



6.1 FLEGT, REDD+ and agricultural commodities

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Over the last decade, governments in timber-producing and timber-consuming countries have implemented a range of policies and measures to improve forest governance and reduce illegal logging. Many of them were stimulated by the EU's 2003 Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan. One important category of measures attempts to exclude illegal (and sometimes unsustainable) timber products from international trade through the use of regulatory means such as public procurement policies, licensing systems and legal and corporate due diligence requirements.

These restrictions on market access for exports of timber and timber products usually operate alongside the provision of financial and technical assistance. They provide an incentive for producer country governments to take action and are a valuable addition to enforcement efforts. Effectively, they aim to create protected markets in which legal and sustainable timber can command a fair price and not be undercut by cheaper illegal products. Their goal is to shut out illegal timber from international markets.

Combined with voluntary commitments by the private sector, these measures have had a clear impact on consumer markets. This is most evident in the increasing availability of timber certified under the two major international certification initiatives: the Forest Stewardship Council (FSC) and the Programme for the Endorsement of Forest Certification (PEFC). These have emerged as the most important means of demonstrating legality and sustainability for public procurement contracts, and may do the same for due diligence requirements.

By 2010 certified products accounted for around 27 percent of global industrial roundwood production. In the UK in 2008, certified timber and panel products accounted for more than 80 percent of the market, up from 55 percent in 2005 (Moore 2009). In the



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Netherlands, the share of certified timber and panel products grew from 13 percent in 2005 to 34 percent in 2008 to 68 percent in 2011; the share of certified paper and paper-board reached 33 percent in 2011.¹

The development of legality assurance and licensing systems under the Voluntary Partnership Agreements (VPAs) currently being negotiated and implemented under the FLEGT initiative has been much slower than anticipated, although the VPAs have had positive impacts on forest governance.²

Studies by Chatham House, among others, suggest that the combined effects of all the measures taken over the last decade or so — including those listed above as well as many others — has been positive. They have caused a significant reduction (about 25 percent) in illegal logging between 2000 and 2008, and a similar (30 percent) fall in major-country imports of illegal timber from 2004 to 2008 (Lawson and MacFaul 2010).

However, illegal logging and the international trade in illegal timber is not the most important cause of deforestation. Clearance of forests (legal or illegal) for agricultural crops, often for export, is far more significant. An obvious question to ask, therefore, is whether the consumer-country measures used to exclude illegal timber could be applied to the illegal or unsustainable agricultural products associated with deforestation.

This question is also relevant to attempts to construct, within the international climate change regime, effective strategies to reduce greenhouse gas (GHG) emissions from deforestation and forest degradation (REDD+). Since forest conversion for agricultural commodities is the main competitor of sustainable forestry, successful attempts to restrict trade in unsustainable or deforestation-related commodities should make REDD+ policies more viable.

Deforestation and agriculture

Although the rate of global deforestation has slowed in the last ten years, it continues at a high rate in several countries. The net loss of forest area due to natural causes or conversion to other uses is estimated at 5.2 million hectares (ha) each year in the decade 2000–10, a decrease from 8.3 million ha per year in the previous decade (FAO 2010).

Although many complex and interconnected factors drive deforestation, agricultural expansion is the most significant at the global level. A recent study for the European Commission estimated that 53 percent of the global deforestation from 1990 to 2008 was due to agricultural expansion (EC 2013).³ A 2012 study produced for the British and Norwegian governments, with a different methodology and covering a different period (2000–10), estimated that agriculture was responsible for about 80 percent of deforestation (Kissinger, Herold and de Sy 2012).

Globally, the crops most strongly associated with deforestation are soy, maize, oil palm, rice and sugar cane, while more than half of total deforestation is associated with pasture and feed for cattle. Although most of these crops are consumed in the domestic market, international trade is also important: an estimated one-third of the deforestation related

to crop production (mostly soy and palm oil) and eight percent of the deforestation related to livestock products is a result of international trade. The EU is the largest global net importer of embodied deforestation; in 1990–2008 its main imported commodities associated with deforestation were soy, palm oil, meat products (mainly beef and leather) and cocoa (EC 2013).

The international supply chains for these commodities share a number of characteristics. They tend to be highly concentrated at the point of production, trading, processing or final sale. In each case a small number of countries are responsible for the bulk of production, and a handful of major companies dominate trading, processing and/or sale.

A wide range of voluntary initiatives encourages sustainable production, including the Roundtable on Sustainable Palm Oil (RSPO), the Roundtable on Responsible Soy (RTRS), the Roundtable for Sustainable Biofuels, the Global Roundtable on Sustainable Beef and the Leather Working Group. In addition, organizations such as the Rainforest Alliance and ProTerra carry out certification of farms and supply chains, often using the Sustainable Agriculture Network standards, for these and other agricultural products. Compared to timber, however, certification initiatives for agriculture are still relatively limited, particularly for soy, beef and leather.

Private-sector initiatives for sourcing sustainable products are also common, including the zero net deforestation targets of the Consumer Goods Forum and Nestlé, and the commodity-specific targets of the Dutch Task Forces on Sustainable Soy and Palm Oil, the Belgian Alliance for Sustainable Palm Oil and many individual companies.

Consumer-country measures

The first question to ask is which characteristics of an agricultural commodity supply chain would make the application of regulatory measures easier and potentially more successful. All else being equal, measures should be more effective in these cases:

- an identification scheme for sustainable products already exists;
- voluntary private-sector initiatives are already underway;
- supply chains are simple, with a relatively small number of stages at which controls can be applied, and a narrow range of products made from the raw material;
- market power is concentrated at one or more points along the supply chain (producers, traders, processors or retailers), and there is a strong geographic concentration of production;
- there is a high ratio of exports to domestic consumption and a high proportion of exports to “sensitive” markets;⁴
- for public procurement policies, the product is purchased by the public sector; and
- other opportunities for regulations to affect the market, such as for biofuels, exist.

Although all of the key commodities mentioned above that are imported into the EU qualify under at least some of these criteria, palm oil and cocoa are probably best suited to consumer-country measures, followed by soy. Beef and leather pose more difficult challenges.

Most of the consumer-country measures used for timber have been designed to exclude illegal, rather than unsustainable, timber products. Research on illegalities in the production of agricultural commodities has been less extensive than that on illegal logging, but there are many reports of illegal clearance of forest for oil palm or soy, or pasture for cattle, in most of the countries that produce these crops. Research under way for Forest Trends — based on case studies in Brazil, Peru, Colombia, Cameroon, Cambodia, Indonesia, Malaysia and Papua New Guinea — estimates that most conversion of forest to agriculture in tropical countries (including timber plantations) is currently illegal; this is particularly the case in the clearance for oil palm plantations and cattle pasture.⁵

Illegal forest conversion tends to be more complex and difficult to prove than other forms of illegal behaviour; it is inevitably entangled with issues of land ownership and tenure. In many countries, these issues may be contested or unclear. Consumer-country action against illegal agricultural commodities may therefore be more difficult, in practical and political terms, than it has been against illegal timber.

It may be more practical to target consumer-country action against unsustainable commodities. One of the main reasons is that in most cases there are at least some forms of certification providing evidence of sustainable origin (however they are defined). However, sustainability incorporates a wider range of issues than legality. It also relies on definitions that are not, in general, determined by the country of production, or at least not only there. Restricting trade on the basis of sustainability standards therefore risks accusations that foreign values are being imposed. It could also trigger the development of sustainability standards by the countries of origin that may not meet international criteria.

Compatibility with World Trade Organization (WTO) rules must also be considered. Although there are good reasons to believe that trade discrimination would be permitted on the basis of “process and production methods” (the ways in which products are grown and harvested), this does raise several issues: the need for clear criteria for sustainability; whether the book and claim and mass balance systems used in the RTRS and RSPO would be allowed; and, for soybean oil and palm oil, the “likeness” of vegetable oils in general.⁶

Options for governments

Given this context, could the consumer-country measures used against illegal timber feasibly be applied to agricultural commodities? This article primarily considers options available to the EU and to its main deforestation-related imports — palm oil, soy, beef and leather and cocoa — but in principle they could apply to other consumer-country governments and to other agricultural commodities.

Public procurement policy

There are 13 countries that currently use public procurement policy to source legal and sometimes sustainable timber; evidence from EU member states suggest that this has contributed to a significant rise in the market share of certified timber products. The public sector is an important purchaser of food and catering services, and public procure-

ment policies have clear potential for all the five commodities considered here, except possibly leather. Many local and regional governments already use procurement policies to promote organic and Fairtrade food products, and the UK has recently adopted a central government procurement policy for sustainable palm oil in food and catering; this approach could be extended.

Tariff reductions

Tariff reductions for sustainable commodities were considered for timber, but never pursued, due partly to the low tariffs on most timber products. Although differential tariffs would probably be consistent with WTO rules, adopting them would be a highly controversial move. In any case, as with timber, tariffs are low or zero on most (though not all) agricultural commodities. This option does not seem likely to offer a useful way forward.

Other government regulations can affect markets for sustainable products. In the case of timber, building regulations and criteria for the use of wood as biomass for electricity generation and heat have been used to promote sustainability in production. The main issue for agricultural commodities is sustainability criteria for biofuels. These criteria have potential for palm oil and soy, although this is controversial; the demand for land-based biofuels is likely to be constrained in the future. The criteria for GHG emission savings in the EU Renewable Energy Directive provide a potential alternative model for the use of sustainability criteria, rather than relying only on certification. The use of labelling to inform consumers of the effects of deforestation (e.g., for vegetable oils) is another potential option, though one unlikely to have a significant impact.

Bilateral agreements

Bilateral agreements are an obvious option to consider. For timber, the VPAs agreed to so far⁷ have helped to improve standards of governance in the host countries, even though no licensing system for timber products is yet in operation. VPA-type bilateral agreements for sustainable agricultural commodities may be worth considering, particularly in the context of existing VPAs, such as those for Indonesia and Ghana, or those in negotiation, such as for Ivory Coast. Many of the problematic issues in these sectors revolve around decisions and conflicts over land use, and it would make sense for these to be discussed in a single forum (similar in some ways to UNDP's national sustainable commodity platforms). However, it is not clear if the potential partner countries would be interested, and it seems unlikely that licensing systems could be used for sustainable agricultural commodities. The "new generation" of free trade agreements that the EU is pursuing, which include provisions for encouraging trade in sustainable agricultural products, may have some potential.

Regulatory requirements

In recent years, governments have applied regulatory requirements for companies that trade in timber products through the U.S. *Lacey Act*, EU Timber Regulation and Australia's *Illegal Logging Prohibition Act*. These incorporate legal prohibitions (making imported illegal products illegal in the country of import) and "due diligence" requirements on

industry (where companies must put in place procedures to minimize the chance of their handling illegal products). This due diligence is implicit in the *Lacey Act* and explicit in the other two instruments. Such measures may be relevant to trade in agricultural products, given the extent of illegal clearance of forests for agriculture, but applying these kinds of regulations to commodities on the basis of sustainability seems likely to be difficult. It is possible, however, for governments to encourage companies to scrutinize their own supply chains through the use of reporting systems such as that implemented by the Forest Footprint Disclosure project; these could be encouraged on a voluntary basis or required by regulation.

Financing institutions

In both timber and agriculture, financing institutions — such as banks, investment funds, multilateral development banks and export credit agencies — can be critical. These institutions can be encouraged or required to exercise greater due diligence in ensuring that their lending and investment operations do not finance illegal or unsustainable activities. No progress has been made in this area for timber, probably because the sources of forest investment have shifted toward developing-country banks in recent years. A much wider range of institutions is involved in investment in agriculture in developing countries. Options include stricter safeguard policies for public agencies. Private institutions could be encouraged or required to commit to lending policies that require adherence to sustainability standards; recently, for example, a number of commercial banks, including BNP Paribas, Citibank and Rabobank, have adopted lending policies that require palm oil refiners to purchase palm fruit from growers who meet sustainability standards (Purvis, Wolosin and Springer 2013: 8).

Private-sector initiatives

Compared to the early days of the debate on controls over the timber supply chain, there are far more — and far more ambitious — private-sector initiatives on sourcing sustainable agricultural commodities. This is encouraging the development of identification systems, and helping to add critical mass to bodies such as RSPO and RTRS. It may also eventually increase the pressure for government action as the major companies gain confidence in their supply chains and start to lobby for regulations on their lower-standard competitors. One obvious conclusion is that governments should encourage and perhaps participate in further voluntary initiatives, such as the UK statement on sustainable palm oil, the US-led Tropical Forest Alliance and the Dutch Sustainable Trade Initiative. Action by groupings of companies, such as the Consumer Goods Forum or the Belgian and Dutch task forces on sustainable soy and palm oil, should also be encouraged.

Many other actions can be taken to improve the sustainability of agriculture; for example, by the private sector, and by governments and companies in producer countries. This is particularly relevant in the context of national or sub-national REDD+ processes that redefine incentives to change the way that forests and landscapes are managed. Although these are clearly important and complementary measures, they fall outside the scope of this article.

Conclusion

Many options are available to consumer-country governments. Ten years ago the development of the EU FLEGT Action Plan helped to stimulate discussion, research and action across a wide range of policies and measures aimed at tackling illegal logging. The preparation of an EU Action Plan for sustainable agriculture, governance and trade could be similarly valuable in stimulating discussion and action on agriculture and deforestation.

All of these regulatory options must rest on some form of identification system for sustainably produced commodities, which in most cases means certification. There is no point in imposing consumer-country controls on imports unless the producers can respond; therefore, supporting measures to lower the cost and encourage the uptake of various certification systems and make them more robust should be considered.

Acknowledgement

This article summarizes a longer paper, *Combating Deforestation: Controlling Agricultural Commodity Supply Chains* (Brack, in press).

Endnotes

1. See Probos, "Market share of sustainably produced timber doubled in three years: government target exceeded," 2013.
2. See further in Bollen and Ozinga 2013.
3. The EC study included a category of "unexplained deforestation," accounting for 24 percent, which almost certainly also included some deforestation related to logging and agriculture.
4. This includes countries where governments and consumers are most likely to express concern with the impacts of their consumption on deforestation – chiefly, the EU, U.S. and Australia.
5. See Sam Lawson, presentation at Chatham House, 9 July 2013: "Illegal forest conversion for industrial agriculture, and associated trade in timber and agro-commodities: The scale of the problem and potential solutions," available at www.illegal-logging.info/sites/default/files/Sam%20Lawson%20%282%29.pdf.
6. For a longer discussion, see Brack, in press.
7. To date, VPAs have been agreed to between the EU and six timber-producing countries and are under negotiation in a further eight countries.

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