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Controlling Trade in Agricultural Commodities: Bilateral Agreements

Duncan Brack
Chatham House & Forest Trends

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INTRODUCTION

Bilateral voluntary partnership agreements (VPAs) between the EU and timber-exporting developing countries lie at the heart of its Action Plan for Forest Law Enforcement, Governance and Trade (FLEGT). They are designed to ensure that only timber products that have been licensed as legally produced are exported from the VPA countries to the EU. The process of establishing the legality assurance system required to identify legal timber products, and the accompanying legal and law enforcement reforms, should also directly help to improve standards of forest governance.

Yet illegal logging and even legal commercial logging are not the main drivers of deforestation: clearance of forests (legal or illegal) for agriculture, often for export, is far more significant. A recent study for the European Commission estimated that 53 per cent of the global deforestation experienced from 1990 to 2008 was due to agricultural expansion. 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 per cent of deforestation.

The purpose of this paper is to examine the potential value of bilateral agreements between agricultural commodity exporting countries and consumer countries such as the EU, designed to exclude illegal or unsustainable products from export. This includes agreements modelled on the VPAs for timber, but also free trade agreements and other similar bilateral arrangements.

VOLUNTARY PARTNERSHIP AGREEMENTS

The EU published its Action Plan for Forest Law Enforcement, Governance and Trade (FLEGT) in 2003. It remains the most ambitious set of measures aimed at illegal logging and forest governance adopted by any consumer country or bloc to date. The negotiation of VPAs with timber-producing countries lies at its heart. When fully implemented the VPAs will put in place in each partner country a legality assurance system designed to identify legal timber products and license them for import to the EU (unlicensed products will be denied entry). The EU provides capacity-building assistance to set up the licensing scheme, improve enforcement and, where necessary, reform relevant laws.

By September 2013, VPAs had been concluded with Cameroon, the Central African Republic, Ghana, Indonesia, Liberia and the Republic of Congo (while the Indonesia and Liberia VPAs have yet to be ratified). VPA negotiations were under way in Côte d’Ivoire, the Democratic Republic of Congo, Gabon, Guyana, Honduras, Malaysia, Thailand and Vietnam. Several other countries have also expressed an interest in entering negotiations.

Controlling trade

What is ‘legal’ for the purposes of the legality assurance and licensing systems is defined in relation to the laws of the country of harvest of the timber. This is not always as straightforward as it might seem; in some developing countries, forest law is not always clear and laws agreed by national governments sometimes conflict with those adopted by regional or local governments. Even where the laws are clear, there may be uncertainty over which are relevant to the consideration of ‘illegal logging’ – those relating to timber harvesting, for example, or the payment of royalties or export duties are obviously important, but laws regulating the working conditions of truckers transporting the timber, for instance, may be more tangential. In most VPA countries multi-

1 European Commission, The Impact of EU Consumption on Deforestation: Comprehensive analysis of the impact of EU consumption on deforestation (2013).
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stakeholder processes have agreed operational definitions of ‘illegal logging’, and all the VPAs also contain commitments to legal reforms to make the laws clearer and more comprehensive.

The scope of the applicable legislation is defined in each VPA. This includes regulations relating to rights allocation processes and access rights; company registration requirements; social obligations, including labour requirements; the rights of local communities and indigenous populations; environmental safeguards, forest management, timber harvesting, processing operations and associated financial and fiscal obligations; and transport and commercialization of timber. For each requirement, the VPAs list criteria, indicators and concrete verifiers – such as the documents operators need to produce in order to prove compliance – that will form the basis for enforcement.

FLEGT licences will be issued by a designated licensing authority in each partner country on the basis of proof of legality provided through an agreed verification process and a traceability system that ensures that timber that has not been verified as legal does not enter the supply chain. VPAs oblige partner countries not to issue licences to products that include timber that has been illegally produced in any other country, and FLEGT licences will indicate the country of harvest. The VPAs concluded to date also include restrictions on timber imports to products already possessing a FLEGT or ‘other authorized’ licence. In Cameroon and the Republic of Congo mills will be required to source only legal timber, whether domestic or imported.

To ensure the system’s integrity and the credibility of licenses, the VPAs contain provisions for independent third-party audits of the functioning of the legality assurance system; the auditors will be appointed jointly by the partner country’s government and the EU. Some VPAs also contain provision for additional independent monitoring by civil society; in some cases this builds on independent forest monitor projects predating the VPAs. Should major compliance problems arise, they will be discussed and solutions sought in the joint implementation committee comprising representatives of both the partner country and the EU. The ultimate sanction, should the system fail, would be suspension of the agreement, which either party can initiate.

The licensing system is intended to apply to timber products traded between the VPA partner countries and the EU. All the partner countries that have agreed VPAs so far, however, intend to license all their timber exports regardless of destination, so the system may begin to spread beyond the direct trade between the partner countries and the EU.

No licensing system, however, has yet been established, and successive target dates for their introduction have been missed. The Ghana VPA, for example – the first to be signed – initially envisaged the first FLEGT-licensed products being exported by the end of 2011. There are a number of reasons behind this, including the complexity of establishing robust legality assurance systems, the growing importance of export markets other than the EU (in particular, China) and, possibly, a lack of political will.

However, some VPA countries are quite close to implementation, particularly Indonesia, which from January 2013 has required all timber exports to be accompanied by a ‘V-Legal Document’, assuring the legality of the products from the point of harvesting to transporting, trading and processing. In late 2012, Indonesia and several EU member states conducted a shipment test as a pilot exercise for the export of timber products with V-Legal Documents, with positive outcomes.

The introduction of the EU Timber Regulation from March 2013 has provided an additional incentive for countries to join and implement VPAs. It prohibits the placing of illegal timber on the EU market, and requires companies in the supply chain to put in place systems of due diligence to minimize the chance of their handling illegal products. VPA-licensed timber is automatically granted entry to the EU market without further conditions.

Improving governance

Illegal logging can be seen as, at base, a failure of governance and law enforcement. The legal and regulatory regime that should protect forests and regulate their exploitation may be inadequately designed, poorly enforced or undermined by corruption – or sometimes all three. Although the
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licensing system that the FLEGT VPAs will establish is aimed mainly at excluding illegal timber from the EU market, the agreements’ impacts on governance in the partner countries could have more long-lasting effects.

All the VPAs include provisions for governance improvements and legal and regulatory reform. This includes:

- An analysis of existing legislation, as part of the process of drawing up the legality definition, together with a gap analysis and commitment to reforms where necessary;
- Agreement on independent audit and monitoring of the functioning of the legality assurance and licensing systems, with outcomes available to the public;
- A commitment to national stakeholder involvement in the joint committees to be set up to oversee the process; and
- Improvements in transparency, including annual reporting on the functioning of the system and in some cases agreement to make more information on forest sector management (such as information on production, rights allocation, finances and audits) available.

The processes of negotiating and starting to implement the VPAs have also by themselves improved transparency and opened up decision-making processes to participation from civil society in most countries.4

Many problems of governance are due to a lack of capacity, and it was always recognized that the VPAs would need to be accompanied by provisions for capacity-building support for the establishment of the licensing system and for improving governance and enforcement. Although the costs of operating the licensing systems will be met by the partner countries, in most cases some EU assistance is needed. Such support is not part of VPAs, but where required it has been agreed in parallel with the negotiations as part of the European Commission’s and EU member states’ development cooperation programmes. It is also expected that, in most cases, a reduction in the level of illegal behaviour should increase capture of tax and royalty revenues by partner-country governments.

VPAs for agricultural commodities?

Could something like FLEGT VPAs be developed for agricultural commodities associated with deforestation, such as palm oil, soy, beef or cocoa? Some of the issues are the same – consumer-country concern over the environmental and social impacts of the products, problems with governance in some of the countries of origin, at least some illegal activity, and significant trade links with the EU. There have been some suggestions for this in the past. For example, a UK government submission to the European Commission during the consultations over the EU strategy on the sustainable use of natural resources in 2004–05 suggested EU action plans for sustainable palm oil and sustainable soy, including exploring ‘options for applying the FLEGT model, with its VPAs and import regulation’ to both commodities.5

Such agreements would commit the producer countries to improve standards of governance and to establish an assurance scheme for the desired products (with capacity-building assistance from the EU) and for the EU to legislate to require evidence of the licence at the EU border. Rather than establish a new agreement for each commodity, it may make more sense for multi-commodity agreements to be reached, attempting to establish standards for the entire agricultural sector, or possibly (and more feasibly) for large-scale crop production destined for export. Many of the problematic issues in these sectors revolve around decisions, and conflicts, over land use, and it

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4 See further in An Bollen and Saskia Ozinga, Improving Forest Governance: A Comparison of FLEGT VPAs and their Impact (FERN, February 2013).
would make sense for these to be discussed in a single forum. Where timber VPAs already exist, they could potentially be extended to other products – as in Ghana or Côte d’Ivoire, for example, for cocoa.

There are, however, formidable obstacles. There is a major difference between restricting trade to legal products and restricting trade to sustainable products. Legality could make sense as the objective if there is widespread illegality in the country of production. In fact research on illegalities in the production of agricultural commodities has been less extensive than it has on illegal logging, but there are many reports of illegal clearance of forest for oil palm or soy, or pasture for cattle. Research under way for Forest Trends has estimated that most conversion of forest to agriculture (including timber plantations) in tropical countries is currently illegal; this is particularly true of clearance for oil palm plantations and cattle pasture.⁶

Illegal forest conversion tends to be more difficult and complex to prove than many other forms of illegal behaviour, however; it is inevitably entangled with questions of land ownership and tenure which, in many countries, may be unclear or contested (though this also applies to timber, of course). Even where illegal forest conversion can be proven, if pressure is put on producer countries to exclude illegal products from trade, it may create an incentive to retrospectively legalize the conversion and eliminate the problem.

Restricting trade to sustainable products begs the question of how sustainability is defined, and who is to define it. Sustainability incorporates a wider range of issues than legality and relies on definitions that are not, in general, reached in the country of production, or at least not only there. Restricting trade on the basis of sustainability standards therefore risks accusations of foreign values being imposed. It could also trigger the development of sustainability standards by the countries of origin that may not always meet international criteria for sustainability and fail to meet the requirements of the many companies – such as the members of the Consumer Goods Forum – that have adopted voluntary targets to eliminate deforestation from their supply chains.

The development of the Indonesian Sustainable Palm Oil (ISPO) standard helps to illustrate the issue. The scheme was created after the Indonesian Palm Oil Association (Gapki) left the Roundtable on Sustainable Palm Oil (RSPO) in 2011, following a series of conflicts linked to environmental standards. Administered by the government, and developed without stakeholder participation, the ISPO standard is based on existing laws and regulations. It standard is mandatory, and in March 2013 the government announced that it would revoke palm oil production permits for companies not possessing an ISPO certificate by 2014.⁷ Many large Indonesian palm oil producers, however, continue to support the RSPO and uptake of ISPO has so far been limited. ISPO certification would not prevent deforestation, as long as the forest concession is legally obtained, and in addition it is not clear what sanctions would be available for use against companies illegally clearing forest but nevertheless claiming ISPO certification. It seems unlikely that ISPO could provide the basis of a sustainability scheme within a VPA-type arrangement that would be acceptable to consumer countries, even though it has Indonesian government backing.

The VPAs have been successfully negotiated (though not yet fully implemented) because the partner-country governments saw value in reducing illegal logging (as defined by their own legal systems) and believed that the EU market (and possibly others) would be progressively closed off to timber not verified as legal. By and large the same conditions do not apply to production and export of sustainable commodities. Although demand in consumer countries for sustainable agricultural products is slowly increasing, it is still not particularly significant. Although 12 per cent of global palm oil was RSPO-certified by 2011, only half of it was purchased or had earned a price premium.⁸ Uptake remained flat in 2012.⁹ No more than 6 per cent of cocoa production was

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8 WWF International, Palm Oil Buyers’ Scorecard.
9 RSPO, Key Statistics, 11 June 2013.
certified in 2010 (double the percentage in 2009) under the three main certification systems in use.\textsuperscript{10} The incidence of certification for sustainable beef or soy is very low.

In any case it seems unlikely that many producer countries would see value in establishing schemes to limit their exports to the EU or other consumer countries; there is not the same payback in terms of increased tax revenue as there could be with reducing illegal logging. Some of the major countries of export of the key crops associated with deforestation, such as Brazil (soy, beef) or Argentina (soy), have shown no interest in a timber VPA and seem unlikely to be attracted to an agricultural agreement. Of the two key palm oil producers, Malaysia has spent years negotiating a timber VPA and has not yet concluded it. As noted above, Indonesia, which does have a timber VPA, is establishing its own certification system for palm oil. It has also argued that palm oil by itself, however produced, should be considered to be a sustainable product; it is currently attempting to have all palm oil products included in the Asia-Pacific Economic Community (APEC) list of environmentally friendly goods for which preferences would be given within the APEC area.\textsuperscript{11}

There may possibly be more scope for VPA-type agreements covering cocoa. Of the two main producers, Ghana has a timber VPA and Côte d'Ivoire (a small country with significant governance and capacity problems) is starting to negotiate one. The EU is by some margin the biggest global importer of cocoa, with the United States second, and many of the companies involved in the chocolate supply chain have already announced voluntary targets for reaching 100 per cent certified products.\textsuperscript{12}

Finally, however, as the existing VPAs have shown, it has been difficult enough to develop a legality assurance scheme for timber; adding the complexities of developing legality, or sustainability, assurance schemes for a range of agricultural commodities may simply overwhelm the process. There may also be problems with combining timber and agricultural VPAs. Normally (though not invariably), different government departments and different companies are involved. Rather than an agricultural VPA building on the strengths of the timber VPA, the agricultural VPA could end up impeding the timber VPA.

For all these reasons, it does not seem likely that VPA-type agreements can be established for agricultural commodities, or timber VPAs extended to other products, except possibly in a handful of specific cases. This argument applies to the trade mechanisms of the VPAs (the legality assurance and licensing systems); whether the governance elements could be replicated or adapted is considered below.


\textsuperscript{11} ‘RI seeks legacy at APEC, WTO’, Jakarta Post, 3 January 2013.

\textsuperscript{12} For more details, see Duncan Brack and Rob Bailey, \textit{Ending Global Deforestation: Policy Options for Consumer Countries} (Chatham House and Forest Trends, 2013), pp. 70–77.
FREE TRADE AGREEMENTS

Free trade agreements (FTAs) have proliferated in recent years as it seems ever less likely that the latest round of multilateral trade talks, the WTO Doha Round, will reach a successful conclusion. They aim to reduce barriers to trade, including tariffs (import and exports duties) and often non-tariff barriers such as quotas or administrative requirements.

By January 2013, the United States had FTAs in place with 20 countries (Australia, Bahrain, Canada, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Israel, Jordan, Korea, Mexico, Morocco, Nicaragua, Oman, Panama, Peru and Singapore), some through regional blocs such as the North American Free Trade Agreement (NAFTA). Trade and Investment Framework Agreements (TIFAs), precursors or stepping-stones to FTAs and/or bilateral investment treaties, have been reached with over 40 further countries.

Similarly, by June 2012, the EU had 24 FTAs in place (Albania, Algeria, Bosnia-Herzegovina, Chile, Colombia, Egypt, Honduras, Israel, Jordan, Korea, Lebanon, Macedonia, Mexico, Montenegro, Morocco, Nicaragua, Palestine, Panama, Peru, Serbia, South Africa, Switzerland, Syria and Tunisia), with many others under negotiation or with some kind of preferential arrangement in place.

The EU is also negotiating a series of Economic Partnership Agreements (EPAs) with developing countries, replacing its previous non-reciprocal preferential agreements with the African Caribbean Pacific (ACP) group of developing countries, mostly former colonies of EU member states, which were ruled incompatible with WTO disciplines. The EPAs were supposed to enter into force by 2008 but are still under negotiation; the intended reciprocal trade arrangements, which imply the opening of ACP economies to all imports from EU countries (including heavily subsidized agricultural and other products) is proving controversial. In practice many developing countries are benefiting from the various preferential tariff schemes established by the EU (see below).

FTAs and illegal logging

Some US FTAs contain environmental and labour side agreements, pioneered by NAFTA, as mechanisms for dealing with the potential environmental and social impacts of trade liberalization. One such FTA, of particular interest to the area of illegal logging, is the US–Singapore Free Trade Agreement, which was signed in May 2003 and entered into force in 2004. The agreement itself contains a chapter on environment, which has the broad aim of ensuring that environmental laws are not undermined by trade or investment activities. The Plan of Action agreed under the accompanying Memorandum of Intent on Environmental Cooperation establishes a framework for joint cooperation; trade in illegal forest products is mentioned in passing, but there are no specific provisions. Indeed, the agreement has been criticized by NGOs as leading to an increase in the trade in timber, including logs and sawn timber sourced from Indonesia, which should have been subject to an export ban.

A more ambitious attempt to deal with illegal logging through an FTA has been the United States’ 2007 trade promotion agreement with Peru, in which the chapter on environment includes an annex on forest-sector governance. This contains a number of mandatory provisions to address illegal logging, including commitments by Peru to improve forest-law enforcement, develop systems to track protected tree species through the supply chain, improve the management of forest concessions, and conduct periodic audits of producers and exporters of timber products exported to the United States. Peru also undertook to investigate violations of forest law, and, at the request of the United States, to verify whether a particular shipment was legally produced. The United

13 For further information, see http://www.ustr.gov/trade-agreements/free-trade-agreements.
14 For the full list, see http://www.ustr.gov/trade-agreements/trade-investment-framework-agreements.
15 For the full list, see http://ec.europa.eu/trade/policy/countries-and-regions/agreements/
16 For the full text, see www.ustr.gov/Trade_Agreements/Bilateral/Singapore_FTA/Final_Texts/Section_Index.html.
States is allowed to detain questionable shipments pending verification that the timber was legally harvested. These provisions have, however, largely not been enforced, and recent reports have revealed the extent of illegal logging that still goes on in Peru.  

**FTAs and sustainable agriculture**

FTAs between producer developing countries and the EU, the United States and other consumer countries have not generally featured clauses on promoting environmentally sustainable agriculture or trade in certified products. Developing-country trade negotiators tend to see their priorities as reducing trade barriers and subsidies in developed countries, and protecting their own countries’ food security and farmers’ livelihoods, and often view discussions about environmental standards as risking the imposition of costly developed-country standards as simply a way to protect rich countries’ own agricultural interests: ‘green protectionism’.

In fact tariffs for many agricultural commodities are in any case very low. For example, the EU’s import duty on palm oil for use in food is 3.8 per cent, and for non-food applications zero. On top of that, developed countries generally offer preferential access to products of developing countries (permitted under an exception to normal WTO rules). Under the EU’s new Generalized System of Preferences (GSP) for developing countries, which will apply from 1 January 2014, the tariff on crude palm oil is zero for any use.

Further EU tariff preferences are available under the ‘Everything but Arms’ (EBA) provisions (for the least developed countries) and the ‘special incentive arrangement for sustainable development and good governance’ (‘GSP+’, for countries classified as vulnerable, suffering from a lack of economic diversification, which also adhere to a list of 27 international conventions on human and labour rights, environmental standards and good governance). Countries with economic partnership agreements or free trade agreements with the EU may also enjoy lower tariffs. The outcome of this system is that for most raw or crude agricultural commodities, including palm oil, soybeans and cocoa beans, developing-country exporters face zero import tariffs for exports to the EU.

Processed products do in general face rather higher tariffs, and beef higher again, thanks to EU concerns about the impact of imports on the domestic beef industry. In addition, Malaysia, Brazil and Argentina will not qualify for the new EU GSP, owing to their upper-middle-income status, which means that from 2014 tariffs on their exports, particularly on beef, will rise. Malaysian palm oil producers have accordingly called for the rapid conclusion of a free trade agreement with the EU (on which negotiations began in 2010), which could offset the increase.  

There are also ongoing discussions between the EU and the Mercosur countries over a free trade agreement. However, since 2007 the EU has begun to negotiate what it refers to as a ‘new generation of free trade agreements’, extending to a much wider range of products than before and encompassing a broader range of issues. The first of these, with South Korea, in force since 1 July 2011, contains a chapter on sustainable development, through which the parties ‘reaffirm their commitments to promoting the development of international trade in such a way as to contribute to the objective of sustainable development’. Among a wide range of provisions, the chapter includes provisions on ‘goods that contribute to sustainable development’, including a commitment to ‘facilitate and promote trade in goods that contribute to sustainable development, including goods that are the...
subject of schemes such as fair and ethical trade and those involving corporate social responsibility and accountability.  

These commitments are fleshed out in the Annex on ‘Cooperation in Trade and Sustainable Development’, which contains, among its indicative list of areas of cooperation:

(d) exchange of information and cooperation on corporate social responsibility and accountability, including on the effective implementation and follow-up of internationally agreed guidelines, fair and ethical trade, private and public certification and labelling schemes including eco-labelling and green public procurement;

[…]

(f) cooperation on trade-related aspects of the current and future international climate change regime, including issues relating to global carbon markets, ways to address adverse effects of trade on climate, as well as means to promote low-carbon technologies and energy efficiency;

(g) cooperation on trade-related aspects of biodiversity including in relation to biofuels;

[…]

(i) cooperation on trade-related measures to tackle the deforestation including by addressing problems regarding illegal logging;

The agreement establishes a Committee on Trade and Sustainable Development to oversee the implementation of these provisions. Each party also establishes a Domestic Advisory Group, including NGOs, labour and business organisations, to provide advice on environmental and labour issues; the two groups are scheduled to meet annually in a Civil Society Forum. It is not clear from the publicly available information, however, to what extent any of these bodies has discussed the issues covered here.

The trade component of the EU–Central America Association Agreement, with Honduras, Nicaragua and Panama, agreed in 2012, contains a similar commitment to ‘facilitate and promote trade in products that respond to sustainability considerations, including products that are the subject of schemes such as fair and ethical trade schemes, eco-labelling, organic production, and including those schemes involving corporate social responsibility and accountability’. (This agreement also contains a specific commitment to ‘to work together to improve forest law enforcement and governance and to promote trade in legal and sustainable forest products’.)

It is still too early to tell what impact these agreements will have. It seems inconceivable that they might erect barriers to trade in unsustainable products – as do VPAs for illegal timber – but they do at least open up the possibility of discussion and action on the issue of facilitating and promoting trade in legal and sustainable agricultural products.

### Governance

As noted above, the VPAs have led to benefits in terms of transparency, governance and law reform even in the absence of a licensing scheme. Could at least this part of the VPA experience be replicated for agricultural commodities?

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23 Ibid., Article 13.6 (2).
25 Agreement Establishing an Association between Central America, on the one hand, and the European Union and its Member States, on the other, Article 288 2(c).
26 Ibid., Article 289.
In this respect the UN Development Programme’s experiment with establishing national commodity platforms is relevant.²⁷ This is an attempt to develop a multi-stakeholder dialogue process within individual national commodity supply chains. All relevant actors, including producers, traders, buyers, financial organizations, national and local governments and rural communities are brought together in facilitated dialogues to encourage the production and trade of sustainable commodities. The objective is to reduce the conversion of natural habitat into farmland, increase biodiversity, improve water management, reduce the ecological and carbon footprint of production, protect food security and ensure sustainable livelihoods for rural communities. UNDP hopes to provide initial financial and capacity support, and longer-term funding for new schemes, incentives and services.

Examples of the proposed platforms include a national platform for the production of pineapples in Costa Rica. No less than 30 per cent of the agricultural GDP of Costa Rica is generated by pineapples; the country is the main supplier of pineapples to the United States (45 per cent) and EU (55 per cent), and contributes 8 per cent of global pineapple production, reaching 1.6 million tonnes in 2008.²⁸ Environmental and social impacts include agrochemical run-off into water sources, badly managed plantation waste, erosion from tillage practices in plantations, and violations of trade union rights by some plantation owners. The UNDP programme aims to bring the producers and exporters together with rural communities, environmentalists, and cattle ranchers in a national platform to develop a strategy to reduce negative impacts and increase social benefits.

These commodity platforms are still at the proposal stage, but may suggest a way forward, for the EU and other consumer countries, to work with producer-country governments to build VPA-style processes of consultation over agricultural policy and land allocation, building on the experiences of the timber VPAs.

The big question is whether such an arrangement could be reached without the incentive of the trade restriction embodied in the licensing scheme of the VPAs. As noted, the VPAs seem to have led to governance improvements even in the absence of the licensing element, but it seems unlikely that the partner countries would have agreed to at least begin to put the systems in place without the spur of easier access to the EU market.

There is, however, growing demand from companies in consumer countries for sustainable agricultural products; the Consumer Goods Forum a global industry network of retailers, manufacturers and service providers, has adopted a target of achieving zero net deforestation in its membership’s supply chains by 2020, and encourages take-up of RSPO and similar standards. Many large consumer and food manufacturing companies, such as Nestlé and Unilever and most of the major chocolate companies, have adopted similar targets or are aiming to ensure 100 per cent certified sustainable products in their supply chains by a particular target date. If governments start to use public procurement policy to require sustainable foodstuffs, such as the United Kingdom is beginning to do for palm oil in food and catering (see the companion paper for this workshop), this could add significantly to the demand.

In these circumstances, some producer countries might be open to working jointly with the EU, or other consumer countries, to develop VPA-style processes of multi-stakeholder consultation to develop reforms of land use and promote sustainable production, with the aim of accessing more easily the companies requiring evidence of sustainable production. Of course donor countries could simply provide project funding directly to farmers in developing countries, but a nationwide approach, as in the VPAs, or UNDP’s proposed national commodity platforms, could being significant added value.

CONCLUSION

The VPAs agreed so far between the EU and six timber-producing countries have significant potential for excluding illegal timber from markets, both domestic and overseas. In addition, they have already 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. 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. However, it is not at all clear to what extent the potential partner countries themselves would be interested, and it seems highly unlikely that licensing systems could be used for sustainable agricultural commodities. Agreements covering cocoa from Ghana and Côte d’Ivoire may offer the best potential option.

Free trade agreements similarly offer little scope for erecting barriers to trade in illegal or unsustainable agricultural products. Some of the EU’s ‘new generation’ of FTAs, or environmental side agreements like those found in some US FTAs, may have some role in promoting trade in sustainable products.

Even in trade mechanisms cannot be used, it would be valuable to replicate the governance elements of the VPAs, if possible – this is similar in some ways to the UNDP’s proposed national sustainable commodity platforms. It is not clear whether VPA-style consultation and legal and regulatory reform processes could be established in the absence of the incentive offered by trade and market access, but the growth of voluntary commitments to deforestation-free supply chains may offer sufficient encouragement.