

“AN EU LEGAL FRAMEWORK TO HALT AND REVERSE EU-DRIVEN DEFORESTATION”

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Presentation Structure

1. The scale of EU-driven global deforestation
2. Supply chain of products/raw materials originated from deforested areas
3. Efforts for halting and reversing global deforestation
4. The prospects for a future an EU regulatory framework

1. The scale of EU-driven Global Deforestation

Global Forest Coverage and Function



Forests cover 30,8 % of
the global land area.
(FAO, 2020)

Of those, 18% of
forests lie within IUCN
protected area
categories I – IV, the
largest in South
America

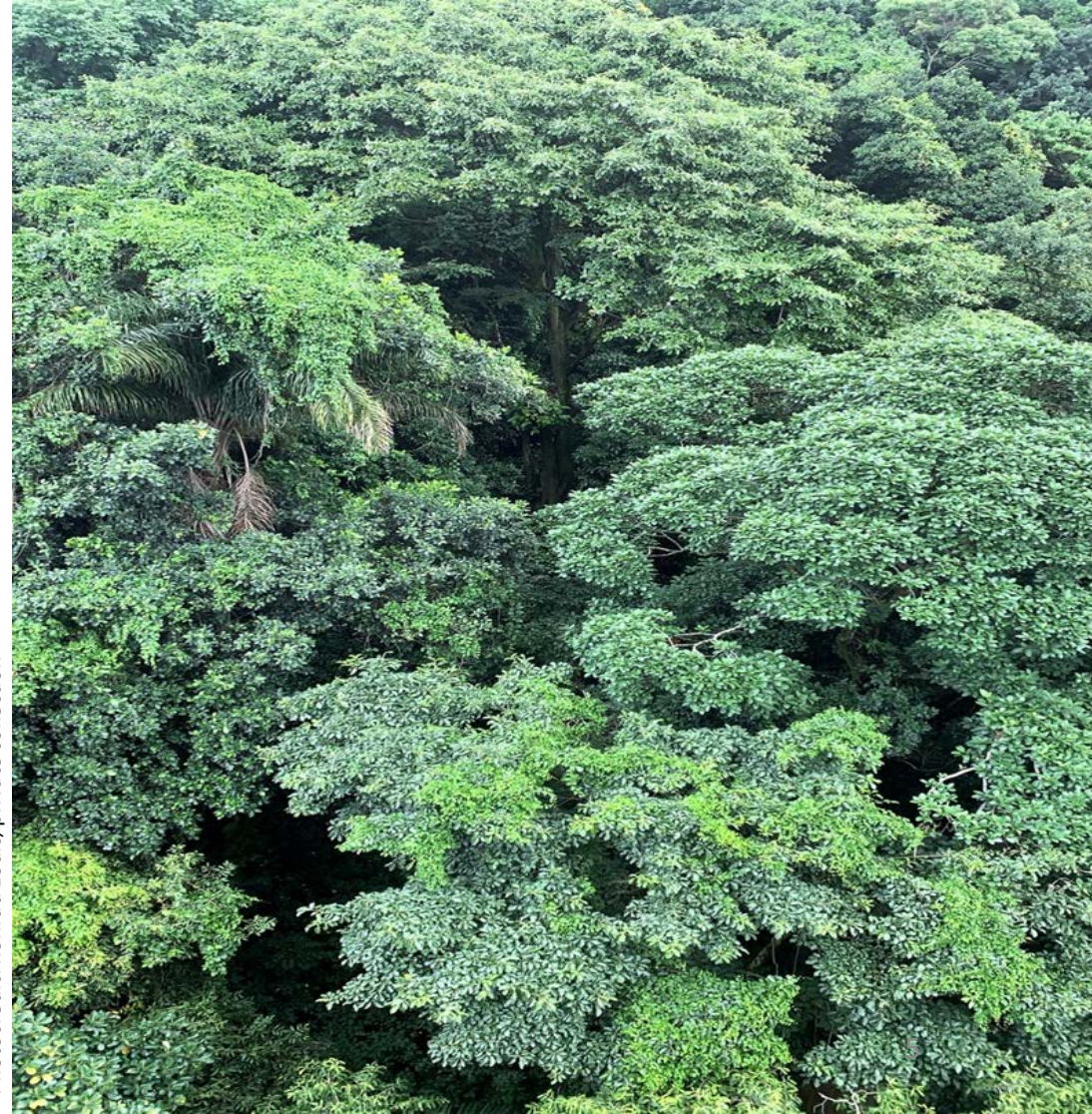
178 million hectares
of primary forests
were lost since 1990
as a result of forest
conversion for
production of
commodities

61 countries pledged to
restore 170 million
hectares of degraded
landscapes by 2030

Why are forests important?

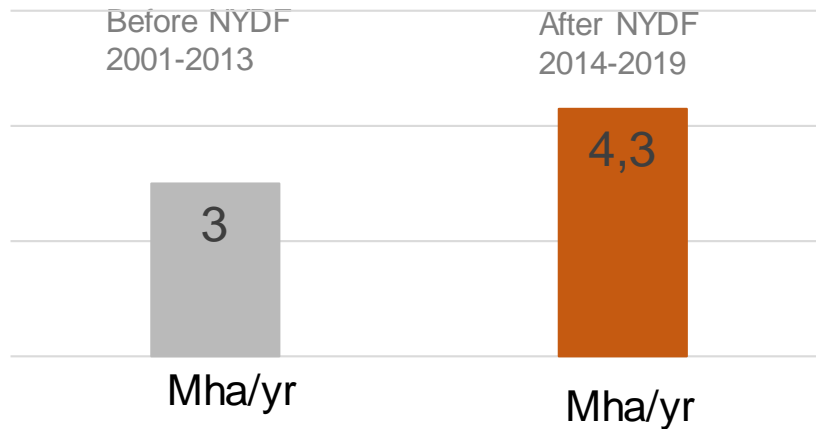
Forests keep the planet cool not only because of **carbon sequestration**; they are also custodians of the world's **fresh water supplies**. **Primary forests** hold about $\frac{3}{4}$ of the Planet's **biodiversity**, and are complete symbiotic systems. Forests are also a source of food, medicine fuel and livelihoods for more than a billion people, contributing to socio-economic development. Trees are the defining component of forests. But they are not the only way to determine the biodiversity significance of a forest.

Photocredit: Konrad Louis, private collection



Global rate of tree cover and forest loss since 2014

Average annual humid tropical primary forest loss through conversion to other land uses has accelerated since 2014 by 44%



Latin America continues to lose the most primary forests per year. West Africa recently experienced a sharp increase in the rate of loss.

On the other hand, between 2015 and 2020, the rate of deforestation was estimated at 10 million hectares per year, down from 16 million hectares per year in the 1990s, offset by reforestation and afforestation in some areas of the world.

More than 100 million hectares of forests are adversely affected by forest fires, pests, diseases, invasive species drought and adverse weather events.

How reliable are projections?

We are able to provide a reasonably accurate picture of the state of the world's forests. For this, we use **remote sensing**, ground truthing, disclosure, and flora and fauna **inventory methodologies** within protected area and forest management practices.

New criteria are also being sought to measure biodiversity, which rely less on hectare proxies as are used today, and more on the **state** of the forest and its **services**.

Photosource: www.ecology.org

Deforestation drivers

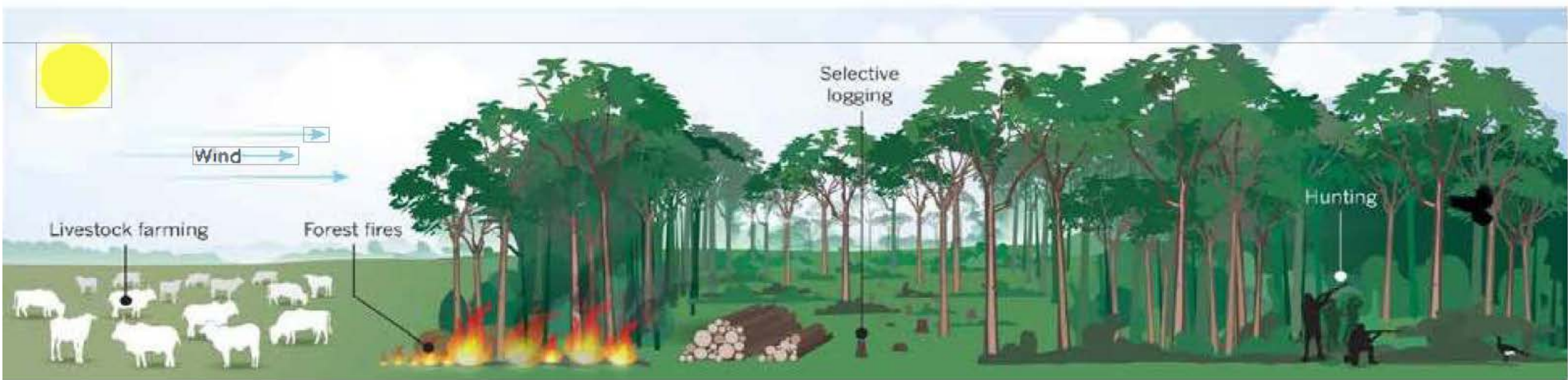
Palm oil: key ingredient in sweets, baked goods, margarine, cereals, washing powders, cosmetics and pharmaceutical industry linked to vitamin A deficiency. Main deforestation driver in Asia.

Cattle industry: is the second step in the deforestation chain after timber. Besides the multi-million € raw beef industry, cattle breeding is a key ingredient in the world leather industry.

Soybean: mostly used for animal feed and biofuel. A legume, natural nitrogen fixation means it requires fewer inputs, decreasing production costs. Soya is the main driver of deforestation in South America.

Wood products: first step in the chain, is responsible for 10% of global deforestation, and is a direct driver in Southeast Asia. Starts with predatory logging, which impoverishes the forest leading to clear-cutting for cattle and grain.

The Cycle of Embodied Deforestation (eg cattle)

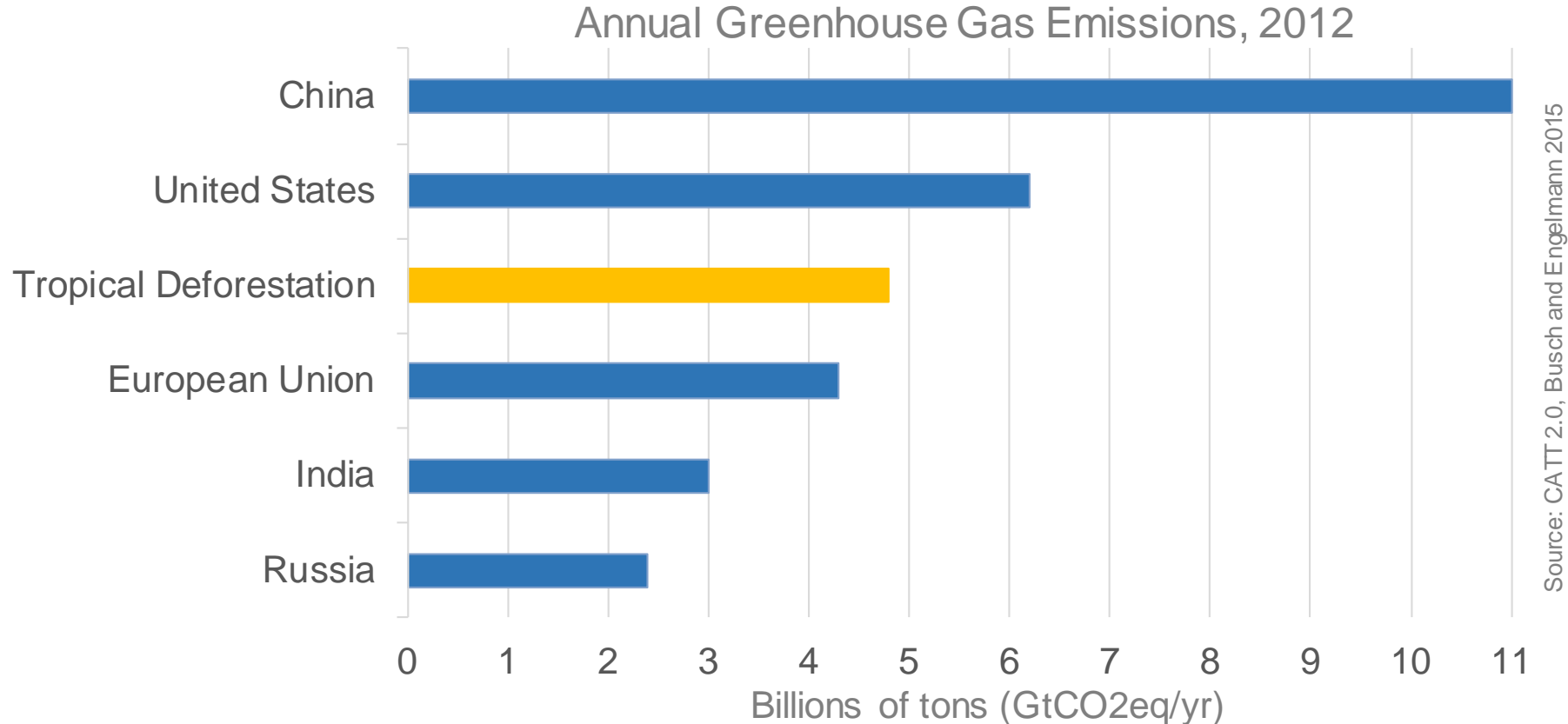


Source: Barlow, J. & Peres, C. A. Ecol. Appl. 14, 1358–1373 (2004)

Other Issues

- Health
- Wildlife trafficking (CITES)
- Production of coffee, cocoa, rubber, fruit
- Mining – largescale (iron ore)
- High value minerals and stones (gold and gems)
- Hydroelectric dams
- Human Rights

If tropical deforestation were a country, its emissions would be greater than those of the European Union

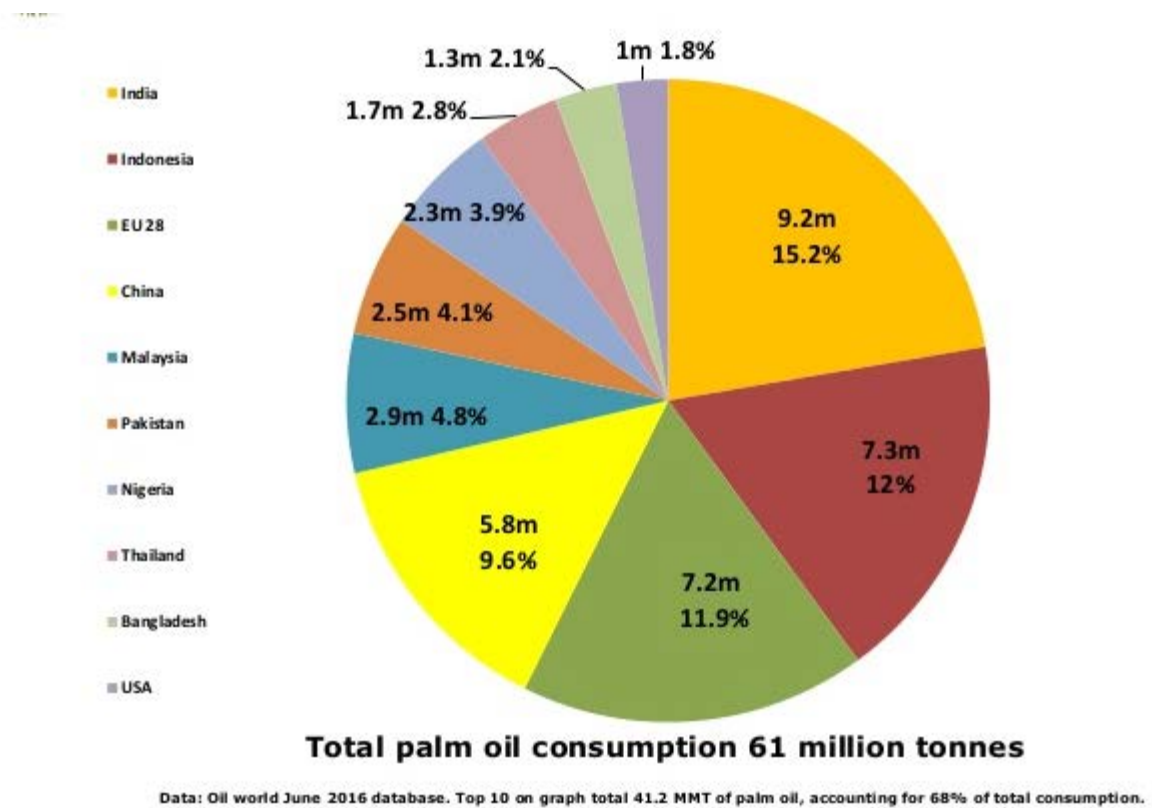


Projection of Deforestation Under Current Trends, consequences and losses

- By 2030 11 places will account for 80% of embodied deforestation: the Amazon, the Atlantic Forest and the Cerrado, the Gran Chaco, Choco-Darien, the Congo Basin, East Africa, Eastern Australia, Greater Mekong, Borneo, New Guinea, and Sumatra
- By 2050 climate change is projected to become the fastest growing driver of biodiversity loss, followed by commercial forestry, and bioenergy crop lands.
- By 2050, 230 million hectares of primary forest will disappear. Forest loss should have been reduced to near zero by 2020 (this year) - meaning the scenario and projections are in stark contrast to what we should have achieved this year.

EU ranking in global embodied deforestation commodities market

World's top palm oil consumers



The EU market absorbs about 10% of the embodied deforestation products from primary tropical forests; i.e. one-sixth of the carbon footprint of the average diet in the EU can be directly linked to deforestation in tropical countries.

Besides palm oil shown in the pie chart, the EU is also a major importer of soya, rubber, beef, maize, cocoa, and coffee. EU programmes such as MARKUP help producers to meet quality assurance and certification key for entering the EU market.

Source: sustainable trade initiative



Trade agreements and their impact on deforestation

Europe's main trade agreement for forests EU FLEGT – Forest Legality Governance and Trade and its Voluntary Partnership Agreement have so far been signed with **7 countries**. It is the international backdrop strategy for implementing the EUTR.

In 2019, the EU also implemented seven EPA agreements, with 31 partners – 14 of them in Africa, with a strong focus on sustainable development.

The EU Mercosur Trade Association Agreement is an opportunity for the EU to set standards with regard to its own wishes as a consumer market.

WTO/GATT and Trade Agreements

Dozens of regional trade agreements (RTAs) are underway or have been negotiated in recent years. It's important to recall the WTO may also monitor environmental standards.

This is possible if it can be determined that there is a breach of trade rules regarding “exhaustible” resources: living species which may be susceptible to depletion, such as forests.

The only caveat is that any penalty must not be applied in a manner that would constitute “a means of **arbitrary or unjustifiable discrimination** between countries where the same conditions prevail,” and is not “a **disguised restriction on international trade**”.



2. Supply Chain of Products and Raw Materials Originated from Deforested Areas

Path and challenges of forest-risk commodities trade

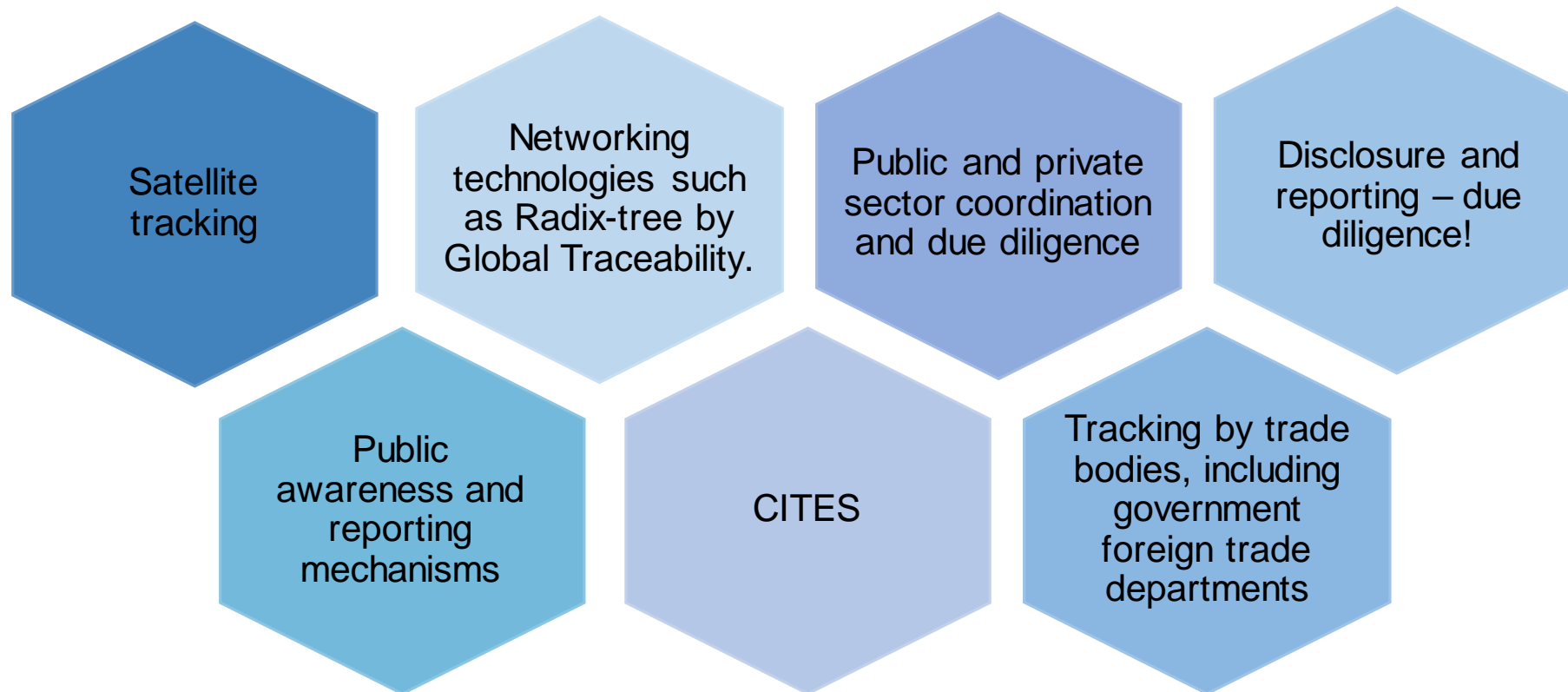
Tracing and tracking embodied deforestation consumption requires a partnership between the **public** and **private sectors**. EU legislation recognizes the risk of deforestation from products such as soybean, oil and timber, and requires **due diligence** on both ends of the trade cycle – **origin and destination**. Some sectors are faster than others in keeping track of the supply chain, with the **EUTR** leading the way.

Photocredit: Wikimedia Commons/National
Science Foundation;



Photocredit: Digitalvision Ltd;

Supply Chain Tracking and Tracing - A Combined Effort



Some overview and monitoring systems

Information such as the **Carbon Disclosure Programme** (CDP), TRASE (not-for-profit) and FAIRR utilise state-of-the-art information to track and trace supply chains. Companies such as **Global Traceability Solutions** provide services to SMEs across Europe to ensure they comply with the EUTR.

Institutional investors also increasingly recognize that deforestation creates material financial risks, including **reputational and regulatory risks**. Companies must demonstrate to investors that they can hold their global suppliers accountable, by disclosing and eliminating these risks. **Groups of investors** across the world are declaring their intention to **monitor supply chains**. But action is a bit slower than talk.

Carbon Disclosure Programme (CDP) pledges and goal

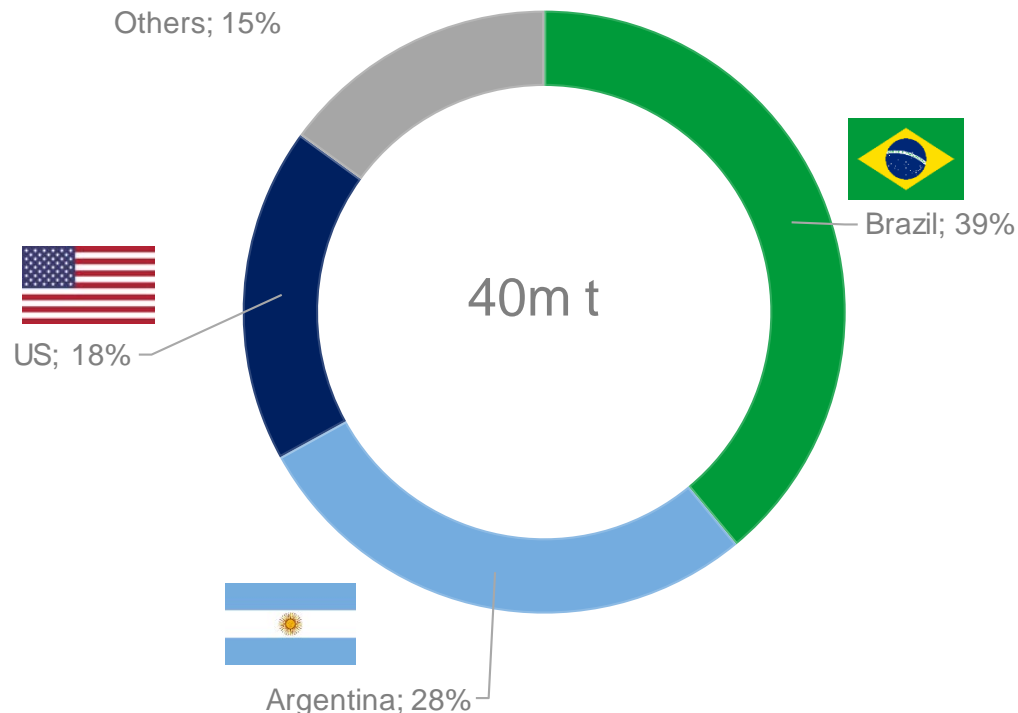


Obstacles to achieving ‘deforestation free’ supply chains

- Aggressive and uncontrolled expansion of **agribusiness**, industrial plantations, extractive **industries** and **trade** in ‘conversion’ timber
- Weak land tenure security for communities, top-down (often corrupt) concession and **land allocation frameworks**, contradictory global and national economic and development **policies**
- Illegal resource use, land trafficking, corruption and organized crime
- Faulty redress mechanisms
- Flawed industry certification schemes
- Limited transparency and **weak accountability** in global supply chains
- Secretive international financial flows
- Defects and gaps in multilateral, bilateral and national forest and climate schemes
- Narrow ‘forest centric’ approaches

Donausoya case study: Easing EU Soya Dependence

EU Soya* Imports by Exporting country (Avg 2015-2019)



source: Donau Soja calculation based on COMTRADE data

Currently about 8% of soya bean meal consumption is covered by domestic production. The **EU's dependence on soya imports** – most from **monocultures** in South America - leaves it vulnerable to the whims of global markets eg a lengthy shipment delay can cause considerable challenges to EU livestock production, and food supplies within our borders.

The soya is imported against the backdrop of a **protein deficit in the EU's agricultural makeup**. That means crop rotation is largely dominated by cereals and lacks high-protein legumes such as soya beans. Building up the value chain for soya suppliers is a priority. This is important when we make spot purchases, which may or may not adhere to environmental regulations.

Donausoja / Europe Soya – regional response

Basis: Donau Soja/Europe Soya Standards, establish a set of criteria as a basis for certification of products.

Three pillars:

- ✓ regional (Danube region, Europe in case of Europe Soya)
- ✓ non-GM
- ✓ sustainable (Criteria)

Protein strategy: sustainable and responsible imports, increased production in Europe, existing and new protein resources, increased efficiency, healthier and more sustainable diets

Current outreach:

- ✓ Soybean area in Europe: 4,2 Mio ha (4,3 Mio ha 2019), about 10 Mio tons (potential: 15 Mio tons)
- ✓ Soybean area in EU-28: 933.000 ha (940.000 ha 2019), about 2,5 Mio tons
- ✓ Around 650.000 tons **certified** Donausoja/Europe Soya available, 200.000 tons **actually sold** and used in the value chain

EU regulations addressing illegal supply chains

- By now there is considerable practical experience with the application of EU regulations in several sectors addressing illegal activities, such as the **EU Timber Regulation** and **FLEGT**, the Illegal and unreported and unregulated (IUU) fishing Regulation and the Conflict minerals Regulation;
- Feedback from stakeholders on each of these is mixed. In common, countries hesitate to sign the **voluntary agreements**, because they are perceived as an attempt by the EU to whitewash the presence of EU companies or fleets, anxious to comply with legislation back home, but who pose an unfair advantage to national business development.
- **EU-FLEGT** has seen some gains in **Southeast Asia and Central America**, where illegal logging is a significant driver of deforestation, in the case of South America this is considered less important – because the main driver is forest conversion for agricultural activities.

3. Efforts for halting and reversing global deforestation

Historical global efforts to curb deforestation

Recognising forests as an asset, a plethora of national, regional and international laws, policies and agreements have been undertaken in the history of forest nations to both manage and protect forests.

Some international commitments specifically address the issue of forests as it pertains to commerce and livelihoods. Besides the more commonly known CBD and UNFCCC, the 2014 [New York Declaration on Forests](#) (NYDF) is endorsed by 200 national and subnational governments, multinational companies, indigenous communities, and non-governmental organizations. Similarly, the 2014 Global Plan of Action for the Conservation, Sustainable Use and Development of Forest Genetic Resources, identifies 27 strategic priorities for action. On the important issue of forest health, the 2011 International Plant Protection Convention aims at coordinated, effective action to prevent and control the introduction and spread of pests of plants and plant products.



Photocredit: WWF-EU

EU communication on stepping up EU action to protect and restore the world's forests (July 2019)

1. Reduce the footprint of EU consumption on land and encourage the consumption of products from deforestation-free supply chains in the EU;
2. Work in partnership with producer countries to reduce pressures on forests and to “**deforest-proof**” EU development cooperation;
3. Strengthen international cooperation to halt deforestation and forest degradation, and encourage forest restoration;
4. Redirect **finance** to support more sustainable land-use practices;
5. Support the availability and quality of information on forests and commodity supply chains, the access to that information, and support research and innovation.

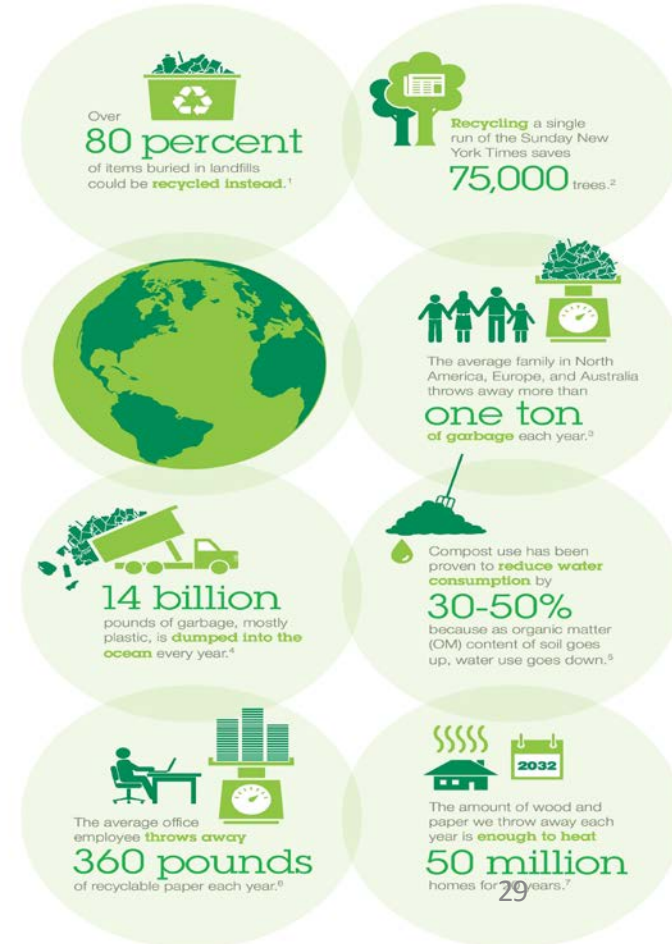
Highlights of the EU communication

- Encourage the **strengthening of standards and certification schemes** that help to identify and promote deforestation-free commodities.
- Assess additional demand side regulatory and non-regulatory measures to ensure a level playing field and a **common understanding of deforestation-free supply chains**, to increase **supply chain transparency** and minimise the risk of deforestation and forest degradation associated with commodity imports.
- Promote **deforestation-free consumption**.
- Strengthen **cooperation on policies** and actions to halt deforestation, forest degradation and restore forests in key international fora, including relevant United Nations Funds and Programmes, G7/G20, the OECD and WTO, promoting best practice and a common understanding of sustainable supply chains, and advocating for the timely implementation of adopted commitments and provisions.

How to tackle embodied deforestation consumption

- **Education** (business, consumers, operators)
- Expand **EU Ecolabel Regulation and Food Information to Consumers** – moving beyond “Specific information on the **vegetable origin** of refined oils and fats” to ‘Specific information on origin of meat and animal products, leather, wood, and grains.’
- Encourage **consumers** to make informed dietary choices, eg how much protein does one person need.
- Due regard (preferential trade) to supply chains that respect **human rights** (fair trade).
- **Invest** in and **expand access to technology** for ecosystem restoration, improved mining practices, improved crops with higher protein yields, i.e. use what **science** has to offer.

**A smarter planet
is a sustainable planet**



Credit: IBM

4. The Prospects for an EU Regulatory Framework

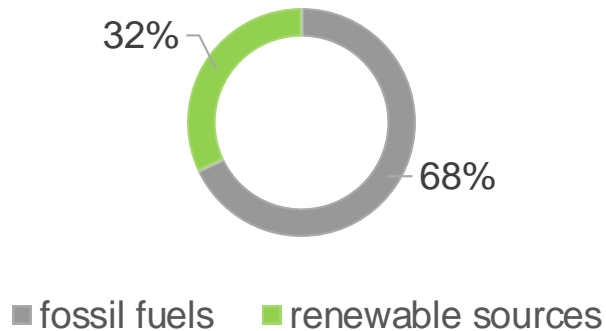
Replicating EU regulations to other sectors:

The option of replicating the provisions of EU regulations across sectors is largely dependent on the capacity of Member States to reconcile supply chain monitoring with consumer demands. Case in point is the **rise in demand** – and consequent rise in incentives – for **biofuel and biomass use**. Albeit important, these should not cause further depletion of primary forests.

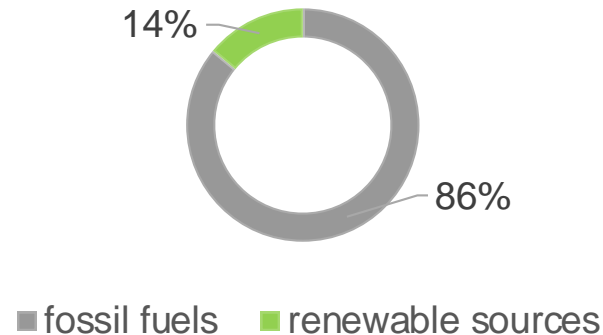
Case study: the EU Renewable Energy Directive (two-phase)

Biofuels must comply with **sustainability criteria**: RED II interconnects the sustainability of biofuels to the creditability of biofuels to certain targets and incentives.

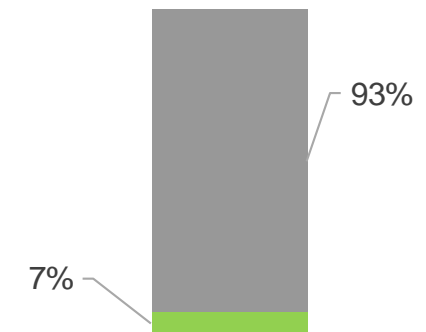
share of energy from renewable sources
- gross final consumption by 2030



share of renewable energy in the
transport sector by 2030



Cap on Food/ Feed Crop Based
Biofuels: 2020 consumption level for
each MS within a 7 % limit, with 1%
flexibility



Sustainability and Cultivation Criteria

For biofuels produced from agricultural biomass:

- No raw material from land with high biodiversity value
- No raw material from land with high-carbon stock
- No raw material from peatlands

For biofuels produced from forest biomass:

- Legal harvesting operations
- Forest regeneration of harvested areas
- Soil quality and biodiversity are closely monitored while harvesting



PROS

- ✓ Sustainability criteria for biofuels are equal within the EU (except several waste based biofuels).
- ✓ This provides security for economic entities that are active in biofuel production and trading, because they have predictability that a certain sustainable biofuel is accepted in other member states too.

CONS

- ✓ The diversity of options for implementation is not conducive to a harmonized or homogeneous approach.
- ✓ It is still unclear whether the EU database for biofuels – still in planning stages - will be privatised. From a regulatory standpoint this is critical, since monitoring should be performed by independent (and nonprofit?) organizations.

Should due diligence be mandatory?

Due diligence refers to the measure or exercise of care enacted by a prudent, rational individual or entity under given circumstances. It is the last step in monitoring a combination of factors such as: adherence to national and international legislation throughout the value chain, including respect for human rights, compliance with endangered species treaties, legality of both operator and middle-man, and fiscal compliance.

But due diligence really goes beyond mere compliance – it is sometimes a loftier expectation. For example, performing due diligence might include assurance of proper management of natural resources, as being conditional to the welfare of humanity. This is the case with the protection of global forests, which are seen as a cross-boundary commodity, instrumental to the wellbeing of the Planet. Forests are custodians of valuable assets in biodiversity, climate and temperature, water resources, and ancient human knowledge.

Lessons on national and international due diligence

- The number one lesson in mandatory due diligence is that it must be closely related to **governance** and **transparency** practices.
- In November 2019, for example, although operators in both North America and Europe performed due diligence on a shipment of timber from the Brazilian Amazon, in compliance with the EUTR and Lacey Act, rules were simply changed on the spot. In Indonesia the government recently – alarmed by the COVID-19 threat to international trade - advised operators they would suspend legislation linked to the FLEGT-VPA.
- To one European operator interviewed for this presentation, it is very difficult to perform due diligence for EUTR compliance, because **governance varies** not only among worldwide suppliers, but also within the member states.

Combined efforts bring results

- Adopting mixed measures, i.e. combining due diligence requirements with independently verified certification and licensing;
- There is a need to **adapt existing programmes**, making them **site-specific**. For example, encouraging countries to adopt forest management as part of their agricultural policies, not just for planted forests, but also for exploration of primary resources; but also ensure **programme coherence** and harmonization;
- Invest in **technical cooperation** that incorporates natural resource management and socio-economic development: biotechnology, improving sawmill performance, sustainable mining, agriculture, architecture, landscape restoration, and citizenship awareness;
- Increase **access to information** not just in the EU, but also within producer countries. Invest in media and communications, but also in education programmes, i.e. the EU should take a system-wide approach to information;
- Explore concrete measures against deforestation in the planned **EU Forest Strategy**.

Thank you for your attention