

Day 2 of the multi-stakeholder meeting

Demand-side measures for deforestation-free supply chains; opportunities and pitfalls

Date and Time: 30th of June 2021, 14:00 – 16:30 CEST

Moderator: Frances Seymour (Chair of the OTFF Program Committee).

Peter de Koning, Director of the Amsterdam Declarations Partnership Secretariat welcomes all participants also on behalf of the co-organisers Oslo Tropical Forest Forum and Trase. The ADP felt it was very timely to discuss how demand-side measures are evolving in various contexts. The ADP strongly supports demand-side measures, but also recognizes the need for complementary producer-side measures to support the transition needed. One of our challenges is to identify and support this transition. Important questions related to that transition are:

1. Are demand-side measures – related to internationally agreed goals on climate, biodiversity and deforestation - coercive and unfair for producer countries or are they needed to raise the bar and create the necessary market signals?
2. Will they have a positive impact on climate change, biodiversity, food security and social justice? Are they forcing marginalized groups to adhere to standards beyond their reach, or are they benefitting communities that are directly feeling the effects of climate change and biodiversity loss?
3. How will the price of making the transition be distributed to actors along the supply chain?
4. Are demand side measures that focus on legality enough to reach sustainability goals? What happens when laws are weakened?

Inclusive governance of land and forests in producer countries is needed to achieve sustainability. Peter draws particular attention to the importance of recognizing the challenges for and the rights of indigenous peoples. They are often affected by the expansion of agriculture, and face deforestation on their customary lands. That is before an actual commodity supply chain is established. There are various measures and means to improve the situation, but it does require more inclusive governance at a jurisdictional and/or landscape level.

Toby Gardner, Stockholm Environment Institute-Trase introduces the concept of Hard Truths. Some of the biggest sustainability challenges we face are precisely the ones we talk about the least. Why do we commonly overlook or ignore hard truths? Three reasons are put forward for this:

1. *Lack of awareness:* genuine ignorance, a distraction or overpromise of future technology that would solve the problem.
2. *Lack of motivation:* too costly, risky, unequal distribution of costs and benefits, solution aversion.
3. *Lack of agency:* external factors, downplayed and overlooked, decision paralysis and tragedy of the commons.

Confronting hard truths means one could (1) reject it as not true (at least from your perspective); (2) accept that we need to live with it; (3) Try and solve it

Four hard truths were addressed through this dialogue.

Hard Truth #1 - Demand-side measures are needed to reach global goals but are also inherently non-inclusive and coercive. Demand-side measures (DSM) including due diligence regulation are partially a response to the limitations of voluntary commitments to eliminate deforestation and other impacts from supply chains, and the inability so far in producer countries to reach climate and biodiversity

goals. The need for DSM is often decided upon first and consultation with wider stakeholders often starts after DSMs are defined.

Discussant Andrés Felipe García Azuero, Director Sectoral Planning and Sustainable Development, Fedepalma Colombia

Most stakeholders want to do things better and improve economic, environmental, and social sustainability, including the well-being of producers, their families, and the environment. Unilateral measures that are not inclusive may lead to rejection by producers and can result in their exclusion. We should be careful that a shared understanding and recognition of goals does not give legitimacy to coercion. Compliance and verification processes present administrative and cost hurdles for smallholders and small- and medium-sized enterprises. We need to foster collaboration based upon common goals and understanding of practical challenges. One should also consider the realities of today. Not all sustainably produced, certified commodities are also bought – there is often a surplus of supply. So even if farmers produce sustainably who pays for the extra costs of sustainability and certification? In the case of Colombia, for small and medium-sized producers it will be very difficult, if not impossible, to access the European market, if no one recognizes the price of the greater effort they must make, and the barriers they must overcome.

Discussant Mina Setra, Deputy to Secretary General on Social-Culture Affairs, AMAN Indonesia

Covid has had a large negative impact on economies. If economic recovery is based upon business-as-usual indigenous peoples must brace for impact! They will be the first victims of agricultural expansion. Therefore, it is crucial that due diligence measures include criteria for social justice and prohibit commodities linked to land grabbing and violation of human and indigenous rights.

Discussion

- To be effective DSMs need to be understood, recognised and enjoy a minimum level of support by actors across the supply chain, especially by farmers and indigenous peoples.
- Demand-side measures are not one-size-fits-all and have to recognize common but differentiated responsibilities across the supply chain, which includes and addresses the concerns mentioned. In addition, the capacity for monitoring deforestation, supply chain traceability, and implementation of sustainability practices have to be developed jointly so smallholders do not have to bear those costs. This can be supported by both green procurement and (self-)regulation schemes. Indigenous peoples need to be included in the discussion and be part of the solution. In many cases they are the (customary) rights-holders and should be respected as such before expansion occurs.

Hard Truth #2 - The actors capable of conforming with demand-side measures are often the most powerful. Strict requirements for legality and/or sustainability by demand side actors can often result in more vulnerable actors, including family farms, smallholders, community production systems being outcompeted or excluded.

Discussant Marieke Leegwater, International Program Coordinator Palm Oil, Solidaridad

Demand-side measures alone will not solve the deforestation issue. ‘Smallholders’ are a very wide and diverse group that differ per country context. To achieve sustainability both the floor and bar need to be raised. Smallholder agricultural practices, yields etc still need to be improved further.

Discussant: Joko Arif, Senior Adviser, Packard Foundation

The fear of exclusion is real. Most smallholders do not receive direct support to meet European requirements, but already much produce is certified (with important lessons on the difficulty of

inclusion). Working with smallholders by downstream supply chain actors is challenging due to their education level, language barriers, remoteness, skills, capacity, motivation, and level of organisation. Governments and civil society organisations that directly link to local producers should collaborate more effectively. For smallholders to become an integral part of national development, dedicated regulation and support is needed for better inclusion and to enhance production and profitability.

Discussion

- Global commodity trade has evolved over time in very competitive, commercial supply chains that often depend on very efficient large farms and plantations.
- An important hard truth is that not all smallholders could or should be included in the global commodity supply chains. Not every smallholder is a farmer. Some are subsistence farmers due to a lack of other options. Farmers can also produce for domestic markets. However, poverty is a very important overall concern that needs to be addressed as part of achieving sustainability. In all contexts we should enhance the security, productivity and by consequence the profitability of smallholders, and actions on providing decent incomes are needed for all.
- Legislation will create a level playing field but will not solve all problems and financial support is needed for the transition to sustainability. But how to go beyond traditional development programmes and make this a general development process with government and private sector involvement?
- Demand-side requirements need to be embedded and supported through inclusive producer-side measures. There is still a structural problem because we fail to internalize the cost of sustainability (environmental damage, social justice) in the commodity supply chain. The costs of sustainability should not be transferred to only the producers but shared along the supply chain (see also HT #3 and #4).
- Smallholder producers, family farmers and indigenous peoples need to be represented and involved in the discussions. In many countries the level of organisations and the capability of alliances is not good enough to bring their joint voices to the national and global debate.

Hard Truth #3 - Demand-side legislation based on banning imports linked to illegal deforestation will not deliver fully sustainable supply chains. Financing and facilitating inclusive, sustainability transitions needed to achieve compliance with demand-side measures will need to be shared between private and public actors, in both producer and consumer countries.

Discussant Hege Ragnhildstveit, Senior Adviser, Norway's International Climate and Forest Initiative (NICFI), Ministry of Climate and Environment

Global food trade, commodities in particular, represents the most commercial of all commercial activities. They are absurdly cheap, partly because production involves exploitation of land and sometimes of people. Sustainable and deforestation-free production may require investments, which may increase costs. There is in principle no good reasons that anyone other than the buyers of the products should pay for sustainability. The role of public finance is mainly to compensate for the fact that not everyone is moving in parallel – some markets will turn a blind eye to the sustainability norms - for a while. Where producer countries are willing to plug the leakage and provide a level playing field through regulations, "import countries" should be most forthcoming in covering the transition cost. In every country, food prices fluctuate, and rising prices will be a political and sensitive topic, especially in the post-pandemic recovery period. There needs to be greater acceptance of the fact that

buyers/consumers in richer countries should pay more for their food if we assure a minimum standard of sustainability.

Discussant: Danielle Carreira, Head of Finance Sector Engagement, Tropical Forest Alliance

The challenge we face is also not only a question of finance and cost sharing. It is also a political and cultural challenge with diverging views on economic development and the environment. The economic risks associated with climate change are still not accepted by many. Actors along the supply chain – governments, banks, companies, CSOs – need to be brought together and share responsibility for sustainability. To close the gap we need to integrate solutions from the ground.

Discussion

- The million-dollar question is whether the costs of production and global food prices would rise if deforestation (for climate change and biodiversity) was avoided and higher social standards were respected. Or on the other hand, if deforestation and climate change continue unabated will it increase the global food prices and cause supply chain disruptions? The costs of the first including the costs of implementing sustainability measures and monitoring might be small in comparison to the costs of the second. The biggest cost may be linked to certification and verification, if this is required, and not the result of sustainability of practices as such. But food prices may not even go up given the available production technology and food systems we have.
- There are key transitional challenges to get to zero deforestation and sustainability. These include redirecting agricultural expansion to degraded land and subsidizing that development. The value of standing forests needs to be increased and rewarded as a global public good. The underlying question is “how will the price of making the transition to sustainability be distributed to actors along the supply chain?” There is also a knowledge gap among consumers, retailers, commercial banks and government.
- Many producers and companies are still not engaged. They all need to be included as the actors of change rather than as culprits or victims. The best way forward and the most acceptable one is a cost and burden-sharing across the supply chain from producers to consumers.

Hard Truth #4 - Demand-side legislation based on banning imports linked to illegal deforestation will not deliver fully sustainable supply chains. Due Diligence regulations may be based on legal compliance within the country of origin. However, stakeholders can be marginalised, laws can be changed, and non-compliant producers can be given an amnesty.

Discussant: Nathalie Lecocq, Director General, FEDIOL

Overall, products should be legal. But what is legal is not always just or sustainable. A prohibition in the current situation could have as unintended consequences:

- Exclusion of the smaller producers and family farms in the transition to sustainability.
- Less leverage to engage producer countries.
- Cutting of market access to those supply chain actors that cannot ensure segregated chains of custody from production to market.
- Risk of disinvestment by responsible companies in high-deforestation risk regions, without lowering deforestation.
- Contributing to a lasting bad image of a (temporarily) forest-risk commodity.

Mandatory due diligence is not a silver bullet and should be part of a smart mix of measures, with a double objective: addressing deforestation on the ground and getting rid of embedded deforestation

from our supply chains and from the EU market. We have to ensure incentives drive positive change and inclusion.

Discussant: Timer Manurung, Chair Auriga

Banning illegal produce will not solve the problem of deforestation and sustainability because legal deforestation will be the next trend. The legal setting is weakening, and the anti-corruption measures are insufficient. Improved regulations and governance are key measures, but we also need to develop effective implementation tools.

Discussion

- There is general agreement that addressing illegality will not per definition deliver sustainability. Laws are not defined to achieve sustainability, will not stop all deforestation, and are not sufficient for addressing climate change, maintain biodiversity or address human rights violations in supply chains. Legal compliance can play a role as minimum floor. It is hard to reject the need to comply with laws, but laws do not always reflect international conventions and agreements. However, legal compliance is not the black-and-white situation as we often think it is. Full legal compliance and forest governance in many producer countries is often poor. How can smallholders comply with laws when they don't even have clear tenure, how do you deal with local corruption and other obstacles towards legal compliance?
- Enforcing a deforestation-free obligation through an EU import ban would not be sufficient in addressing the complex problems that contribute to deforestation and sustainability on the ground. The group agreed that mandatory due diligence should be part of a smart mix of measures that helps to meet climate, biodiversity, and deforestation goals. There was general agreement on the need for a policy mix - for example, it's important to support producer countries, encourage improved governance, and to provide incentives- carrots not just sticks. There was agreement on the goal being for regulation to raise the bar and the floor. But there is also concern for backsliding on basic legality that still includes deforestation and infringes indigenous rights. Some believe that a focus on legal compliance will result in weakening of forest laws in producer countries- and we already see that laws in some key producer countries are being weakened.
- Full legal compliance by some producers has not necessarily resulted in higher prices for their produce so regulation alone does not stimulate overall compliance, better practices, and improved well-being. Non-compliant producers present unfair competition for the compliant producers. Markets do not reward products financially from jurisdictions with better regulation and enforcement. Besides effective law enforcement that also helps to establish a level playing field, additional incentives and measures are needed.
- Can implementing a zero-deforestation commitment be easier and simpler than legal compliance? The discussion showed disagreement and different perspectives. Focusing on legal compliance could also be a distraction from zero deforestation. On the other hand, if most of the deforestation is illegal, legal compliance would solve a large part of the deforestation issue. Yet legal compliance does not have to equate the impact desired: sustainability, climate neutrality, inclusive governance, and overall reduced deforestation. Stakeholders can be marginalised, laws can be changed, and non-compliant producers can be given an amnesty.

Closing remarks by Peter de Koning:

Peter thanks all participants for the very rich discussions and recognises it will be difficult to do justice to all views, concerns, and contributions. Some key observations are:

1. *Inclusion*: The less the participation of small-holders and indigenous peoples in policy development and implementation, the more measures will be coercive to them. Producer alliances, indigenous peoples' organisations and jurisdictional initiatives need to be included in the development of demand-side measures and complementary producer-side measures. We need a dedicated effort and well-structured process to channel and have the interests of local farmers and indigenous peoples represented. Innovative measures building their capacity is key.
2. *Cost sharing*: We need a clear answer and appropriate mechanisms for an equal and just cost and burden sharing across the commodity supply chain, including governments.

Hege Rahnildstveit, from ADP chair Norway states that for ADP it has been extremely valuable to get input from so many key stakeholders. This has helped inform our way of direction moving forward when it comes to demand-side measures, strategic partnerships with producer countries and other consumer markets, and with other actors along the supply chain.

Closing remarks by Frances Seymour

Today's theme of inclusive governance was the right one. This multi-stakeholder event is an example of the utility of bringing diverse perspectives together and clarify where there is disagreement, as a first step toward resolving disagreement. It reminded us of how the world looks from the perspective of supplier jurisdictions. As was clearly stated "their (European) legality, versus our (producer) reality".

The impacts of the Covid- pandemic changed perceptions about this whole ecosystem of actors, whether producers can count on the market, the impacts of deforestation on food security etc. There are clear risks of exacerbating inequities and triggering other unintended consequences. But we have the opportunity to link to jurisdictional approaches to ensure the interests of various stakeholders are taken into account.

Issues for further discussion regarding demand-side measures (DSM):

1. They need to be grounded in facts:
 - How many smallholders are actually exposed and affected by DSM?
 - How much risk of companies shifting their sourcing away from deforestation-risk regions?
2. How due diligence requirements and other DSM can be an instrument of inclusiveness?
 - Strong need for alignment and Inclusion of human and land rights issues
3. Importance of complementary measures, e.g., carrots (often missing)
 - Financial incentives such as REDD+ finance
 - Need more consensus on who pays (commercial, public sector actors)
4. Illegality vs. deforestation-free (including legal deforestation in country X).