

Letter to Commissioners Sinkevičius, Urpilainen, Reynders, & Dombrovskis, (Environment, International Partnerships, Justice, Trade)

Dear Executive Vice-President, dear Commissioners,

EU action on deforestation and human rights

We are writing collectively as 14 companies and 14 trade associations/NGOs partners and supporters of the Tropical Forest Alliance, a multi-stakeholder platform established to support the implementation of private-sector commitments to remove deforestation from forest risk commodity supply chains. The TFA's more than 170 partners include companies, government entities, civil society, voluntary sustainability systems, indigenous peoples, local communities and international organisations.

We welcome recent activities undertaken by the Commission of relevance to the aims of reducing EU-driven deforestation and stepping up action to protect and restore the world's forests, including the legislative proposals in preparation by both DG Environment and DG Justice & Consumers. We would welcome the opportunity for a meeting with your officials to discuss these issues we lay out below in more detail.

In December 2020 we published a [Position Paper](#) calling on the Commission to consider a '[Smart Mix of Measures](#)' as mutually reinforcing interventions to achieve these aims. While we welcome the progress made so far, we are concerned that some key elements of this smart mix are still not receiving the attention they deserve.

Due Diligence Legislation

Although we recognise the complexity of the issues at stake, we are disappointed that the legislative proposals from DG Environment and DG Justice & Consumers have been delayed until late summer. We call on the European Commission to prioritise further work on both proposals to avoid further delay.

To achieve their maximum effectiveness, we recommend the following:

- Legislation should encourage continued engagement with suppliers in producer countries, enabling companies to collaborate and develop effective actions to improve respect for human rights and increase deforestation-free performance in their supply chains, rather than immediately to sideline high-risk suppliers or sourcing areas.
- Due diligence should be implemented by all actors throughout the supply chain, and the requirements should be clear to suppliers outside the EU; steps should be taken to minimise potential duplication of effort for companies buying products already placed on the EU market, and to provide assistance where necessary to SMEs and smallholders.
- Voluntary certification schemes can play an important role in supporting operators to comply with the requirements of the legislation, but by themselves should not be regarded as sufficient.

- The legislation should include a public reporting requirement, to improve transparency and facilitate scrutiny of due diligence systems; and systems for complaints and remediation, as outlined in OECD guidance and the Accountability Framework initiative (AFi).
- Alignment should be sought with definitions and criteria (including those relating to deforestation, human rights, indigenous peoples and local communities) from existing international and human rights instruments, as well as broadly endorsed supply-chain initiatives, like the AFi, and those applied within voluntary certification schemes, which should be encouraged to align with AFi definitions if they currently diverge.
- Prohibitions on placing products on the market could play a role, and should be carefully assessed for their potential impacts, but it should be recognised that they cannot by themselves address the root causes of human rights abuses or deforestation.
- Any benchmarking/country carding system should consider and account for the fact that landscapes or ecosystems within a country can face differing levels of deforestation and human rights risks; risk-based carding systems at ecosystem or province level should be further explored.
- The EU directive on sustainable corporate governance, including due diligence, to be proposed by DG Justice & Consumers will have greater impact if it is accompanied by sector-specific guidance on the implementation of the due diligence obligation. The Commission should draw inspiration from and align with emerging OECD guidance in this regard.

Producer partnerships

Due diligence legislation will foster a better understanding of supply chains and exposure to adverse human rights and deforestation impacts, encouraging the development and evolution of plans proactively to address risks and mitigate adverse impacts through a continual improvement approach. However, its effectiveness will be limited unless it is accompanied by action on the ground in producer countries that address the drivers of such negative impacts.

We believe that partnerships between the EU and producer countries, including with governments, industry, farmers and civil society, are necessary to help provide many of the necessary enabling conditions to protect human rights and the environment. Partnerships should also help to improve standards of governance and law enforcement, recognition and respect for the customary tenure rights of indigenous peoples and local communities, the provision of basic services, infrastructure and support for farmers and smallholders and the development of traceability systems and processes.

We are concerned that this element of the smart mix is not receiving as much attention as it deserves. The discussions the EU has started with producer-country governments on cocoa, and the Commission's proposed Forest Partnerships, should aim to establish the enabling conditions necessary to protect forests and improve standards of production of agricultural commodities, including addressing the deep-seated problems of weaknesses in governance and law enforcement and respect for human rights present in many producer countries. They should also consider the potential for trade or market preferences in the EU for products from partner countries successfully addressing these challenges. If the proposed partnerships remain limited to development assistance, they are not likely to create any positive incentive and will therefore not deliver sufficient impact.

We are concerned in particular with the interim findings of the 'fitness check' of the FLEGT Voluntary Partnership Agreements (VPAs) commissioned by DG Environment, which under-value their positive impacts. VPAs address the underlying problems of governance and law enforcement by placing key decision-making powers in the hands of stakeholders in the producer countries and by establishing incentives, through trade preferences and the provision of capacity-building assistance. Despite the challenges in their implementation, they have had many positive impacts and provide a model that could be applied to agricultural commodities.

In order to scale up positive outcomes and avoid the diversion of commodities produced unsustainably away from the EU towards other markets, we would welcome advancing dialogue with producer and emerging consumer countries, whether via the establishment of commodity-specific dialogues such as the Cocoa Talks multi-stakeholder forum or through initiatives such as the [FACT \(Forest, Agriculture and Commodity Trade\) Dialogue](#) led by the COP26 Presidency.

We look forward to your responses to the views we have expressed above.

Yours sincerely,



Justin Adams
Executive Director Tropical Forest Alliance
Friend of COP26



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	Bertrand Swiderski, CSR Director		Catherine Entzminger, Director General
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