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Joint position on how to accelerate action against deforestation¹

COCERAL, FEDIOL and FEFAC – representing the EU grain and oilseed trade, crushing and feed industry – acknowledge the responsibility they have for the sustainable production of commodities which they trade or process. Our industries or operators use on average the following imported raw materials:²

- About 20,5 million tonnes of soybean meals which are processed to compound feed;
- about 8 million tonnes of tropical oils (palm oil, palm kernel oil, coconut oil) that are refined by FEDIOL companies;
- about 15 million tonnes of soybeans, which are crushed in Europe to complement EU demand.

In response to the EU's declared intention to reduce its role in global deforestation by targeting commodities and products entering its market via a set of regulatory and non-regulatory measures, we would like to share our views on the best way forward to achieve a sustainable transformation of our supply chains. We believe that our shared objective should be to tackle deforestation and conversion of natural habitats where they persist.

Although we understand the importance for the EU to translate efforts into tangible results at European level, it is also necessary to highlight that actions to "verify" our supply chains against commodities associated with deforestation can only be effective if undertaken in parallel with measures supporting the overall transformation of the different supply chains.

Both the palm and the soy supply chains are based on the interaction of numerous economic operators, which adds to their complexity. The need to maintain an efficient flow of goods throughout production, collection, port-silos, milling/crushing/refining, trading, food or feed manufacturing and retail, makes it imperative, when implementing sustainability strategies, to provide some form of flexibility. This can be done by assessing possible interventions on a risk-based approach and by involving all chain players in the transformation from production to market.

¹ In line with the terminology provided by the European Commission in its Communication, the paper defines deforestation as "the conversion of forest to other land use independently whether human-induced or not". For simplicity's sake, where not specified we include in the concept also the conversion of other natural habitats beyond forests, defined as "the change of a natural ecosystem to another land use or profound change in a natural ecosystem's species composition, structure, or function".

² 5-year average. For comparison, in palm oil the EU covers only 10% of global consumption of which 64% takes place in Asia; for soy, China represents the largest share with almost 90 million tonnes of imported soybean, covering about 60% of global soybean imports (Oil World)

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I. ACHIEVING SUSTAINABLE SOURCING OF RAW MATERIALS

The objective of COCERAL, FEDIOL and FEFAC is to source agricultural raw materials that are sustainably produced and to address problems in the supply chain with a view to improving production practices. Within the framework of specific discussions on actions to tackle deforestation, COCERAL, FEDIOL and FEFAC consider that the EU should be taking into account extensive voluntary activities that have driven supply chain transformation over the last decade. EU action needs to be built on initiatives that target both producer countries and consumer markets. In practice, this will require a coordinated engagement of the EU and Member States with countries where deforestation risks arise and this could further be supported by an EU regulatory framework.

II. EU ENGAGEMENT WITH PRODUCER COUNTRIES

Whereas intervention at EU level can show global leadership and help accelerate market demand, it is insufficient to effectively stop deforestation if not performed simultaneously with a strong engagement with producer countries.

A) Experience shows that fighting deforestation is most effective when legislation protecting forests or native vegetation is implemented and enforced at local level.

Therefore, it is of vital importance to pursue partnerships with producer countries requiring the EU and Member States to engage in a coordinated manner with authorities at federal, state or provincial level. Such engagement can lead to:

- address deforestation as part of a wider dialogue or partnership through existing or new frameworks, such as trade agreements or development cooperation;
- cooperate and exchange best practices at regulatory or technical level;
- fuel support (financial or capacity building) to authorities in their efforts to reconcile different objectives, such as environmental protection and socio-economic concerns.ⁱ

B) Positive results can also be achieved through facilitating the engagement of private players in dialogue and partnership with local producers and farmers.

Existing private sector's efforts could be amplified through technical assistance, to help meet legal requirements, while at the same time ensuring socio-economic returns. There are positive examples of landscape or jurisdictional initiatives achieving a satisfactory outcome in terms of land conservation and economic development.ⁱⁱ However, the lack of financial incentives to avoid legally attainable conversion of forests and other ecosystems into agricultural land is proving to be an important missing element (see *III.C.3*).

III. ENABLING CHANGE THROUGH AN EU REGULATORY FRAMEWORK

COCERAL, FEDIOL and FEFAC support an EU regulatory framework aimed at accelerating, strengthening and mainstreaming already ongoing voluntary efforts towards no-deforestation and enhanced sustainability.

The responsibility of private actors translates already today in the implementation of voluntary due diligence, which could be used as a basis for a mandatory system, provided a number of key components are considered (see *III.1*).

To be successful, EU companies will need a comprehensive, smart set of tools to drive change in a manner which is compatible with sustainability advances in specific commodities.

Keeping in mind the double objective of eliminating forest-risk commodities from supplies and eradicating global deforestation, we believe it is important to watch out for unintended effects of possible regulatory measures and to design the provisions accordingly, so as not to risk:

- disengagement of companies currently committed to improve practices in producer countries within their remit;
- exclusion of certain players because of difficulties to take part in a system, both in producer and in consumer markets;
- leakage effect because of coverage issues and a consequent change in trade flows to the EU.

A) Possible role of mandatory due diligence

1. Specific components for the implementation of due diligence

Due diligence entails different steps that companies need to implement. Based on current practice, due diligence includes the following steps and actions:

- establish systems and processes that promote and facilitate the implementation of commitments or pledges;
- have traceability in place with sufficient knowledge of the origins of the goods sourced to ascertain risk or gaps and to prioritise engagement towards achieving compliance;
- provide for remediation;
- have effective grievance mechanisms in place to facilitate access to remedy;
- carry out monitoring of commitments and of progress towards their fulfilment and ensure verification through independent process;
- disclose the outcome of the implementation of commitments and report publicly on progress.

2. General Principles for implementing a possible due diligence

Due diligence should be seen as a means to mainstream supply chain transformation, rather than in isolation from other mechanisms, because on its own it will not be transformative at scale.

It should cover environmental and social risks across a company's operations and supply chains, with a focus on forest-risk commodities and regions. It would also need to encompass all derivatives of the same commodity.

Due diligence requirements should first help address illegal deforestation or conversion and also support the achievement of objectives going beyond local legal requirements.

The set obligations should be applicable to all stakeholders/companies in the supply chain but should be commensurate with the size of the organisation, their impact and ability to influence change. Solutions should be considered to avoid duplication of due diligence when there is overlap of activities.

They should be supported by a robust monitoring and public reporting framework to incentivise harmonised and standardised reporting (including assurance and verification, as in OECD/FAO guidelines and UN Guiding Principles, as well as access to satellite/radar monitoring platforms to ensure common datasets).

A stepwise enforcement of the criteria covered by due diligence would have to ensure that improvement takes place and can be demonstrated. Requirements applicable to due diligence should be defined broadly with built-in steps and objectives for enforcement, as this would allow to continue leading engagement and partnership with producer countries, rather than pushing players to disengaging from higher risk areas. This would incentivise economic operators in producer countries to sustain their effort of supply chain

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transformation and would allow to provide appropriate responses to socio-economic drivers of deforestation.

Where they have caused or contributed to adverse impacts, companies implementing due diligence would need to provide recovery plans which should include actions for remediation.

For the implementation of due diligence, companies would need reference dates defining the beginning date for putting the system in place and the target date for achieving a no-deforestation objective.

The different state of advancement of existing supply chains' transformation may justify differentiation by sector, including taking into account biome-specific conditions, in order to define compliance with specific EU no-deforestation or no-conversion commitments as from a given date.

B) Sector specific situations

Palm focus: due diligence has been implemented by companies for several years, guiding the prioritisation and customisation of engagement with producers. The transformation of the palm oil supply chain is driven by NDPE (No-deforestation, no-peat, no-exploitation) company commitments that cover about 83% of the refineries operating in Southeast Asia. This has led 99% of the palm oil commercialised in Europe to be traceable to the mill and increasingly also to the plantation.ⁱⁱⁱ The use of certified palm or palm kernel oil (RSPO/ISCC) is the other tool used by companies in the sector, in particular by actors down the chain to demonstrate compliance with sustainability criteria. Certified material reached an estimated 70% of the palm oil used as an average of different uses in Europe traded in mass balance chain of custody. There is more certified material available than requested by the market.

Soybean focus: the soya sector has seen several efforts of supply chain transformation, driven by biome-specific commitments (Amazon soy moratorium^{iv}, Cerrado^v Working Group) and by the development of numerous certifiable or verifiable good practices; the implementation of the FEFAC Soy Sourcing Guidelines helped steer comparability across systems along the legality criteria. This is still considered in Brazil a necessary and critical objective with a significant part of the deforestation in the Amazon being illegal. Our companies include the non-compliance with the embargo from the Brazilian Institute of Environment and Renewable Natural Resources (IBAMA) and slave labour list as part of the due diligence process on a country-wide basis, including in the Amazon.

Implementation of due diligence has been more visible with company activity under the Soft Commodity Forum targeting high legal deforestation risk municipalities in the Cerrado, an exercise launched in 2019.^{vi}

FEFAC, FEDIOL and COCERAL support the concept of 'deforestation-risk exposure' when it comes to soy sourcing, considered as the level of exposure to deforestation risks when sourcing from certain countries/regions. A combined assessment over a period of 3-5 years shows that a large majority of the soybean and soymeal volumes imported to the EU can be considered as low deforestation risk.^{vii}

C) Smart set of tools to support company (private) and public players' efforts

In parallel to what is mentioned above, other measures will have to be taken and other tools will need to be available for the whole approach to be conducive to a change in practice and mindset across the supply chain. The EU could prove instrumental in:

1. Providing harmonised definitions for no-deforestation/no-conversion in view of a better convergence on what we want to protect.

Ideally, this should take into account existing widely-endorsed references or criteria for assessment, hence avoiding new sets of definitions, and be done in partnership with origin countries.^{viii}

2. Raising awareness about the fact that the full value chain has a role to play and enhancing transparency on their action.

Comprehensive transformation will not happen unless all players in the supply chain are aware of the difficulties that changing production practices entails. Understanding the critical role of each private and public player in contributing to the change, from producers up to consumers, will be key. Requesting users of forest-risk commodities to formulate and support no-deforestation policies, commitments and implementation plans by a certain target date and define their own step-wise transformation plan can help achieve change and ensure a level playing field. These commitments should be equally implemented across the full value chain.^{ix}

3. Driving supply chain transformation through the financing of sustainable and climate-friendly practices

This can be done via support systems that achieve the valorisation of no-deforestation beyond legality, through carbon capture credits or other systems (Green Bonds, REDD+) that can provide compensation and incentivise farmers to conserve the land they are legally entitled to clear, because premiums paid along the chain may not be a sufficient incentive.

4. Channelling mutual engagement and collaboration around sustainability objectives via trade agreements/partnership

Trade policy should continue being used to promote social and environmental pillars of sustainable development, by including a chapter on sustainability and conservation of national resources in negotiated agreements.

Similar to the GSP+ or FLEGT approach acting as an incentive, the benefit from preferential access could be provided to countries ensuring national compliance with forest protection regulations.

5. Ensuring that a comprehensive set of tools is available to support private and public commitments and their implementation^x

There is a whole array of instruments that can contribute to the sustainable transformation of forest-risk commodities supply chains. However, considering the diversity of commodities, supply chain situations and type of involved actors, these tools would only be helpful in driving effective change on the ground if applied in combination and not individually:

- Certification systems have shown to be effective in certain sectors to help accelerate change towards more sustainable practices and harmonise the market, as well as to provide an important demand signal to farmers. The Principles & Criteria defined in existing certification schemes can be used as a relevant basis, as they contain already clear-cut indicators and guidelines. Government schemes in countries of origin (such as sustainable palm oil schemes in Malaysia or Indonesia) are essential in addressing illegal deforestation.

However, certification should not be considered as an end in itself. Moreover, potential certification requirements applied by individual demand markets should not be considered as exclusive tools for proving compliance with no-deforestation criteria, as this would risk simply diverting trade flows without having a meaningful impact on the problem source.

- Labelling can be useful to underline specific qualities and efforts made in a supply chain, but cannot be considered as an effective tool to achieve

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mainstream transformation, and leaving the choice to consumers may not be the right approach.

- Product Environmental Footprint (PEF) methodologies are proving useful to identify and remedy hotspots in the supply chain, but they show limitations and weaknesses in dealing with specific land-use concerns (which initiatives such as SBTs^{xi} and others are trying to overcome).
- Additional tools such as the use of geospatial technologies with satellite imagery^{xii} and remote sensing or service databases with compliance information^{xiii} can help support the verification of land-use and no-deforestation compliance.

IV. CONCLUDING REMARKS

COCERAL, FEDIOL and FEFAC agree on the need for the EU to take a leading role in the global fight against deforestation. EU actions can provide an important contribution towards reducing or halting deforestation, provided a comprehensive set of smart tools is set up and it is acknowledged that no one-size-fits-all approaches will work across all commodities.

The way we design the different requirements and how those will either support or hamper the EU engagement with producer countries will be critical to avoid or mitigate unintended consequences.

In order to effectively tackle global deforestation, instead of only stopping the use of deforestation risk commodities in Europe, the EU's toolbox should be based on the use of a clearly defined due diligence system, support a step-wise enforcement of objectives and include more incentives than sanctions. It should work hand in hand with the existing engagement on the ground by companies with farmers, local communities and authorities.

A political debate at EU level on a draft regulatory framework can in itself trigger important public attention and set a signal alerting European and global players of declared objectives and of upcoming changes in market dynamics. This may facilitate the EU engagement with other sizable importers of forest-risk commodities beyond Europe, which is essential in order to get other geographies to implement similar conservation policies across the globe.

V. ENDNOTES

ⁱ Sustainable Forest Management – As recognised in the FAO report on the “State of the World’s Forests 2018”, “*There are significant benefits to be found in giving local people with traditional knowledge the ability to influence decision-making in ways that contribute to SDG targets. With clear and secure rights, people are more likely to take a longer-term approach to forest management, as they know that they or their successors will benefit from this. The right of stakeholders to be consulted during the development and implementation of forest-related policies, programmes and plans should be formalized to account for the needs of forest users and other stakeholders. Along with a sound policy and legal framework, effective institutions are key to good governance. The institutional framework should encompass local communities, civil society organizations and responsible private sector interests, as well as government departments and agencies*”.

For instance, the Law on the Protection of Native Vegetation, popularly known as the New Brazilian Forest Code (Law nº 12.651, of May 25, 2012, originated from Bill nº 1.876 / 99) is the Brazilian legislation that provides for protection native vegetation. In general, the Law determines the Legal Reserve area, the Permanent Preservation Areas (APPs), the definition of riparian forests, the requirement to recompose deforested areas and other points. Provided for in the Law on the Protection of Native Vegetation, the Rural Environmental Registry (CAR) is a mandatory public registration for all rural properties. Through it, it is possible to monitor the activity on these properties and how it interacts with the areas protected by law (such as if there are springs or native forests in its perimeter).

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ⁱⁱ Companies are engaged with independent smallholders in Malaysia, Indonesia, Colombia and Honduras to achieve their certification in the palm oil sector for a more transparent, traceable and sustainable supply chain. In Indonesia, landscapes approaches have been developed as a collaborative way to handle critical issues such as peatland management, biodiversity and wildlife protection, flood and fire, community livelihood development.

ⁱⁱⁱ FEDIOL assesses yearly the intake volumes of crude palm oil and fractions entering the EU refineries of its companies. The result for 2019 is available [here](#).

^{iv} Soy in the Amazon: Soy is responsible for 1.8% of the Biome's deforested area after 2008, the date of the Brazilian Forest Code. These areas are automatically blocked for purchases and financing by the Soy Moratorium signatories. This is an internationally recognised initiative that uses data from the National Institute for Space Research - INPE (PRODES Amazônia) to monitor soybean planting in deforested areas, through which ABIOVE member companies have been guaranteeing a zero-deforestation policy for over a decade. For more information: <https://abiove.org.br/en/relatorios/moratoria-da-soja-relatorio-12o-ano/>

^v Soy in the Cerrado: A study by Agrosatellite based on geospatial data between 2014 and 2017 found that only 7% of soybean expansion in the Cerrado was linked to deforestation, while 93% occurred in already open areas. With this, the soybean crop in the Cerrado reached, in 2017, the lowest deforestation rate of the last 16 years. This was mainly due to increased productivity, with intensification of crops in already available areas.

Compared to the total amount of soy that Brazil will produce in 2019/20, only 1% of the soy planted in the Cerrado may originate from areas cleared after 2014. The 2019/20 Brazilian crop is 122M ton and the soy average yield in Brazil is about 3.2 tons/ha. The total area planted with soybean in the Cerrado in 2019 is 18.2M ha or ~64M tons. The total area deforested in the Cerrado in 2019 was 690,000 ha with a total area planted with soya in the Cerrado on deforested areas after 2014 of 400.000 ha. This represents 1.28M tons or 2% of the soy produced in the Cerrado.

^{vi} The Soft Commodities Forum (SCF) members, a global platform for leading soft commodities companies convened by the World Business Council for Sustainable Development (WBCSD), have committed to a common framework for reporting and monitoring progress on transparent and traceable supply chains for soy in Brazil's Cerrado region. Starting with 2018 harvest data, the SCF member companies issued their first report in June 2019, which includes the individual share of soy they each source in the Cerrado from the total Brazilian volume. Together, the SCF members will closely monitor municipalities with the highest risk of conversion of native vegetation to soy, based on GTC information. Sourcing in these municipalities is reported in percentages of direct purchase from farmers, and indirect purchase, from parties like aggregators, cooperatives and third parties. The ABIOVE/TNC/ Agrosatellite data report, that is contained in the SCF report, clearly shows that conversion of land for soy is predominantly taking place in previously degraded land or pasture and therefore soy cannot be considered as a driver of deforestation in Brazil.

^{vii} The combined COCERAL-FEDIOL-FEFAC assessment has been developed to counter mainstream considerations for which absence of sourcing 'certified deforestation-free soy' would automatically mean elevated exposure to deforestation-risks. Considering that the vast majority of soy grown in the world is actually not related to any issues of deforestation, based on means of traceability it should be possible to consider soy sourced from countries/regions with 'negligible deforestation-risks' to be part of a 'verified deforestation-free supply chain'. Calculated/estimated volumes of low deforestation risk soybeans crushed in the EU show an increasing trend over the last years: 77% in 2016/17; 79% in 2017/18; 89% in 2018/19.

^{viii} In the palm oil sector, companies have engaged along the High Conservation Value / High Carbon Stock approach (HCV-HCS). On the soy side, reference norms can be the definitions by the FAO or the Accountability Framework initiative (AFI).

^{ix} The sustainability journey includes commitments to reach a certain goal. Such pledges have been implemented in the palm oil sector for example via the NDPE (No-deforestation, no-peat, no-exploitation) policies.

Concerning soy, the Amazon Soy Moratorium in Brazil is a voluntary commitment between soy producers and buyers, mediated by NGOs and the government which has been in place for more than a decade, with 2008 as a cut-off date. The initiative has successfully contributed to reducing deforestation in the Amazon and today ensures that soy is no longer a driver of deforestation in the Amazon Biome. In addition to the controls related to the Soy Moratorium, the non-use of slave and child labour and the embargo determinations generated by the Brazilian Institute for the Environment and Renewable Resources (IBAMA), among others, help establish transparent relationships with rural

producers who have a responsibility both on environmental standards and in decent working and living conditions for their employees.

No less important is the Green grains Protocol for the State of Pará, which, among other items, requires that all purchases made in the State be made through invoice and Producer Environmental Registration.

A number of companies have formulated no-deforestation objectives including time-bound targets with different deadlines. Implementation requires assessment of the origin and of the associated deforestation risk (Soft Commodities Forum).

^x Companies, stakeholders or governments have elaborated good agricultural practices (GAP), often as a means to support farmers, either for more sustainable production practices or to help them comply with more stringent regulations.

Some GAPs are implemented with third party verification or certifications, which exist in both palm and soy supply chains. Third-party initiatives exist to support companies in the different steps of supply chain transformation from commitments over action to progress demonstration (Proforest responsible soy sourcing toolkit; AFi Ethical Supply Chain Journey), alongside companies' internal initiatives.

^{xi} The Science-Based Target (SBT) initiative can be a relevant example, as it requires influencing third-party suppliers of companies to realistically demonstrate their CO₂ emissions reductions. However, the current 20-year default cut-off date for deforestation under the existing Life Cycle Assessment (LCA) methodology does not incentivise companies to source certified sustainable material, as in terms of emissions it is equal to non-certified.

If the GFLI database for LCA were to update and shorten that reference timeframe, this might drive companies away from high-risk sourcing areas and be beneficial to environmental objectives.

^{xii} A coalition of ten major palm oil producers and buyers (including Bunge, Cargill, Golden Agri-Resources (GAR), Mondelēz International, Musim Mas, Nestlé, Pepsico, Sime Darby Plantation, Unilever and Wilmar) funded the development of a publicly available radar-based forest monitoring system known as Radar Alerts for Detecting Deforestation (RADD). The RADD system is currently being developed for Indonesia and Malaysia and aims at facilitating near-real-time accurate monitoring of deforestation, to allow quick follow-up actions on the ground and work to improve the sustainability of commodity supply chains.

^{xiii} In Brazil, some companies can make use of a tool named Simfaz, which is a service integrated with the main databases allowing assessing compliance with the criteria of socio-environmental confirmation of owners of rural properties. It is available through a user interface to interact with other systems. Currently, this platform is integrated with JDedwards and Wsys (system that issues grains contracts). The platform uses the National Register of Legal Entities (CNPJ) or Individual Taxpayers' Register (CPF), counts with the consultation of the socio-environmental conformities informed below:

1. Soy Moratorium
2. Slave labour
3. Brazilian Institute of Environment and Natural Resources – IBAMA embargos, with issuance and filing of a negative certificate
4. Amazon protects; from MPF, with issuance and archiving of negative certificate
5. National Institute for Space Research – INPE: deforested polygons
(<http://www.obt.inpe.br/OBT/assuntos/programas/amazonia/prodes>)

If it is identified by the National Register of Legal Entities (CNPJ) or Individual Taxpayers' Register (CPF) that the name of the company or the farmer is in one of the lists informed above, Simfaz points that out and there is an immediate block in the Wsys system, making it impossible for a company to do any business with that third party.