Discussion on No Deforestation Regulation
DG Environment

17 February 2022
Participants

- DG ENVIRONMENT
- COCERAL

- FEDIOL
  - Cargill
  - Wilmar
  - Supply Chain Working Group
  - Bunge
  - ADM
  - Sust. & Environment WG

- FEFAC
Outline

- FEDIOL
- FEDIOL principle remarks
- Anticipated impacts
- Main issues and solutions: for palm and for soy
- Proposal summary
- Questions and Answers
2020-2021 – FEDIOL Members

**Facts and Figures**

- 41.2 mt oilseeds crushed
- 27 mt of meals produced
- 14.2 mt of oils produced
- 18.4 mt of oils refined
  - of which 6.7 mt tropical oils
- 85% of the market
- 180 plants
- 70 companies
- 20,000 direct jobs
- 25.1 billion € turnover

**Coverage:**

- 17 European Countries
- 11 National Associations
- 6 Countries with direct membership
2. FEDIOL principle remarks (shared by COCERAL & FEFAC)

- **We support curbing deforestation** and forest degradation provoked by EU consumption as well as **improving transparency** across the supply chains;

- Considerable efforts have been made, and voluntary action has initiated changes – but **this one-size-fits-all approach does not work and will have a negative impact on what has been achieved so far**; it is critical to make traceability and chains of custody **workable** in each sector and region;

- Avoid stigmatisation and exclusion: **negative impact on smallholder farmers** and **negative effect on the engagement with producer countries**; and

- **Avoid** reducing the influence EU operators and authorities can have in these countries, leading to **resumed deforestation** for lack of leverage.
3. Anticipated impacts

1. **Supply shortages in the EU leading to high prices** and resulting risks to EU food and feed chain resilience and competitiveness;

2. **No impact on deforestation reduction** due to lack of leverage and incentives to transform practices on the ground (e.g. disengagement from high-risk areas where most transformation is needed);

3. **Exclusion of the majority of smallholders and certain mills supplied by smallholders** from supply chains, affecting engagement with third countries; and

4. **Disproportionate administrative and logistical burdens** for operators and competent authorities and insufficiently differentiated to actual risk.
4. Main Issues identified – For palm oil

1. Traceability to Plantation (TTP) for smallholders and “implied” chain of custody - in particular the geolocalisation of individual plots
   - Consistent GPS coordinates are problematic when land tenure and ownership are not correctly regulated and frequently change;
   - Therefore, Smallholders (40% of producers) would mostly be excluded as they cannot provide the TTP data;
   - Enormous data collection and transmission process;
   - Leads to supply shortages.

2. Information requirements not compatible with local laws
   - Goes against data privacy right laws in third countries; and
   - Illegal to share concession maps.
5. Workable chain of custody and traceability approach for palm

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<th>Traceability</th>
<th>Chain of Custody</th>
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<td>• <strong>TTP</strong> (Traceability to Plot), and</td>
<td>• <strong>For TTP:</strong> segregated volumes from plots of production (for e.g. via RSPO SG) (traceable volumes from these plots can be mixed), meaning geolocation data to groups of deforestation-free plots.</td>
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<td>• <strong>TTM</strong> (Enhanced Traceability to Mill + 50 km radius supported by checks on the ground), =&gt; both informed by operators’ monitoring systems, to be considered valid + 3rd party audit of due diligence system.</td>
<td>• <strong>For TTM:</strong> segregated volumes from complying mills (traceable volumes of these mills can be mixed), meaning geolocation data of groups of mills sourcing deforestation-free.</td>
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<td><strong>5 year review of Regulation</strong> - Commission to assess whether smallholders are technically and legally able to comply with TTP. TTP to become mandatory for smallholders only once they are able to comply.</td>
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6. Main Issues identified – For soy

1. Traceability and implied Chain of custody in particular the “implied” segregated/identity-preserved Chain of custody
   - Today Certified Sustainable soy is dominated by traded certificates which total 4.5m MT annually and other chains of custody—segregated flows are niche and will remain niche; the chain does not have the logistical capacity to “switch” to a segregated chain of custody (i.e. provide segregated 100% deforestation-free flows);
   - Flows of GMO soy can not respond to the traceability/chain of custody requirements; and
   - Soy supply is built of thousands of farms with several dozens of plots, hundreds of first collectors, country elevators, long transport routes with mixing at every step, large port facilities serving the global market at max capacity,....

2. Information requirements
   - Impossible to administer and maintain geolocalisation and plot-and-product-specific information collection and ensure transmission throughout the chain.
## 7. Workable chain of custody and traceability approach for soy

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| Based on annual land mapping of production areas (complemented by satellite monitoring and checks on the ground) operator’s risk assessment to provide in an annual report, audited by 3rd party:  
  - Assessment of deforestation since 2020 in soy production areas  
  - Traceability of zero deforestation soy (according to risk assessment):  
    1. traceability to production areas / plot;  
    2. traceability to the farm or municipality +*;  
    3. traceability to province or state +*.  
| Enhanced mass balance at site level + transition period:  
  - **Entry into force**: an analysis of how non-compliant soy has been handled and an action plan on how to exclude non compliant production from the EU supply chain.  
  - **2030**: physically segregated deforestation-free supply chain to Europe.  

*+ annual geo-mapping of production, supporting tools, evidence and on the ground checking when appropriate
8. Proposals to achieve deforestation-free EU supplies (shared by COCERAL & FEFAC)

1. **Traceability and chain of custody requirements adapted to the specificities of the different commodities and their logistical and market functioning** instead of a one-size-fits-all approach: sector-specific EU guidelines/rules for the implementation of the general principles (traceability, due diligence system, information, and evidence to be used) would be required through guidance and/or secondary legislation.

2. **Traceability requirements inclusive of smallholder farmers and compatible with local laws**, instead of requiring filing geolocation coordinates, which goes against data privacy right laws in third countries and would entail large data volumes and challenges in data collection, triggering farmers’ opposition.
9. Proposals to achieve deforestation-free EU supplies (shared by COCERAL & FEFAC)

3. Operator responsibility for their risk assessment and mitigation, verified by audits and controlled by competent authorities instead of guided by an inaccurate country benchmarking.

4. Annual audits on all operators’ due diligence systems and compliance with the deforestation-free supply chain requirement instead of statements per shipment.

5. Responsibility for full due diligence on all first placers of goods on the EU market (operators) instead of both operators and large EU traders to avoid duplication of efforts.
Questions & Answers

1. The Regulation is ambiguous as to the chain of custody that is required. Do we understand correctly that it is required to provide a list of the various plots of land that supply an operator OR must each specific quantity of product be directly linked to the plot of land where it was produced? (i.e. segregated and not identity preserved)

2. Did the Commission at any point envisage re-entry criteria & provisions for sudden breaches in the supply chain or for operators that do not meet the 2020 cut-off date in the first place?

3. What would be sufficient evidence of compliance with national laws?

4. The impact of the regulation on smallholders is a serious issue for several commodities. Could an adjustment, eventually temporary, to consider alternative traceability approaches to geolocation offer a way forward?

5. What is the type of liability implied in the Proposal? Procedural or based on any harm caused regardless of appropriate compliance with due diligence? Specifically, are operators penalised when they performed due diligence to the best of their ability, but “breached suppliers” unintentionally enter their EU supply chain? (name change, merger, direct supplier mistake, etc.)
Questions & Answers

6. Which entities are covered under “operator”? (i.e. retailers?); which entities are covered under “trader”?

7. Could a tightened Mass Balance as suggested with a perspective of reaching 100% segregated within a fixed timeline be an acceptable alternative for the Commission? If not, why?

8. Defining main objectives and principles in the regulation, but leaving operators to design the due diligence system could avoid the problems of one-size-fits-all approach. How else could sector specific approaches be integrated?

9. When must a due diligence statement be submitted? If for imports, it is for every shipment, what about for EU producers placing products on EU market?

10. To assess the risk-level of countries, which timeframe does the Commission have in mind?

11. When a country is placed on high risk, end customers do not want products from those countries anymore, and hence operators stop buying. Was this point considered when drafting the Proposal?