, it needs to take action to reduce the deforestation footprint of the commodities it imports, including for palm oil, of which the EU is one of the world's biggest consumers.

Existing methods to alleviate the negative environmental and social impacts of palm oil, such as certification schemes, have failed to stop deforestation sufficiently to qualify as 'sustainable'. New standards of sustainability incorporating 'no deforestation' have been adopted through voluntary private sector commitments, which could enable the EU to meet its targets.

However, the lack of uniform adoption, standardisation and implementation of such corporate commitments threatens their potential. European governments are seeking to support and advance these private sector commitments for deforestation-free supply chains, but their capacity to do so is limited.

The EU needs to take action now in the form of regulatory measures. Without it, the EU's markets remain wide open to palm oil and other commodities that have caused deforestation.

EIA UK

We investigate and campaign against environmental crime and abuse.

62-63 Upper Street, London N1 0NY UK

eia-international.org

Recommendations

For the EU:

- Implement new market regulation requiring commodities placed on the EU market, including palm oil, to comply with new norms of sustainability, including the principle of 'no deforestation'
- Issue guidance encouraging and empowering the uptake of EU member state public procurement policies which require commodities to meet strong 'no deforestation' criteria
- Work with producer countries to support smallholders, jurisdictional approaches and other government initiatives to reduce deforestation
- Pursue collaborative partnerships that encourage other major consumer markets to uptake stronger 'no deforestation' standards.

For the Roundtable on Sustainable Palm Oil (RSPO):

- Adopt higher principles and criteria of sustainability, including ensuring 'no deforestation' through the adoption of the High Carbon Stock Approach (HCSA) or equivalent.

For companies:

- Ensure commitments comply with new principles of sustainability, clearly report on progress towards implementation and seek independent verification.

The EU's deforestation commitments

Reflecting its role in consuming agricultural products which drive rampant deforestation worldwide, the EU has committed to tackle the problem.

Specifically, in 2008 the EU adopted a policy target of "halting global forest cover loss by 2030 at the latest and of reducing gross tropical deforestation by at least 50 per cent by 2020 compared to 2008 levels".¹ The EU's signing of the New York Declaration on Forests in 2014 similarly commits the bloc to these targets, while adoption of the United Nations' Sustainable Development Goals in 2015 pledges it to halt deforestation by 2020.²

In 2013, the European Parliament proposed the development of an action plan on deforestation and forest degradation³ – a proposal it has called for repeatedly since.

Yet in the decade since its initial 2008 commitment, and merely 18 months before its 2020 deadline for having halved global deforestation, the EU has to date taken no meaningful action to prevent its markets from driving deforestation.⁴

In March 2018, the European Commission finally released a study outlining feasible options for EU action on imported deforestation, including market regulation. A study on the impacts of palm oil was released at the same time.⁵ The Commission is understood to still be considering how it will act to meet its commitments on deforestation.

The role and opportunity of palm oil

Globally, the EU is the second biggest importer and third biggest consumer of palm oil – the world's most consumed vegetable oil.⁶ After soy, palm oil is the second biggest driver of deforestation derived from the EU's consumption of crops. The EU's palm oil consumption between 1990-2008 caused nearly one million hectares of deforestation, 16 per cent of EU-associated deforestation.⁷

While deforestation is linked to all 'forest-risk' commodities, the palm oil sector offers important opportunities and lessons for the EU to act on its forests commitments for all commodities.

Recent transformations in sustainability standards in the palm oil sector provide clear opportunities to transform a currently unsustainable sector into a core component of how the EU meets its commitments on forests. With oil palm having the highest yield-per-hectare of any comparable oilseed crop, ensuring its sustainable production is crucial to achieving the EU's goals.

To seize that opportunity, the EU needs to ensure its consumption meets these new standards.

The evolution of sustainability in palm oil

Years of effort have been expended in trying to make palm oil sustainable, with traditional initiatives focusing on voluntary private sector certification schemes. Government regulation on sustainability and deforestation has been largely absent or had a modest impact.

Certifying deforestation as sustainable

Certification involves verification by third-party auditors that production conforms to established sustainability principles, criteria and indicators. While certification schemes have developed useful methodologies and accountability mechanisms, the standards underpinning them have not adequately stopped deforestation and human rights abuses.

The Roundtable on Sustainable Palm Oil (RSPO) – the most widely adopted voluntary scheme since its creation in 2004 – protects primary forests and High Conservation Value (HCV) areas, but clearance of other forest areas can be certified as "sustainable".

Other voluntary schemes, such as the Sustainable Agriculture Standard (formerly SAN) and the International Standard for Carbon Certification (ISCC), have stricter, but differing criteria, for limiting deforestation, creating confusion.⁸

Implementation problems limit the reliability of certifications that do occur.⁹ Auditing firms have failed to identify and mitigate unsustainable practices,¹⁰ deforestation has still happened in primary forests, even once RSPO-certified¹¹, and schemes have failed to sufficiently include smallholders.

While Free, Prior and Informed Consent (FPIC) is a key element within the RSPO and some other certification schemes, land-grabbing and the exploitation of local people has remained widespread.

More recent but 'mandatory' government-led certification schemes, such as the Indonesian Sustainable Palm Oil (ISPO) and Malaysian Sustainable Palm Oil (MSPO), lack basic sustainability criteria ensuring FPIC or protecting HCV areas. They are generally considered to be standards more concerned with legality than sustainability, and enforcement is severely lacking; despite ISPO being mandatory since 2014, only 16.7 per cent of plantations had received certification by 2017.¹²

In short, certification to date has led to significant deforestation being certified as sustainable.

The 'no deforestation' movement

Since around 2013, companies have committed to new, stronger sustainability principles which go significantly beyond those of palm oil certification schemes, reflecting a new understanding of what sustainability means.

Notably, these embody the principle of 'no deforestation'

as core to sustainability. 'No deforestation' itself is widely recognised to include protection of both High Conservation Values areas and High Carbon Stock (HCS) forests,¹³ using methodologies such as the High Carbon Stock Approach (see box).

Such commitments also embody the principles of no peat and no burning, to reduce carbon emissions from operations. Alongside these is the key principle of no exploitation, seeking to ensure FPIC, human rights, labour rights and other social standards are upheld.

New sustainability pledges also embody traceability and transparency as key components allowing for supply chain and product claims. Companies are tracing palm oil back to the plantation where it was produced – practices not obligatory under certification.

Finally, such policies require third-party suppliers to sign up to and implement the same standards throughout their operations.

Responding to such developments, the RSPO and ISPO are both currently reviewing their standards. The RSPO is considering adopting more stringent 'no deforestation' criteria, including incorporating the HCSEA. The ISPO reforms are not expected to go far enough.¹⁴ It remains to be seen whether either of the reform processes will result in acceptable certification standards.

While not always explicit, clearly, legal compliance remains integral to any claim of sustainable production. The principles of 'no deforestation', no peat, FPIC, human and labour rights, traceability and legality are all therefore now considered minimum standards for enabling sustainability claims.

The High Carbon Stock Approach (HCSA)

The HCSA classifies land into HCS forests for protection, and degraded lands that may be developed, using satellite analysis and on the ground measurements.¹⁵

The HCSA has widely been acclaimed as a practical method to achieving no deforestation.

First developed in 2013, it converged with HCS+ that had a similar methodology, in 2016. However, there are still multiple other 'high carbon stock' methodologies, often causing confusion.

The HCSA also ensures Free, Prior and Informed Consent (FPIC), and integrates High Conservation Value (HCV) area assessments - areas with significant biological, ecological, social or cultural values, such as rare species or sacred sites.

The HCSA has been implemented in 10 countries and across multiple commodities, including oil palm, rubber, and paper and pulp. It has been shown to hold benefits for biodiversity and that it is possible to meet development targets using it, even in countries with high forest cover.¹⁶ Additional safeguards for other ecologically important habitats, such as highly biodiverse grasslands, should also be considered.

Untangling evolving commitments

The adoption of these new principles within 'no deforestation, no peat, no exploitation' approaches (known as NDPE policies) by a critical mass of companies – from oil palm producers to traders, consumer goods manufacturers, retailers, banks and pension funds – presents a viable means of transforming the sector.

While the EU considers its options, there is increasing support from European governments. One such initiative – the Amsterdam Declarations, signed by seven governments – supports the private sector-led commitment to fully sustainable palm oil supply chains by 2020 and, more widely, deforestation-free agricultural commodity supply chains in Europe by 2020.¹⁷

It builds on national palm oil alliances in Europe operating across 12 countries, consolidated through the European Sustainable Palm Oil (ESPO) project. These palm oil initiatives were initially seeking, and remain largely focused on, achieving 100 per cent certified sustainable palm oil (CSPO) – normally RSPO - although, as NDPE policies have emerged, their commitments have also evolved.

This reflects on the fact that, despite increasing NDPE policies, older standards of sustainability have not been totally abandoned. Other corporates seek only to source 100 per cent CSPO also, or else to ban palm oil altogether, or have no commitments at all.

Even when NDPE commitments are made, there is widespread variance in their standards and implementation between companies. For example, companies with a 'no deforestation' commitment may not be utilising the HCSEA.

This lack of standardisation makes implementation difficult to track and the reliability of NDPE-type policies is largely untested.¹⁸ Initial studies indicate inadequate monitoring or enforcement occurs and few have been independently verified.¹⁹

As a result, NDPE policies have yet to generate the fully transformative improvements in the palm oil sector that had been hoped for.

A key weakness of all NDPE standards is that no market anywhere legally requires them to be met – a fact significantly imperilling their ability to compete with destructive business-as-usual practices. The absence of government regulation is considered one of the biggest impediments to the success of 'no deforestation' policies.²⁰

While some European governments are taking action, individual EU member states cannot regulate their overall markets and action is needed across the whole EU community.

EU action is needed

Despite a decade-old commitment to reduce deforestation, and an increasing array of 'no deforestation' commitments from companies and EU member states to build on, the EU itself has still taken no concerted action to reduce the deforestation footprint of EU consumption.

The EU market remains wide open to unsustainable palm oil produced through deforestation and forest degradation.

An EU Action Plan on Deforestation

The European Parliament's call for an EU Action Plan on Deforestation still stands and is supported by a raft of international NGOs.²¹ Such an action plan should comprise a range of measures, including but not limited to:

1. EU market regulation

The EU needs to step up and consolidate gains made in voluntary sustainability standards, inclusive of 'no deforestation' practices, by regulating them as requirements of EU market participation.

EU market regulation – through a due diligence approach – was rated as the demand-side measure that could contribute to the highest reductions in deforestation in the 2018 feasibility study commissioned by the European Commission.²² To be compliant with World Trade Organisation (WTO) rules, and avoid discrimination, such due diligence legislation should impose sustainability criteria rather than specific certification schemes, and cover common oilseed crop substitutes for oil palm, including soybean, rapeseed, sunflower seed, coconut and corn, produced both in and outside the EU.

EU market regulation should set core sustainability criteria, for these and other forest-risk commodities, including as a minimum:

- **No deforestation:** including protection of HCV areas, HCS forests and peatlands;
- **Ensuring human and worker's rights:** including Free, Prior and Informed Consent (FPIC);
- **Legality:** compliance with all local, national and international laws;
- **Traceability:** traceable back to production area.

Models of due diligence legislation already adopted by the EU could inform this, including the 2017 Conflict Minerals Regulation and the 2013 EU Timber Regulation.²³

2. Expand and strengthen public procurement policies

The EU also needs to issue guidance to harmonise green public procurement policies establishing the same set of criteria around 'no deforestation'. This would empower EU member states to strengthen policies already in place and encourage the uptake of new ones where they are currently absent.

3. Support for producer countries and smallholders

The demand-side measures above should be complimented with technical and financial support to enable producer countries and smallholders to maintain market access through compliance with the core criteria. Support for smallholders is required to ensure these growers are not left out. Similarly, producer country governments should be supported in improving their laws or in developing jurisdictional approaches establishing 'no deforestation' practices.

4. Encourage uptake in other consumer markets

The EU should also cooperatively collaborate with other major oilseed crop markets, such as China and India, to engender the adoption of the same standards in those markets – once the EU has acted to regulate its own market.

References

1. EC, 2008, Addressing the challenges of deforestation and forest degradation to tackle climate change and biodiversity loss, COM/2008/0645 final.
2. 2014 New York Declaration on Forests <http://www.un.org/climatechange/summit/wp-content/uploads/sites/2/2014/07/New-York-Declaration-on-Forest-%E2%80%93-Action-Statement-and-Action-Plan.pdf>; European Commission, SDGS, Goal 15, Target 15.2 https://ec.europa.eu/sustainable-development/goal15_en#target-15-2
3. Decision No 1386/2013/EU of the European Parliament and of the Council of 20 November 2013 on a General Union Environment Action Programme to 2020 'Living well, within the limits of our planet'.
4. While the 2009 EU Renewable Energy Directive sought to reduce GHG emissions, setting criteria for biofuels, such as palm oil and soybean, that in theory prohibited deforestation, it is considered to have generated significant deforestation through indirect land use change (ILUC).
5. COWI A/S (2018) Feasibility study on options to step up EU action against deforestation. Brussels: European Commission; 3Keel / LMC International (2018) Study on the environmental impact of palm oil consumption and on existing sustainability standards. European Union, Luxembourg.
6. US Department of Agriculture, Foreign Agricultural Service, June 2018, Oilseeds: World Markets and Trade. <https://apps.fas.usda.gov/psdonline/circulars/oilseeds.pdf>
7. European Commission (2013) The impact of EU consumption on deforestation: Comprehensive analysis of the impact of EU consumption on deforestation. EC, Brussels.
8. Aubert, P.M., et al. (2017) Implementation and effectiveness of sustainability initiatives in the palm oil sector: a review. Studies N° 11/17, IDDRI, Paris, France
9. Morgans, C.L. et al. (2018) Evaluating the effectiveness of palm oil certification in delivering multiple sustainability objectives. Environmental Research Letters, 13: 6.
10. EIA and Grassroots (2015), Who Watches the Watchmen? Auditors and the breakdown of oversight in the RSPO. Environmental Investigation Agency (EIA), London, UK.
11. Carlson et al. (2018) Effect of oil palm sustainability certification on deforestation and fire in Indonesia. PNAS, 115 (1): 121-126.
12. Indonesia Investments, August 2017, Only 16.7% of Indonesia's Oil Palm Plantations ISPO Certified.
13. Brack, D. & Gregory, M. (2017) Company promises: How businesses are meeting commitments to end deforestation. Fern: UK & Brussels.
14. <https://www.valuewalk.com/2018/02/ndpe-policies-investors/>
15. <http://highcarbonstock.org/the-high-carbon-stock-approach/>
16. Deere, N.J. et al. (2017) High Carbon Stock forests provide co benefits for tropical biodiversity. J. Appl Ecol. 55: 997–1008; Austin, K.G. et al. (2017) An assessment of high carbon stock and high conservation value approaches to sustainable oil palm cultivation in Gabon. Enviro. Research Letters, 12: 1.
17. <https://mekonecology.net/amsterdam-declarations/>
18. Haupt, F. et al. (2018) Zero-deforestation Commodity Supply Chains by 2020: Are We on Track? Background Paper prepared for Prince of Wales' International Sustainability Unit.
19. Greenpeace (2017) How the Palm Oil Industry is Still Cooking the Climate. Greenpeace international: Amsterdam, Netherlands.
20. Larsen, R.K. et al. (2018) Hybrid governance in agricultural commodity chains: Insights from implementation of 'No Deforestation, No Peat, No Exploitation' (NDPE) policies in the oil palm industry. Journal of Cleaner Production, 183: 544-554; Lyons-White, J. & Knight, A.T. (2018) Palm oil supply chain complexity impedes implementation of corporate no-deforestation commitments. Global Enviro. Change, 50: 303-313.
21. <https://eia-international.org/eyes-european-commission-crucial-eu-decision-deforestation-due-matter-weeks>
22. See ref 5.
23. <http://ec.europa.eu/trade/policy/in-focus/conflict-minerals-regulation/regulation-explained/>; http://ec.europa.eu/environment/forests/timber_regulation.htm