

The Council of Palm Oil Producing Countries (CPOPC) Positions on The European Commission Legislative Initiative on Imported Deforestation

Communication on Deforestation and Forest Degradation

According to the European Commission (EC) communication issued on 23 July 2019, the EU consumption is a key driver not only of deforestation but also of the destruction of other ecosystems around the world, linked to commodities such as soybean, palm oil, cocoa or meat, of which the EU is a top importer and accounts for as much as 36% of all global imports of crop and livestock products associated with deforestation. Therefore the EU needs to radically rethink the way it consumes and calls for legislation to ensure that no product linked to deforestation or ecosystem destruction is allowed to enter the EU market. Although this communication is a step in the right direction, CPOPC would like to emphasize the EC that the actions should apply to all ecosystems affected by the EU consumption, such as savannahs, to be included to reduce the negative impact and to protect diversity.

The European Union (EU) proposed steps it will take to promote global reforestation efforts and end deforestation related to EU imports of agricultural commodities. Imported deforestation is the environmental footprint of products consumed by the Europeans but produced elsewhere. It is relatively invisible to European consumers and spectacularly destructive to the planet.

This latest communication is not the first time the EU has taken steps to curb deforestation. On the sidelines of the Paris Agreement in 2015, Germany, France, the Netherlands, the UK and Denmark (later joined by Norway and Italy) signed the Amsterdam Declaration, restating their commitment to eliminate deforestation from agricultural commodity supply chains by 2020. In 2017, the European Parliament passed a resolution aiming to limit the import of palm oil that has caused deforestation. The European Parliament also called for new sustainability criteria for palm oil entering the European market.

Deforestation and Forest Degradation – Reducing the Impact of Products Placed on the EU Market

The Council of Palm Oil Producing Countries (CPOPC) appreciates the EU's legislative initiative on minimizing the risk of deforestation and forest degradation associated with products placed on the EU market, hoping that the consultative process ahead will ensure that the legislative and regulatory outcomes be balanced, not unilateral, based on measurable science and data, non-discriminatory, and in line with the applicable WTO rules.

CPOPC is an intergovernmental organization for palm oil producing countries. It was established on 21 November 2015. The objective of the Council is to promote, develop and strengthen cooperation in the oil palm cultivation and industry as well as to ensure long term benefits of such palm oil endeavors to the economic development and well being of the people of the Member Countries. Palm oil is a vital commodity for Indonesia and Malaysia, and has long recognized the importance of preserving its forest coverage and of ensuring the sustainable cultivation of oil palm and production of palm oil. According to the United Nations Forest Cover (UN FAO 2015 Forest Resources Assessment), the forested area in Malaysia amounts to around 67.6% of the land area, and in Indonesia about 53%.

As a relevant benchmark, in the EU, despite significant reforestation efforts at multiple times in modern history, the forest area covered only around 39.5% in 2018, a slight increase from around 35% in 1990. These trends are important to highlight because Malaysia and Indonesia's performance despite the development of its palm oil industry, is outstanding if projected against

the steady decline of the overall global forested area. This data and these differences must be recognized and factored in when policies are defined and actions are taken.

CPOPC would also like to highlight Malaysia's significant efforts related to ensuring the sustainability of its industries, including its palm oil industry. As of 1 January 2020, Malaysia has made it mandatory for palm oil producers including the smallholders to be certified under the Malaysian Sustainable Palm Oil (MSPO) standard. The MSPO standard, established in 2015, intends to ensure responsible and sustainable production by oil palm smallholdings, plantations, and palm oil processing facilities, as well as transparency and traceability along the value chain. These actions are real, measurable and adopted to protect what is not only a precious resource for humanity but foremost Malaysia's most important asset and comparative advantage: its forests and unique ecosystem. Similarly, in Indonesia, there is the Indonesian Sustainable Palm Oil (ISPO) standard.

CPOPC recognizes the ambitious objectives of the European Green Deal and the priorities identified by the European Commission in the "EU Communication on Stepping-Up EU Action to Protect and Restore the World's Forest" adopted on 23 July 2019 for purposes of protecting and improving the health of existing forests, especially primary forests, and significantly increasing sustainable, biodiverse forest coverage worldwide. Despite all the priorities calling for partnership with producer countries to reduce pressures on forests and to strengthen international cooperation to halt deforestation and forest degradation and encourage forest restoration, the EU continues to adopt its initiatives, actions and policies on forestry unilaterally.

CPOPC would like to single out the most recent policies and measures on the EU's Directive (EU) 2018/2001 on the promotion of the use of energy from renewable sources, or RED II. The legislation has been defined and adopted unilaterally. RED II is now subject to WTO Dispute Settlement Committee as its intended results in terms of added sustainability and environmental protection have been questioned as discriminatory to palm oil.

CPOPC looks forward to a constant, transparent, science-based, and frank dialogue with the EU, as this legislative initiative progresses, and would like to note the following:

- 1) The European Commission's Inception Impact Assessment states that there is *"a market and regulatory failure reflected in the lack of level playing field between companies that act responsibly towards deforestation and those who do not"*.

CPOPC believes that this is true not just between companies, but also countries (e.g., not all palm oil producing countries have the same regulatory frameworks in place in order to cultivate and produce responsibly, protect the forests and enforce the rules) and commodities, for example, palm oil is often conveniently targeted and singled-out, not just in the deceptive and anti-competitive commercial narrative of private operators that use labels like 'palm oil free' to promote their products by indiscriminately denigrating all palm oil, but also increasingly in legislative initiatives such as the EU's Renewable Energy Sources Directive (RED II) and the related rules on indirect land-use change (ILUC) or measures adopted by the individual EU Member States. This must be addressed, and the initiatives considered and adopted by the EU must be balanced, based on facts and measurable scientific evidence, be commodity-neutral, and not result in disguised restrictions on international trade.

- 2) The Inception Impact Assessment also rightly indicates that there are *“information asymmetries, derived from the lack of common standards and reliable information in the hands of consumers”*.

CPOPC concurs with the European Commission on the importance of sustainability standards, which must be multilateral in nature and not unilaterally imposed. The Council also emphasizes the need for reliable information as the fundamental basis for correct policy-making, which must be scientifically-based, measurable and available for all countries, affected commodities and comparable activities, contrary to what the EU appears to have applied in recent legislative actions.

- 3) The Inception Impact Assessment states that *“while the EU FLEGT Action Plan tackles illegal logging, it does not address deforestation caused by agricultural expansion. The recast Renewable Energy Directive for the period post-2020 extends the obligation to fulfill the EU sustainability criteria from biofuels to all bioenergy end-uses (including heating/cooling and electricity), but it only covers raw material used for bioenergy production”*.

CPOPC believes that EU policies often focus on a selectively and conveniently chosen subject only. For example, no mention is made of the agricultural, industrial and comparative differences between commodities, with some (like palm oil) being far more sustainable than others (e.g., soy, beef, pig meat, dairy, etc.), when it comes to crucial production factors. Statistics for yield per hectare for various oil crops demonstrate the comparative advantage of palm oil vis-à-vis other vegetable oils. The overall yield of 55.9 million metric tonnes of soybean oil, produced from 126.4 million harvested hectares, and of 25.6 million metric tonnes of rapeseed oil, produced from 33.3 million harvested hectares, has to be compared to a yield of 72 million metric tonnes of palm oil, produced from 20.2 million harvested hectares globally. The ratio of oil yield per hectare amounts to 0.44 for soybean oil and 0.76 for rapeseed oil, but to 3.56 for palm oil – an eight-fold or four-fold advantage for palm oil, respectively.

In this context, it must also be pointed out that the oil palm is a perennial crop that begins yielding oil palm fruits about three years after planting and then has a continual productive lifespan of 25 to 30 years. At the same time, soybean and rapeseed are seasonal crops that need to be replanted every season. CPOPC believes that the EU’s approach should be holistic with respect to all economic activities related to: CO2 emissions; climate change and its mitigation; deforestation, forest management, and reforestation; agricultural, industrial and transport activities; and international trade.

- 4) Finally, the Inception Impact Assessment argues that *“were the EU not to act, the problem of deforestation and forest degradation related to EU consumption would persist. This could negatively affect the EU’s efforts in the field of biodiversity protection, climate change, human rights, peace and security and the rule of law”*.

This is a legitimate concern and CPOPC urges the EU not to give-in to the usual lobbies that are quick to suggest that the only problems and culprits, when it comes to deforestation, are palm oil, Malaysia, Indonesia, and their related industries. The solution cannot be and should not be to target and punish a single commodity as a convenient scapegoat. The only viable and sustainable

solution must be to provide incentives for the continued and increased production of sustainable products, on the basis of standards of sustainability that are multilaterally or plurilaterally agreed and not unilaterally imposed in ways that all too often end-up hiding or disguising protectionist and discriminatory policies under an environmental blanket. These standards should be defined, agreed and enforced vis-à-vis all commodities and all countries, including the EU Member States.

CPOPC looks forward to actively and constantly engaging with the EU for purposes of advancing this legislative initiative in a manner that is truly based on international cooperation and a partnership between EU legislators and a key country palm oil producing countries like Indonesia and Malaysia, which is at the forefront in terms of sustainable forestry policies, sustainable palm oil production and environmental protection, without neglecting the fundamental role that sustainable forest management, timber and palm oil production plays vis-à-vis its socio-economic development, poverty eradication, and smallholders' employment and subsistence.

CPOPC further reiterates that no unilateral approach and actions should be taken, but the EU should cooperatively and genuinely work in partnership with palm oil producing countries, in the many diplomatic, commercial and technical *fora* available, in order to define and adopt bilateral, plurilateral or multilateral standards and solutions for sustainable forestry and agricultural production compliance.

CPOPC remains hopeful that the EU policies and measures eventually adopted, in order to minimise the risk of deforestation and forest degradation associated with products placed on the EU market, be consistent with WTO rules, particularly those on non-product related process and production methods, and not be biased or discriminatory vis-à-vis third countries and like products that compete with the ones produced in the EU.

CPOPC notes that the Inception Impact Assessment refers to an external study that *“will be contracted out to gather additional evidence. It will further inform the options available to address the problem, how related solutions have worked in the past and how these solutions could affect stakeholders”*. The Council is willing to work cooperatively and in partnership with the European Commission and its external consultants in order to provide the wealth of measurable data and relevant scientific, technical and commercial know-how that it has developed over the years in its constant quest to ever more responsible management of forests, sustainable production and protection of the environment.

Farm-to-Fork (F2F) Strategy

The F2F strategy is part of the European Green Deal initiative, the EU's plan to make Europe the first climate-neutral continent by 2050. According to the EC's formal report, the F2F strategy aims to reduce the environmental and climate footprint of the EU food system, strengthen its resilience, ensure food security in the face of climate change and biodiversity loss and lead a global transition towards competitive sustainability. The strategy does focus on internal EU matters, for example rewarding farming practices that remove CO₂ from the atmosphere, the reduction of overall use of chemical pesticides by 50% and fertilizer use by 20%, reducing of GHG emissions, etc., but the goals are seen to be set without consultations with all stakeholders that will be affected. CPOPC is concern that the EU has not as yet engaged in any bilateral negotiations with other countries when setting these goals, fully known that palm oil

producing countries are also governed by local laws which needs lot of legislation changes and negotiations to reach any consensus. All these measures need to be taken forward in line with the EU's better regulation principles, including consultations, evaluations and impact assessments, where stakeholders can provide input and exercised influence. It is costly and time-consuming for many developing countries to undertake.

The EU F2F strategy may have been coined in the name of sustainability for its local food chain, but if implemented could have massive cost implications for palm oil exports and major export of palm oil producing countries. Furthermore, globalization had made it mostly impossible to keep the impacts of such a strategy contained to Europe. The F2F strategy was developed as an internal framework to embitter the entire food chain from farm to consumer covering the elements from health, nutrition, sustainability, labeling and others. The focus is good if it addresses all these elements objectively. CPOPC is of the view that this is not going to be just applicable to produce that is generated in the EU, but all produce entering the EU would be subject to this too as these have become part of the EU food chain given how highly globalized the world in sourcing food ingredients.

The F2F strategy is allowing the EU to revisit and enforce its own requirements, sustainability or otherwise , on all imports including palm oil. The EU will become global police for agricultural standards in other countries. CPOPC is pre-empting this as it is definitely a serious future concern for producers if implemented, almost like the food version of the Renewable Energy Directive (RED II), focussed on sustainability for biofuels and often criticized as singling palm oil out as a target. CPOPC is also concern that nothing has been made clear if existing sustainable palm oil certification standards such as the Roundtable on Sustainable Palm Oil (RSPO) or Indonesian Sustainable Palm Oil (ISPO) or Malaysian Palm Oil Sustainable Palm Oil (MSPO) certification will be accepted by the EU. The worries are that the EU may want to set up its own certification system citing various flaws and inadequacies in the existing certification system.

