Wilmar's Position

Corporate Due Diligence and Corporate Accountability

Wilmar International Limited was founded in 1991 and is headquartered in Singapore. Wilmar's business activities include oil palm cultivation, oilseed crushing, edible oils refining, sugar milling and refining, manufacturing of consumer products, specialty fats, oleochemicals, biodiesel, and fertilisers. **Wilmar is one of the largest processors of palm oil and sources over 90% of its crude palm oil from third parties**. In Europe Wilmar manufactures and imports oleochemicals and, under various joint ventures, Wilmar refines vegetable oils and produces animal feed. Central to Wilmar´s sustainability strategy is our **No Deforestation, No Peat, No Exploitation** (NPDE) policy, which extends across our global operations, including all third-party suppliers. **Wilmar is a firm advocate of sustainable growth and is committed to transforming the palm oil industry towards more sustainable practices**.

Wilmar believes that to address environmental and social harm associated with EU business activity, the EU should introduce **a fair and comprehensive mandatory due diligence system tackling legality, sustainability impacts, and human rights violations.** The goal must be a global reduction of environmental harm and human rights violations, not only cleaning EU supply chains. This will require cooperation with producing countries on supply-side measures and ensuring that as many actors as possible can participate in EU sustainable supply chains. **This system should:**

1) Ensure a level playing field across all companies, commodities, and geographic areas

Challenge: Focusing on a set list of so called "high-risk" commodities can lead to the environmental harm shifting to other commodities through substitution effects. Focusing on "high-risk" geographical areas/regions creates incentives for relocation, which only displaces the problem. Moreover, creating different rules for different products and different regions penalises sustainable actors in the "high risk" product category and regions, putting them at a competitive disadvantage compared to the low-risk category/region. Therefore, not regulating other products and regions means that unsustainable practices within the low-risk categories are not discouraged or penalised.

Solution: Create a level playing field so that all products that are substitutes for each other on the market are covered by the same mandatory due diligence system. There should be no differentiation between risk and non-risk regions, as unsustainable practices can happen anywhere. A mandatory horizontal due diligence, applying the same rules to all sectors, would provide such a fair level playing field.

2) Recognise and address the issue of leakage markets

Challenge: One of the risks of a mandatory due diligence requirement is a market-driven separation of supply chains into sustainable supply chains for the EU and unsustainable supply chains selling to markets with lower standards. For the EU to influence production practices in producing countries, the EU market needs to remain accessible.

Solution: A) Introduce a compensation mechanism (RSPO example, Wilmar example) that allows operators to compensate for past harm done to the environment (e.g. reforest) so that they can be re-integrated into supply-chains even if they caused harm after a defined cut-off date (1 January 2016 is the palm oil industry standard). B) Partner with producing countries to address supply-side measures, such as improving forest governance, taking FLEGT as a model for cooperation. C) Also ensure that small farmers and enterprises can participate in sustainable supply chains through a combination of incentives, technical/financial support, and industry schemes. D) Rules should apply at group level of companies, both on supply and demand side.

3) Define clear due diligence and liability requirements and penalise EU operators that do not comply

Challenge: There is a difference between **responsibility for due diligence** and **responsibility for harm caused**. The rules should make that distinction clear to avoid confusion and uncertainty. **1.** Regarding **responsibility for due diligence**, companies can already verify the compliance of **its purchased volumes/products** beyond Tier 1 all the way to the source. However, it would be impractical to make companies responsible for monitoring **all the operations** of the various companies in the supply chain which are not linked to the buyer's sourced volumes/products, as companies do not have visibility or leverage over the other traded volumes of its suppliers. **2.** As for being **civilly liable**, Companies do not have direct control over the governance of producing countries nor over the actions of indirect suppliers. Therefore, it is only reasonable to make companies civilly liable for any damage caused by its direct operations on the ground or the operations of undertakings under its control. Making EU companies liable for environmental/social damage caused **indirectly** could incentivise the economic operators in producing countries to continue their bad practices, knowing that liability is covered by another (EU) entity.

Solution: Make companies **liable** and responsible (at group level) **for conducting due diligence on its purchased volumes/products beyond Tier 1** all the way to the source (e.g. full DD responsibility for the total palm operations of the initial mill) **but not for the overall operations** of the various companies in the supply chain. As for civil liability, companies should only be held liable for any damage caused by its direct operations on the ground or by the operations of undertakings under its control. The solution to the problem of indirect harm on the ground must be addressed by the governance structures of producing countries.

4) Promote third party verification systems to combine sustainability with economic efficiency

Challenge: While not being the only tool for mitigating risks, third-party certification systems are the most advanced form of corporate due diligence currently available. Companies would require a long adjustment period and incur high costs just to reach the same level (of audit quality, etc.) if they had to replicate this due diligence themselves. Furthermore, there is a greater supply of certified products than currently is demanded by end producers, because of the costs involved.

Solution: Integrate and improve as much as possible current certification schemes such as Roundtable on Sustainable Palm Oil (RSPO) and Rainforest Alliance (RA), while respecting their multi-stakeholder nature, and ensure their uptake. Ensure that buying certified material covers the liability for downstream production to avoid duplication of due diligence efforts in long value chains. Support the establishment and recognition of public national legality verification schemes by producing countries in order to sell products to the EU. **EU could trust ISEAL-certified certification standards,** ISEAL being the certification standard for robust and credible certification schemes.

5) Work with already accepted definitions

Challenge: There is no universal delineation of terms such as primary forest, regenerated or plantation forest. The industry and civil society have tackled this problem by introducing the HCS and HCV concepts. Providing yet another set of definitions would override a hard-won consensus and create large adjustment costs for current sustainability and certification systems.

Solution: Adopt the HCV/HCS approach of the HCSA organisation. These concepts are already incorporated in cocoa, rubber, palm, and timber and provide an easy guide to identify forest which should be protected, and which land can still be used for development.

6) Put cooperation with producing countries at its heart

Challenge: Environmental problems such as deforestation in South-East Asia, Africa, and Latin America are currently mostly driven by the need for countries' economic development, including so-called smallholder farmers that attempt to secure a livelihood. Instead of discriminating against countries and cutting-off their suppliers, EU rules must allow producing countries to tackle poverty as one of the drivers of deforestation and find constructive ways to integrate as many producers as possible, including smallholders, in sustainable EU supply chains.

Solution: Use Voluntary Partnership Agreements (i.e. as in FLEGT) to enable coordinated efforts by the EU with producing country governments. This should include finding economic solutions for conservation areas and recovery of deforested/degraded land. This should be complemented by providing help to smallholders to improve their yield while giving incentives not to deforest.