

# TOWARDS A MORE INCLUSIVE, SUSTAINABLE, AND COOPERATIVE EU AGRICULTURAL TRADE

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LESSONS FROM PRACTICE





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## EXECUTIVE SUMMARY

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The EU started using its trade policy as a lever for environmental action, setting itself up as a frontrunner for global food system sustainability. This paper provides policy recommendations of how the EU could advance food systems sustainability further, focusing on two key policy developments: 1) the implementation of the EU Regulation on deforestation-free products (EUDR); 2) trade agreements as drivers of sustainable food systems.

Regarding the EUDR's implementation, its success will depend on the adoption of accompanying support measures. The EU must bolster its efforts to increase smallholder inclusion, support, and protection to ensure they are not cut out of trade with the EU. It must also step up its cooperation with partner countries by exploring new partnerships, as well as build on best practices and successful initiatives to promote policy coordination and technical alignment. By catering to the needs of the most vulnerable actors in value chains and building resilient partnerships with developing partner countries, the EU can maximise the regulation's impact and ensure its smooth and effective implementation.

This paper then offers an overview of the evolution and state of play of sustainability matters in EU trade agreements, showcasing a path for a more inclusive, sustainable, and cooperative approach going forward. It emphasises the need to enhance inclusiveness and transparency in trade processes, especially by involving smallholder farmers and marginalised communities in trade negotiations. As the EU's sustainability stance is facing mounting opposition from partner countries, trade agreements should serve as platforms for strengthening cooperation and dialogue on sustainability issues. Besides, they should be leveraged to complement the EU's autonomous measures, like the EUDR.

# OVERVIEW OF KEY POLICY RECOMMENDATIONS

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## IMPLEMENTING THE EU REGULATION ON DEFORESTATION-FREE PRODUCTS (EUDR)

### 1. PROVIDE FOR BETTER INCLUSION, SUPPORT, AND PROTECTION OF SMALLHOLDERS IN VALUE CHAINS

The EU and its member states must bolster support to smallholders. Technical and financial assistance must match the size, scale, and speed needed to promote smallholder inclusion in global value chains. Efforts by the EU should go beyond ensuring compliance with the EUDR to promote the sustainable livelihoods of smallholders. These should include:

- Support independent studies on the EUDR impacts on partner countries, including country- and sector-specific circumstances hindering value chain sustainability
- Promote information- and knowledge-sharing among smallholders and facilitate information flows to bridge the science and policy interface with decision-making processes and actors
- Develop targeted technical and financial assistance programmes, such as to support building up smallholders' capacity to produce sustainably

### 2. ESTABLISH PARTNERSHIPS AND LEVERAGE EXISTING FORUMS TO ADDRESS IMPLEMENTATION CHALLENGES

Promoting policy coordination and technical alignment will be key to effectively implement the EUDR. Ensuring feedback loops with trading partners and relevant stakeholders will be equally important to anticipate and tackle implementation challenges, and handle future review processes. The EU should:

- Build and expand existing public, private, and civil-society-led initiatives to foster technical alignment and commodity-specific cooperation
- Foster political dialogue as well as technical exchange through multi-stakeholder platforms and dedicated EU task forces

### 3. EXTEND THE EUDR TO FINANCIAL SERVICES AND INSTITUTIONS

Consideration should be given to including international and regional financial institutions within the EUDR's scope in upcoming review cycles foreseen under the regulation.

# OVERVIEW OF KEY POLICY RECOMMENDATIONS (CONTINUED)

## EU TRADE AGREEMENTS (TAs) AS DRIVERS OF FOOD SYSTEM SUSTAINABILITY

### 1. IMPROVE TA PROCESSES FOR INCLUSIVE PARTICIPATION OF FOOD SYSTEM ACTORS

Including diverse food system stakeholders in the TA process is key to guaranteeing that their perspectives and concerns are heard and adequately addressed. In particular, the EU should strengthen engagement with civil society in partner countries. This could be achieved by:

- Establishing dedicated mechanisms of multi-stakeholder consultation that facilitate the participation of vulnerable and underrepresented groups in TA processes
- Providing further support to the Domestic Advisory Groups (DAG) process, particularly in partner countries, for instance via development cooperation or “Aid for trade” programmes

### 2. STRENGTHEN SOCIAL, ECONOMIC, AND ENVIRONMENTAL SUSTAINABILITY CREDENTIALS IN TRADE AGREEMENTS

The EU should clarify and broaden sustainability commitments in both existing and new trade agreements to address potential socio-economic and environmental risks and benefits associated with transnational agri-food trade and promote food system sustainability. A few possibilities should be considered, such as:

- Expanding the Multilateral Environmental Agreements (MEAs) considered “essential elements” in EU trade agreements to include the Convention on Biological Diversity, and clarify how parties can establish a material breach of the MEA
- Seek concrete commitments from trading partners on other sustainability priorities not covered by “essential element” clauses, such as sustainable production and consumption, and circular economy

### 3. ADOPT A MORE COOPERATIVE AND TAILORED APPROACH TO SUSTAINABILITY IN TAs

Effective strategies to promote sustainable agricultural trade and food systems via TAs will depend on several factors, including the trading partner’s socio-economic circumstances and level of development. Thus, the EU should pursue a targeted approach specific to each trading partner. This could be achieved by:

- Improving Sustainable Impact Assessments (SIAs) to ensure that trade deals are effective drivers of food system sustainability
- Including more country- and sector-specific cooperation provisions accompanied by dedicated financial support to developing countries for the implementation of sustainability commitments
- Leveraging the TA’s framework to strengthen cooperation with partner countries on food system sustainability, for instance via dedicated committees established under the trade deals

# 1. SETTING THE SCENE

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Global food systems are responsible for a quarter of greenhouse gas emissions and are the primary driver of biodiversity loss.<sup>1</sup> The expansion of agricultural land accounts for nearly 90% of worldwide deforestation, while approximately 70% of tropical deforestation is attributed to commercial agriculture, particularly commodities like palm oil, soy, cattle, and timber products, with international demand for agricultural commodities accounting for 35% of this loss.<sup>2</sup> On top of that, the expansion of agricultural land to meet growing commodities demand worldwide has triggered several negative impacts, such as biodiversity loss, soil erosion, land grabbing, displacement of indigenous peoples and traditional communities, and impairment of food security across regions of the world.<sup>3</sup>

The Farm to Fork Strategy, which is part of the European Green Deal, sets out the EU's ambition to become a global leader in food system sustainability, including through its trade policy. As the world's biggest exporter and the third biggest importer of agri-food products, the EU is particularly well-placed to drive this transition.<sup>4</sup> Making trade policy a lever for environmental action, the EU has adopted a two-pronged approach. It has pursued a bilateral route, leveraging its Trade Agreements (TAs) to advance its sustainability agenda, including the promotion of food system sustainability. In parallel, it has taken unilateral action by adopting the so-called autonomous sustainability measures, such as the EU Regulation on deforestation-free products (EUDR). These autonomous measures have two primary objectives: to address the environmental footprint linked to European consumption or production beyond EU borders, as well as to ensure that the EU's climate agenda does not lead to environmental leakage to countries with less ambitious environmental standards.<sup>5</sup>

In the agri-food trade domain, an important element of the EU's agenda in recent years concerns the adoption of "mirror measures" aimed at ensuring that imported products comply with certain domestic sustainability requirements. Such measures can also be imposed through various means, which are often referred to interchangeably in the debate, namely through bilateral trade

agreements or unilaterally via EU legislation (referred to as "autonomous measures"), and concern a number of sustainability standards, such as the use of antimicrobials, neonicotinoids, and animal welfare.<sup>6</sup>

While the EU's comprehensive approach to greening its agricultural trade policy is commendable, if not carefully crafted and implemented, both bilateral and unilateral approaches risk distorting global agri-food systems, and might impose disproportionate consequences on third countries. In particular, these will be especially challenging to smallholder farmers and small-scale producers in developing countries who often lack the technical, financial, and technological capabilities to adapt to stricter environmental standards. Balancing these concerns is crucial for EU policies to deliver the desired net positive outcomes for social, economic, and environmental sustainability.

In this policy brief, the authors provide policy recommendations, primarily addressed to EU decision-makers, on how to advance food systems sustainability through the EU's agricultural trade, focusing on two key policy developments: 1) the implementation of the EU Regulation on deforestation-free products; 2) trade agreements as drivers of sustainable food systems.

This briefing was developed in partnership with the Trade, Development & the Environment Hub (TRADE Hub), following its vision to advance just and sustainable trade that respects planetary boundaries and promotes well-being for all within trade systems. Thus, it follows a holistic conception of sustainable development, comprising social, economic, and environmental sustainability.<sup>7</sup>

## 2. IMPLEMENTING THE EU REGULATION ON DEFORESTATION-FREE PRODUCTS (EUDR)

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In its bid to reduce its global environmental footprint, the EU has adopted a landmark regulation - the EU Regulation on deforestation-free products (EUDR) - which is integral to the

EU's broader strategy to fight deforestation and forest degradation, as well as the European Green Deal, the EU Biodiversity Strategy for 2030, and the Farm to Fork Strategy.<sup>8</sup> Among other things, the EUDR seeks to avoid that EU consumption and production of certain commodities contributes to global deforestation, and aims to cut down associated carbon emissions by at least 32 million metric tonnes per year.<sup>9</sup>

The tool for achieving the regulation's objectives is a due diligence obligation on operators placing certain commodities and products on the EU market, or exporting them from the EU, which must prove that their exports do not originate from recently deforested land or have contributed to forest degradation. This applies to any company, irrespective of whether it is EU-based or not, and for both legal and illegal sources of deforestation within or outside of the EU, occurring after the cut-off date of 31 December 2020.<sup>10</sup>

The regulation covers seven primary commodities (cattle, cocoa, coffee, oil palm rubber, soy, and wood) and a defined list of derived products (e.g.

rubber tyres and inner tubes, wooden furniture, printed papers, meat products, palm oil derivatives, chocolate, soybeans). While the EUDR entered into force on 29 June 2023, obligations for operators and traders will apply after a transition period of 18 months (24 months for micro and small enterprises), starting from 30 December 2024.<sup>11</sup> Revisions of the regulation, potentially expanding its scope, are foreseen within one, two, and five years after its entry into force.<sup>12</sup>

Stakeholders' reactions to the regulation have been mixed. On the one hand, several EU trading partners have raised concerns regarding the EUDR's potential adverse consequences on their agricultural production and exports, triggering criticisms of "green protectionism" and "regulatory imperialism".<sup>13</sup> Countries ground this set of critiques on the EU member states' historical contribution to global deforestation and climate change, regretting that the EU "has chosen the option towards unilateral legislation instead of an international engagement to deal with these shared objectives".<sup>14</sup>





In a letter addressed to the EU institutions, a group of 17 like-minded countries expressed concern about the overarching “one-size-fits-all” approach of the regulation, highlighting its disregard for the circumstances and capabilities of partner countries, including existing local anti-deforestation measures, as well as for multilateral commitments, including the principle of Common But Differentiated Responsibilities (CBDR).<sup>15</sup> The letter emphasises the challenges posed to smallholder farmers and small-scale producers, who may be at risk of being excluded from international supply chains for lacking the necessary technical, financial, and technological means to comply with the new requirements. They urge the EU “to engage in a more meaningful and open dialogue with producing countries” and seek to “repair this legislation, or, at a minimum, aim to mitigate its more harmful impacts”.<sup>16</sup>

Another set of criticism is centred around the EUDR’s benchmarking system that classifies countries according to their deforestation risk levels (low, standard, or high), under which “every Member of the WTO will be assessed and ranked in accordance with the EU’s chosen criteria”.<sup>17</sup> As the risk level will influence the due diligence required from operators, this might provide an incentive for companies to prioritise suppliers from countries or regions deemed low risk. At the same time, given the challenges associated with tracing complex supply chains and their associated costs, there is a risk of leakage as the trade of EU-covered commodities and products might be diverted towards alternative export markets.<sup>18</sup> For instance, Brazil is exploring the possibility of redirecting supply to China, and Indonesia of exporting palm oil to Africa.<sup>19</sup>

On the other hand, some stakeholders perceive the EUDR as an opportunity. For instance, a group of Ivorian civil society and smallholder farmers organisations welcomed the EUDR’s traceability and geolocation requirements, considering it “to be a key element in achieving a sustainable and fair cocoa sector”, providing an opportunity to simplify supply chains and facilitate electronic payments directly to smallholder producers.<sup>20</sup> In fact, some affected partner countries, such as Côte d’Ivoire and Ghana, have started to respond to the impending EUDR by developing a GPS tracking system for enhanced cocoa bean data and a mandatory national traceability system,

respectively, to facilitate compliance with the EU regulation.<sup>21</sup>

While the abovementioned concerns are legitimate, the regulation already includes provisions to deal with some of the issues raised, including to ensure special awareness for smallholder producers, and an obligation on the European Commission to strengthen cooperation with producer countries, in particular those classified as high risk.<sup>22</sup> However, it is still unclear how these provisions will be implemented in practice.

Therefore, to successfully translate these commitments into concrete actions, the EU must understand the specific challenges faced by smallholder farmers and small-scale producers in developing countries and economies in transition. It also requires exploring different forms of partnerships with partner countries, as well as building and expanding on best practices and existing initiatives to promote policy coordination and technical alignment.

## 2.1. INCREASE SMALLHOLDER INCLUSION, SUPPORT, AND PROTECTION

The EUDR only imposes direct obligations on value chain actors operating within the EU, including domestic producers. These companies will bear the due diligence obligation to screen global suppliers and face increased regulatory scrutiny, along with the risk of fines related to non-compliance. The regulation has, however, an indirect impact on agri-food producers outside of the EU. Suppliers based in exporter countries will need to provide information, including traceability certificates, to their partners operating in the EU. This will require an adaptation of their practices to meet stricter standards, notably in terms of traceability and transparency, introduced by the EUDR.

The increasing costs of exporting to the EU put at risk smallholder farmers and small-scale producers who play an important role in the value chains of the commodities covered by the EUDR. For instance, in Brazil, they account for 51% of the land used to grow cocoa, 40% for palm oil, and 34% for coffee.<sup>23</sup> In Tanzania, the smallholder share is even bigger: Smallholder farmers produce 90% of Tanzania’s coffee, 95% of palm oil, and 98% of cocoa.<sup>24</sup>

## **BOX 1. PALM OIL PRODUCTION IN CAMEROON**

In Cameroon, the government promotes palm oil production to improve livelihoods and to increase the country's GDP. The government targets smallholder farmers through specific programmes as part of the national poverty alleviation strategy.<sup>25</sup> A country study found that smallholder/family farming surpasses agro-industrial farming in terms of job creation, poverty reduction, and social justice, though agro-industrial production is more efficient.<sup>26</sup> On the downside, smallholder farms have been identified as a significant source of deforestation.<sup>27</sup>

Smallholders are a heterogeneous group, ranging from very small farms of only a few trees or small cultivation areas of 1 ha maximum to larger farms of up to 50 or even 100 ha with upper middle-class owners living in big cities or abroad. These differences have an impact on farm management and access to equipment, know-how, and financial resources.<sup>28</sup>

Smallholder farmers could be supported in the following three ways:

### **1. INCREASE EFFICIENCY OF MILLS AND FACILITATE ACCESS TO EFFICIENT MILLS**

Mills with low extraction rates are a challenge to a sustainable palm oil production. Almost 80% of farmers in Cameroon use manual presses to process their oil palm fruits. With extraction rates of 12-13%, manual presses are less efficient than motorised or semi-automated presses. 41% of palm oil in Cameroon is produced with an extraction rate of under 15%, 38% with a rate of 15-20%, and only 21% with a rate above 20%.<sup>29</sup> Support programmes directed at increasing access to more efficient mills would therefore contribute to promoting sustainable palm oil production. They should also include information for smallholders about the importance of using more efficient mills.<sup>30</sup>

### **2. ENSURE ACCESS TO GOOD QUALITY PRODUCTION INPUTS**

Poor plantation management practices, ageing oil palm plantations, inexistent or insufficient fertiliser application, and low-quality planting materials are main factors for reduced palm oil yields in Cameroon. But improving access to finance and better planting material is not sufficient to improve the sustainability of Cameroon's smallholder palm oil sector. It is necessary to also provide training and guidance to smallholders on how to increase sustainability and yields, e.g. through intercropping which has been shown to improve livelihoods and to have a buffer function while oil palms grow.<sup>31</sup>

### **3. IDENTIFY AND SUPPORT SUSTAINABLE ALTERNATIVES TO SMALLHOLDER LIVELIHOODS AS A WHOLE**

There is a more general need for capacity-building and better relationships with the other actors in the national supply chains. A lack of trust between smallholder farmers and other supply chain actors, for instance because of corruption, hinders better supply chain cooperation.<sup>32</sup> Interviews conducted with farmers also revealed that palm oil production alone might not get smallholder farmers out of poverty due to low revenues.<sup>33</sup> Support targeting the livelihood of smallholders holistically, i.e. moving beyond commodity-specific challenges, should therefore be part of support and partnership programmes accompanying the EUDR. It should include investment in know-how and infrastructure. Payments for ecosystem services could also be a way of supporting smallholders.<sup>34</sup>

Smallholder farmers face a number of challenges that hinder their ability to improve environmental sustainability while securing their livelihoods. These challenges include:<sup>35</sup>

- Lack of access to or poor quality of relevant input factors, such as seedlings and fertilisers, as well as low processing yields
- Lack of access to information on and training about more sustainable agricultural practices and technical knowledge, such as regarding market mechanisms
- Low bargaining power within the value chain (linked to a lack of collective action), which leads to smallholders receiving low market prices for their products
- Challenges in acquiring land as well as proving land ownership and tenure rights
- Difficulties in accessing financial resources, such as loans and credits, to make necessary investments into the productivity and sustainability of their farming

**Though the share of smallholder farmers potentially impacted by the EUDR varies between commodities and countries of origin, the overarching challenge is the same: ensuring that smallholder producers are not cut off from trade with the EU or pushed out of supply chains by larger producers for whom proving compliance with the EUDR requirements might be easier.**

The risk is real. European coffee importers, for example, have already started to scale back their orders from smallholder farmers in Africa.<sup>36</sup>

Sustainability certification schemes are often considered a method to support smallholder farmers by giving them access to more niche markets with higher price premiums. However, given the high costs associated with certification, they are not always easily accessible for smallholder farmers. The proliferation of sustainability certification schemes could, in some cases, even potentially constitute a barrier to trade.<sup>37</sup> Furthermore, such schemes might not be sufficient to bring about the systemic change

needed to improve smallholders' livelihoods, as well as to fight global deforestation.<sup>38</sup> Besides, they overlook the "critical role that governments have to play in regulating the use of natural resources".<sup>39</sup>

Through its traceability and transparency requirements, the EUDR functions similarly to a certification scheme. Without accompanying measures addressing the specific challenges and situations of smallholders and promoting systemic change (including through regulatory and institutional reform and market prices adjustment), the EUDR might be a risk to smallholder farmers in high deforestation-risk countries rather than a driver of sustainable production. Imposing environmental requirements on smallholder farmers in developing countries without addressing their dire socio-economic situation will not lead to the desired outcome.

Therefore, the EU and its member states should adopt measures and support programmes accompanying the EUDR, focusing on the specific circumstances and challenges faced by smallholder farmers. In particular, the European Commission and its relevant services, should take into account the following recommendations:

#### **1. SUPPORT INDEPENDENT STUDIES ON THE POTENTIAL IMPACTS OF THE EUDR ON PARTNER COUNTRIES, AS WELL AS ON COUNTRY- AND SECTOR-SPECIFIC CIRCUMSTANCES HINDERING VALUE CHAIN SUSTAINABILITY**

Gathering scientific evidence regarding the potential impacts of the EUDR on partner countries is key to understanding the specific challenges arising in the different value chains and across countries and regions, and informing decision-making processes. To do so, the EU could sponsor independent studies to collect information regarding the functioning of the commodity-specific supply chains, national regulatory frameworks, and existing environmental measures, as well as the socio-economic situation of smallholder farmers.

It is critical that these studies also analyse the role of other key supply chain stakeholders who define market conditions and thus have an impact on the livelihoods and development of smallholder farmers (e.g. millers in the case of palm oil production or local traders).

## **BOX 2. COFFEE PRODUCTION IN TANZANIA**

In Tanzania, coffee is produced almost exclusively on smallholder farms (95% of all production). A large share of the coffee produced in Tanzania is exported and it supplies around 1% of EU coffee imports.<sup>40</sup> Three EU member states feature amongst the six biggest markets for Tanzanian coffee worldwide.<sup>41</sup> EU regulation affecting coffee production may have a significant impact in Tanzania. Supporting smallholder coffee farmers and promoting sustainability in Tanzania should address the following challenges:

### **1. RAISE AWARENESS AND PROMOTE ENVIRONMENTAL EDUCATION**

Over 95% of stakeholders along the Tanzanian coffee, cocoa, and tea value chains were unaware of the EUDR.<sup>42</sup> Lack of awareness of green regulations and policies amongst coffee producers in Tanzania is one of the reasons why coffee farmers do not participate in voluntary sustainability certification schemes. In addition, almost 60% of coffee farmers in Tanzania are unaware of the environmental effects associated with coffee production. Accessibility of information and lack of relevant knowledge about different farming techniques are a barrier to the uptake of sustainable coffee farming practices in Tanzania.

### **2. ENSURE THE COST-EFFECTIVENESS OF SUSTAINABLE FARMING**

Tanzanian coffee farmers who participated in sustainability certification schemes do not necessarily benefit from the price premiums that such certifications should entail. Price advantages seem to end up in the pockets of other actors in the supply chain. Farmers do not perceive certification as cost-efficient because of lower productivity (due to inaccessibility of sustainable farming inputs) and because price premiums do not sufficiently compensate for the income gap. The result is a low participation of Tanzanian coffee farmers in voluntary sustainability certification schemes. Ensuring cost-effectiveness of sustainable farming through fair market prices is essential in promoting the EUDR.

### **3. FOSTER PARTICIPATION IN COLLECTIVE ACTION**

Participation of farmers in collective action positively impacts farmers' participation in sustainable certification schemes, i.e. the commitment to sustainable farming practices. Participation in, for example, farmers groups, trade and business associations, and credit or microfinance groups facilitates farmers' access to technical knowledge and credit. Supporting smallholder farmers in joining such groups through which they get access to relevant information and can improve their bargaining power could thus be a relevant step in promoting sustainable farming.

Finally, they should be carried out in cooperation with trading partners and/or relevant local, national, or regional organisations, such as independent research centres. Adopting a collaborative approach and engaging with national experts will be essential to ensuring the legitimacy and credibility of these studies, as well as the political buy-in from trading partners.

## **2. PROMOTE INFORMATION- AND KNOWLEDGE-SHARING AND FACILITATE INFORMATION FLOWS TO BRIDGE THE SCIENCE AND POLICY INTERFACE WITH DECISION-MAKING PROCESSES AND ACTORS**

As highlighted in the above case studies, information gathering, and knowledge-sharing are crucial to promoting agricultural sustainability.

Regular engagement at the political level is insufficient to ensure that information is disseminated through the entirety of value chain actors. Therefore, the EU should, in partnership with local action groups and governments, and leveraging existing platforms and initiatives, support information and knowledge-sharing activities targeted to reach the most vulnerable value chain actors, notably smallholder farmers. This could be achieved, for instance, by supporting or organising field trips carried out by civil society organisations, NGOs, or trade associations, which are in closer contact with smallholder farmers and are thus well-positioned to bridge the gap between the political and the local levels. These initiatives would serve various purposes, including ensuring the dissemination of information about the

### **BOX 3. THE IMPORTANCE OF ADEQUATE DATA GOVERNANCE AND TRACEABILITY IN DEFORESTATION-FREE VALUE CHAINS**

A key feature of the EUDR is its traceability requirements. Under the regulation, operators and traders (except SMEs) are required to trace forest-risk supply chains back to the point of production. This includes collecting the geographic coordinates of the plot of land where commodities were produced to demonstrate that no deforestation has occurred at a specific location.

TRADE Hub research and field studies have shown that the EUDR's traceability requirements are amongst the top concerns of value chain stakeholders, raising a number of questions about data governance. Among other things, clarifying information is needed in relation to:

#### **1. RESPONSIBILITY FOR DATA GATHERING AND ASSOCIATED FINANCIAL COSTS**

Clarify who will be held accountable for each activity to prevent ambiguity and shifting burdens between different actors. In some cases, traders have required their suppliers to collect data, and these have transferred the responsibility onto farmers, who often lack the resources to carry out these activities.

#### **2. DATA POINTS, VERIFICATION PROCESSES, AND DATA PROTECTION**

The specific data points required are unclear, as well as the different stages for data gathering in the supply chain, and verification processes. Further information is also required on how trade data should be protected, determine access rights, and establish premises to prevent unintended consequences from data sharing for vulnerable actors, such as smallholder farmers.

#### **3. OWNERSHIP AND DATA GOVERNANCE**

Define ownership of generated traceability data and outline governments' roles in data storage and governance.

**THESE CONCERNS UNDERSCORE THE NEED FOR DETAILED GUIDELINES ON DATA GOVERNANCE ACROSS SUPPLY CHAINS. ADOPTING A DATA-DRIVEN APPROACH BASED ON A WELL-DESIGNED TRACEABILITY SYSTEM COULD FACILITATE EUDR COMPLIANCE.**

Access to essential data would also benefit farmers. Among other things, it allows them to: 1) identify, compare, and purchase good quality seeds; 2) make more cost-efficient choices notably in terms of fertilisers by providing them with an access to diverse market offers; 3) promote collective action. Besides, a well-designed traceability system could improve farmers' access to finance thanks to their official registration into an integrated system with available data on productivity.

EUDR and its traceability requirements, namely in local languages, and fostering knowledge on environmental matters and market functioning.

Creating inclusive platforms and knowledge spaces to bridge the science and policy interface with decision-making processes and actors is equally critical. This includes bringing relevant stakeholders into discussions, and thus creating a continuous feedback loop that continues the creation of value, and steers decisions accordingly.

### **3. DEVELOP TARGETED TECHNICAL AND FINANCIAL SUPPORT PROGRAMMES AND PROJECTS**

Based on the specific challenges identified through studies and field trips, the EU should

develop targeted support programmes for specific value chains and countries to accompany the implementation of the EUDR. They should aim at building smallholders' capacity for sustainable production, increase technical capacity and facilitate access to necessary equipment, improve essential infrastructure, and reduce food loss. Activities could include, for instance, the provision of technical support on data governance and traceability requirements (see box 3) or provide farmers with the expertise to transition to more sustainable production practices. In the case of palm oil, for example, this could include providing access to and training to smallholders on how to use more efficient mills.<sup>43</sup>

Such support programmes can either target smallholder farmers directly or address downstream actors in local value chains, requiring them to provide support for sustainable farming and better socio-economic conditions for smallholder farmers.

Financial support is already being provided through a number of investment and development cooperation programmes of the different EU services and institutions, as well as EU member states.<sup>44</sup> More recently, the Team Europe Initiative on Deforestation-free Value Chains was launched by the European Commission together with Germany, the Netherlands, and France, with an initial package of €70 million in funding.<sup>45</sup> This initiative aims to support partner countries to transition to sustainable and deforestation-free agricultural value chains. It coordinates a number of activities, including a Zero Deforestation Hub to disseminate knowledge and information, as well as a technical facility to supply on-demand expertise to producing countries. These activities provide an avenue to implement the above recommendations.

While the increasing mobilisation of financial resources following the EUDR's adoption constitutes a positive development, it remains to be seen how these will materialize in practice.

**The technical and financial support provided must match the size, scale, and speed needed to maintain and promote smallholder inclusion in global value chains. Efforts by the EU should go beyond ensuring compliance with the EUDR requirements and seek to promote the sustainable livelihoods of smallholders.**

## **2.2. ESTABLISH PARTNERSHIPS AND LEVERAGE EXISTING FORUMS TO ADDRESS IMPLEMENTATION CHALLENGES**

The EU been criticised for its non-cooperative, top-down approach, which does not sufficiently take into account the adverse impact of the EUDR on third countries. In a joint letter to the

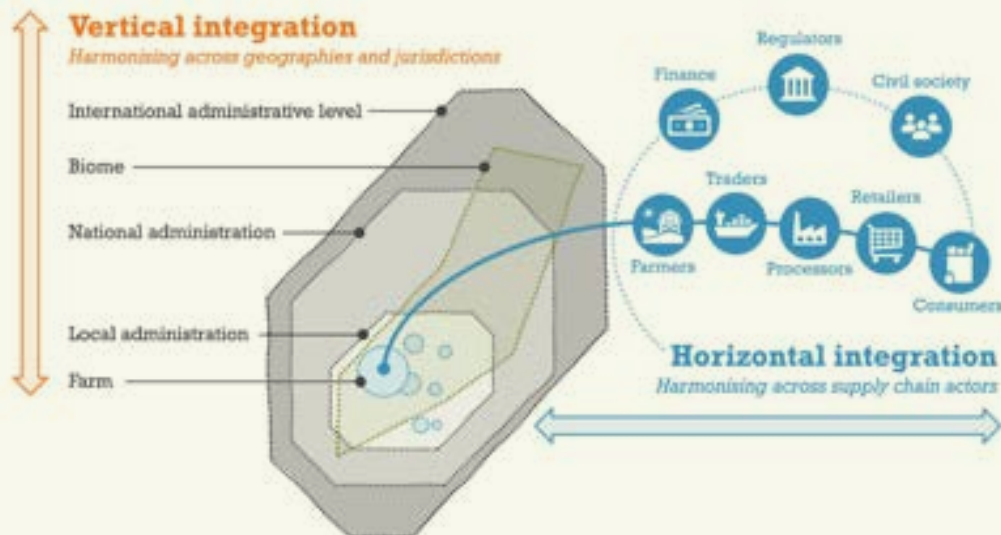
EU institutions, a group of signatory countries noted that “the concerns expressed by developing countries in formal public consultations about the proposed legislation have, regrettably, been given scarce consideration”. Besides, they argue that the EUDR “disregards the local conditions and national legislations of developing producing countries, (and) their efforts to fight deforestation”.<sup>46</sup>

In fact, over the past years, there has been a proliferation of anti-deforestation measures and regulations, sustainability certification schemes, and traceability initiatives across countries. While this is a positive development, it requires harmonisation across the broad spectrum of existing policy instruments. Fragmentation in approaches might lead to competitiveness losses, duplication of efforts, and burdensome administrative and compliance costs.

To tackle this issue, at least in part, the EUDR includes a number of cooperation provisions, including an obligation for the Commission and member states to engage with producer countries, in particular high-risk countries, through existing or new partnerships and other forms of cooperation.<sup>47</sup>

Effective cooperation to support the implementation of the EUDR will therefore require a multi-pronged approach based on both vertical and horizontal policy integration. Vertical integration means the “harmonisation of one or more interventions across different administrative levels and jurisdictions, from the household or municipality to global accords”.<sup>48</sup> Horizontal integration means “the integration across global value chains, and particularly across the different players that participate into different stages of production, consumption, and trade”.<sup>49</sup>

Partnerships and cooperation initiatives between the EU and producer countries, particularly developing countries and economies in transition, should enable both forms of integration, and fulfil two objectives. First, to ensure technical alignment and tackle key implementation challenges related to the EUDR's application. Second, to address the root causes of deforestation and promote the transition to more sustainable and inclusive agricultural trade by fostering systemic change.



Source: TRADE Hub. (2022). How do we link local and national level measures with international policy and private initiatives on sustainable trade for agricultural commodities? *Trade and Nature Discussion Papers*, 2. <https://tradehub.earth/wp-content/uploads/2022/10/FAQ7-finalcopy.pdf>

## 1. BUILD AND EXPAND EXISTING PUBLIC, PRIVATE, AND CIVIL-SOCIETY-LED INITIATIVES TO FOSTER TECHNICAL ALIGNMENT AND COMMODITY-SPECIFIC COOPERATION

Ensuring transparency and traceability along supply chains is a key, yet rather complex, element of the EUDR (see box 3). Promoting technical alignment of monitoring, reporting, and verification (MRV) processes and certification schemes is essential to facilitate compliance with the EUDR's transparency and traceability obligations.

While the EU cannot a *priori* recognise individual national schemes as complying with the EUDR, the due diligence obligations required from stakeholders under the regulation could build on MRV systems already set up in producer countries, such as the “Beef on Track” programme in Brazil (see box 4). Likewise, mandatory sustainable certification schemes, such as the Sustainable Palm Oil certifications set up by Malaysia and Indonesia, could serve as a starting point to facilitate compliance with the EUDR.<sup>50</sup> As certification schemes hold data that is useful for traceability purposes, they should be an active part of broader traceability solutions by making key data available and inform decision-making processes.

Therefore, the EU should support local and national MRV systems and certification schemes

and work with partner countries to determine to what extent existing programmes can be used and relied upon to verify EUDR compliance. Additionally, the European Commission should develop guidelines for data alignment and system integrability. This would be critical to streamline processes and ensure that the different actors involved in data gathering use similar formats and systems that can be integrated.

Commodity-specific partnerships are another efficient tool to support the EUDR's implementation, as well as the broader objective of transitioning towards more sustainable and deforestation-free supply chains while supporting smallholders' livelihoods.

In recent years, the EU has launched a number of programmes, such as the Forest Partnerships and the Sustainable Cocoa Dialogue (see box 4). These initiatives provide a platform for cooperation on selected sustainability issues to identify context-specific challenges and trigger a policy response. In addition to providing technical and financial support to partner countries and value-chain stakeholders, they are starting to be leveraged as a mechanism to help producing countries prepare for the EUDR implementation.<sup>51</sup>

Building on these good practices, the EU should seek to establish similar partnerships for other commodities and products covered by the EUDR.

## BOX 4. SCALING UP BEST PRACTICES

Public, private, and civil-society-led initiatives for deforestation-free supply chains and sustainable agriculture continue to emerge worldwide. To support the EUDR's implementation in partner countries, the EU should seek to build and expand on existing initiatives and scale up best practices.

### 4.1. MONITORING, REPORTING, AND VERIFICATION (MRV) PROCESSES: THE "BEEF ON TRACK" PROGRAMME

The "Beef on Track" programme was set up in Brazil in 2020 as an MRV system for two sectoral agreements on deforestation-free cattle farming in the Amazon.<sup>52</sup> An analysis of this scheme has shown "a good level of alignment with the EUDR environmental requirements, and a medium level of alignment with the social requirements". To close this gap, social due diligence and risk mitigation measures should be added to the "beef on track" programme to foster alignment with the EUDR.<sup>53</sup>

Though limited in scope, this scheme could serve as a starting point for operators, as well as Brazilian authorities, to establish systems that facilitate traceability checks along the cattle supply chains from production in Brazil to the EU market. The EU should work with partner countries to evaluate how existing local or national MRV processes can be used and relied upon to verify EUDR compliance.<sup>54</sup>

### 4.2. COMMODITY-SPECIFIC PARTNERSHIPS: THE SUSTAINABLE COCOA INITIATIVE

Launched in 2020, this is an initiative set up between the EU and the main cocoa producers in West Africa, i.e. Côte d'Ivoire, Ghana, and Cameroon to support sustainability in the cocoa sector, at social, economic, and environmental levels.<sup>55</sup>

Thus far, this initiative has significantly boosted dialogue among producing countries and the EU, helped advance key sustainability priorities such as national traceability systems, and facilitated the preparation for the EUDR's implementation in concerned countries. While there is some margin for improvement, Cameroon, Côte d'Ivoire, and Ghana are notably better-informed than other producer nations, as per a recent study.<sup>56</sup>

Building on this success, the EU should consider setting up similar initiatives with key producing countries of other commodities linked to deforestation. While commodity-specific partnerships should be adapted to the sectors and regions covered, they should mirror some of the key features of the Sustainable Cocoa Initiative:

- **CONCRETE, AMBITIOUS, AND TIMEBOUND COMMITMENTS**  
Parties to the cocoa initiative have adopted an ambitious roadmap ("Alliance on Sustainable Cocoa") with concrete time-bound actions to improve sustainability of cocoa supply chains in West Africa.
- **ALLOCATION OF FINANCIAL RESOURCES**  
The EU has contributed €25 million to enhancing the sustainability of cocoa production in Côte d'Ivoire, Ghana, and Cameroon to be complemented by EU-funded geographic programmes.
- **INVEST IN SCIENTIFIC EVIDENCE TO INFORM POLICY-MAKING**  
Provision of scientific services addressing the different sustainability dimensions in the cocoa sector by the EU's Joint Research Centre, in cooperation with partners (e.g. The European Forest Institute, FAO, GIZ) and in coordination with the EU Delegations in partner countries.<sup>57</sup>



This is particularly important in sectors and regions where smallholder farmers and small producers play a big role in value chains.

## 2. FOSTER POLITICAL AND TECHNICAL EXCHANGES AND DIALOGUE THROUGH MULTI-STAKEHOLDER PLATFORMS AND DEDICATED EU TASK FORCES

Existing platforms such as the Multi-stakeholder Platform on Protecting and Restoring the World's Forests and the ad hoc Joint Task Force between Indonesia, Malaysia, and the EU, are aimed at strengthening the dialogue and cooperation with partner countries, including on the EUDR.

Some stakeholders and country partners, however, argue that the current approach taken is too one-sided. For instance, the multi-stakeholder platform was primarily used to brief stakeholders about the state of play and political developments, rather than to allow them to participate in the decision-making process or allow for technical discussions. Recent meetings of the group focused on issues such as smallholders and traceability with presentations by a diverse group of stakeholders, which constitutes a positive development.

It is nevertheless critical to strengthen dialogue with partner countries at the technical level, for instance, through commodity-specific discussions or bilateral engagement. This is particularly important for developing countries and transition economies, most of which do not have a trade deal with the EU and thus lack the structured framework for regular bilateral discussions, such as that provided by the committees established under trade deals.

**Establishing a mix of multi-stakeholder and bilateral platforms is critical to ensure regular feedback loops, and anticipate and respond to technical challenges arising during the EUDR's implementation. This is equally important to ensure that relevant stakeholders and partner countries can participate and influence the regulation's upcoming review processes.**

The EU could consider setting up an expert group to provide advice and expertise on elements of the EUDR's implementation and future reviews, mirroring the approach followed in the case of the EU Carbon Border Adjustment Mechanism (CBAM). Such a group should, however, be inclusive, bringing together experts from the trade and environment communities, as well as development and finance experts, from both the EU and partner countries.

## 2.3. EXTENDING EUDR TO FINANCIAL SERVICES AND INSTITUTIONS

Both the coherence of policies and the inclusion of relevant actors is crucial for the successful implementation of EU environmental standards. This means that both horizontal as well as vertical integration need to be taken into account. During the negotiation process of the EUDR, the inclusion of financial institutions in the scope was a contentious issue. Given the different regulatory systems for financial institutions, negotiators decided not to include them in the scope of the EUDR directly but to make the potential scope extension part of the regulation's revision within two years after its entry into force. The European Commission will be obliged to assess the contribution of financial institutions in preventing deforestation and forest degradation and to assess the need to potentially add more specific obligations to other relevant Union law.<sup>58</sup>

Even without explicit obligations put on the financial sector, the EUDR has already caused some positive spillover effects. 20 Brazilian banks announced, even before the entry into force of the regulation, that they would require producers of bovine meat to show compliance with the EUDR to receive export credits.<sup>59</sup> This is a promising example of the reach of the EUDR, but remains, so far, an exception to the rule.

Banks and other financial institutions are indeed crucial actors in creating an economic ecosystem that promotes and supports sustainable production.<sup>60</sup> While relevant EU legislation should set the framework to ensure financial institutions in the EU provide financial services only in compliance with non-deforestation standards, "local banks

from producing regions also need to be part of the collaborative action”.<sup>61</sup> As pointed out in the previous sections, lack of access to credits is an obstacle to smallholder farmers’ livelihoods and sustainable production. Therefore, the EU should not only look at European financial institutions, but also at how EU banks could be incentivised to collaborate with local banks in producer countries. The assessment should also include international and regional institutions, such as the World Bank and Regional Development Banks, and how the EU could promote financial aid that supports smallholders and helps address deforestation through these institutions.

## 3. EU TRADE AGREEMENTS AS DRIVERS OF FOOD SYSTEM SUSTAINABILITY

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### 3.1. LOOKING BACK: SUSTAINABILITY TRENDS IN EU TRADE AGREEMENTS

Trade agreements (TAs), which make up a significant part of the EU’s trade policy, are a critical tool to align the EU’s trade and sustainability agendas. The EU stands out as one of the front-runners in promoting sustainability through its trade deals. Since 2009, with the signature of the EU-South Korea Free Trade Agreement, the EU has leveraged its market power to embed sustainable development objectives in its TAs and seek stronger sustainability commitments from partner countries.<sup>62</sup> Ever since, all “new generation” TAs featured a dedicated Trade and Sustainable Development (TSD) chapter, encompassing provisions on environmental protection, labour rights, and climate change.

In recent years, the efficacy of the TSD chapters to drive progress has been called into question by civil society organisations and member states.<sup>63</sup> In response, the European Commission launched an in-depth review of the EU’s Trade and Sustainable Development Policy (hereinafter called the “TSD Review”), containing concrete action points on how to optimise the EU’s approach to TSD. For instance, it strengthened enforcement mechanisms and the role of civil

society in trade agreement processes.<sup>64</sup> Over the years, commitments to cooperate on specific issues such as biodiversity, illegal logging, sustainable management of forests, fishing, and aquaculture were added to the EU’s TAs.

More recently, a new chapter on Sustainable Food Systems (SFS) was included in bilateral trade agreements concluded with New Zealand and Chile, as well as those under negotiation with India, Indonesia, and Australia. The introduction of a dedicated SFS chapter represents an important change in the paradigm of cooperation with trading partners in this field. The EU moved from a topical to a more holistic approach, aimed at embracing the entire food chain and prioritising the transition to sustainable food systems. The Commission has announced its intention to propose an SFS chapter in all EU trade deals going forward.<sup>65</sup>

### 3.2. STATE OF PLAY: THE EU’S TRADE AND SUSTAINABLE DEVELOPMENT POLICY IN PRACTICE

For over a decade, the EU has been actively striving to incorporate TSD chapters into its TAs, broadening the scope and enforceability of these sustainability commitments over time. This stands as a notable achievement, particularly considering that the period in question is characterised by the EU’s intense pursuit of bilateral and regional agreements.<sup>66</sup> However, the EU’s TSD approach has encountered increasing resistance from third countries. In some cases, sustainability considerations have risked becoming a stumbling block to the conclusion of ongoing trade negotiations. For instance, out of the three TAs concluded since the Commission’s “TSD review” in 2022, only the EU-New Zealand FTA contains the fully-fledged revised TSD approach, with the remaining two (i.e. Chile and Kenya) only following the new approach partially.<sup>67</sup>

Ongoing discussions on the EU-Mercosur Association Agreement, for which an agreement in principle was reached in 2019, are a paradigmatic example of the central role that sustainability plays in today’s EU trade policy. Growing public awareness about the link between European food consumption and environmental degradation has sparked concerns about the potential deforestation, biodiversity, and habitat loss associated with this agreement.<sup>68</sup> In fact,

environmental concerns were pivotal to blocking support for the agreement in the European Parliament. Opponents emphasise the need for stronger environmental provisions to ensure Mercosur countries take more significant steps to prevent Amazon deforestation. In response, the European Commission submitted a proposal for an additional instrument to strengthen the Parties' TSD commitments, which, in turn, sparked criticism by the Mercosur countries.<sup>69</sup> A counterproposal was submitted by the South American bloc in September 2023 and the parties have been negotiating on this basis ever since.<sup>70</sup>

Finally, trade negotiations do not occur in a vacuum. A variety of regulatory and political developments must be taken into account. First, in parallel to advancing sustainability through its bilateral TAs, the EU has taken significant unilateral action through the adoption of several autonomous measures, which condition access to the EU market on meeting strict sustainability standards – with the EUDR being a key example of these. While the unilateral and bilateral routes are considered complementary, playing different roles in advancing the EU's trade and sustainability agenda, the interface between the two has not yet been adequately considered, leading to uncertainty and unpredictability.<sup>71</sup> For instance, the EUDR's adoption has reportedly slowed down trade talks with the Mercosur and it soured relations with key trading partners, such as Indonesia with whom the EU is currently negotiating an TA.<sup>72</sup>

Third, this occurs against a background of growing South-South trade. There is a risk that trading partners might start favouring relations with developing nations and economies in transition, and/or seeking access to growing markets elsewhere with less stringent environmental requirements.<sup>73</sup> The recent creation of the African Continental Free Trade Agreement (AfCFTA), aimed at accelerating intra-African trade and boosting Africa's position in global markets, constitutes a key development in this regard.<sup>74</sup>

**These factors highlight the growing challenges the EU is facing in advancing sustainability through its TAs. This is why a more inclusive, sustainable, and cooperative approach is warranted.**

### **3.3. SHIFTING GEARS: A COMPREHENSIVE SUSTAINABILITY APPROACH TO EU TRADE AGREEMENTS**

Although the shift towards more sustainable food systems will heavily depend on domestic and international action across policy domains, trade deals can play a critical role in advancing sustainable agricultural production, consumption, and trade.



Several trade deals have been concluded or are under negotiation with developing countries and emerging economies associated with trade in forest-risk commodities, such as Mercosur and Indonesia. Negotiations with Thailand were recently resumed. Besides, the EU maintains its long-term goal of concluding a regional trade agreement with the Association of Southeast Asian Nations (ASEAN).<sup>75</sup> Together, the 10-country ASEAN community accounts for 92% of the world's palm oil exports, while the Mercosur group accounts for 65% of the world's soy and 37% of the world's beef exports.<sup>76</sup> Not only is the trade of these and other commodities historically associated with deforestation, habitat loss, and other adverse environmental impacts but also smallholder farmers and small-scale producers often play a significant role in these value chains. Take Brazil, for example, the world's largest coffee producer, where approximately 64% of total coffee production is exported, with 49.8% of exports directed to the EU. Smallholders account for 34.1% of the coffee production landscape.<sup>77</sup>

Against this background, the EU must continue to pursue strong environmental action via its TAs. However, moving forward, it should embrace a broader approach to sustainability within its TAs to better incorporate socio-economic considerations. Such an approach is essential for mitigating adverse socio-economic impacts resulting from agri-food trade. It would entail improving inclusiveness and transparency in all stages of the trade agreement process, notably by facilitating the participation of smallholder farmers and marginalised communities in trade negotiations.

Moreover, in the present landscape where the EU's sustainability stance is facing mounting opposition from trade partner countries, TAs should work as vehicles for cooperation and dialogue with partner countries on sustainability matters and be leveraged to complement the EU's unilateral sustainability measures through the adoption of tailored approaches and commitments.<sup>78</sup>

To do so, the EU should pursue a three-pronged approach to:

### **3.3.1. IMPROVE TA PROCESSES FOR INCLUSIVE PARTICIPATION OF FOOD SYSTEM ACTORS**

The EU has institutionalised the participation of civil society actors in trade agreements through

two civil society mechanisms responsible for overseeing TSD commitments: The Domestic Advisory Groups (DAGs), on both the EU and the trading partner side, and the Civil Society Dialogues. These dialogues serve as a broad platform for dialogue through which the European Commission regularly consults interested stakeholders, offers updates on TA negotiation progress, and where TSD issues are often raised and discussed. The DAGs, on the other hand, constitute a more structured and institutionalised mechanism, serving as permanent civil society advisory bodies established under the TSD chapter. Most EU TAs since 2011 require each TA party to set up a DAG comprising independent representatives from civil society groups, and representing diverse economic, social, human rights, and environmental interests. They are tasked with monitoring the implementation of TSD commitments under the agreement and providing advice to the respective contracting parties.<sup>79</sup>

This current dual approach, however, falls short and proves insufficient for several reasons.

First, civil society mechanisms in the EU trade agreements have been subject to strong criticism regarding their added value and effectiveness, with EU DAGs facing issues such as the underrepresentation of environmental stakeholders and insufficient resources to investigate environmental and social concerns.<sup>80</sup> On the EU's trading partners' side, there have been several cases of government control over the composition of the DAGs, calling into question their independence and effectiveness as a mechanism of participatory democracy. Besides, the European Commission has been criticised for its perceived "hands-off" approach, exerting limited influence on trading partners to address concerns regarding the composition of these advisory groups.<sup>81</sup>

Second, although some of these limitations were addressed by the recent TSD review, fundamental issues regarding the EU's overall approach to civil society inclusion persist.<sup>82</sup> The current institutionalised model relies primarily on civil society's involvement during the implementation of the TSD commitments after agreements enter into force. Additionally, it also offers them the possibility of participating in the enforcement phase by lodging TSD-related complaints to the Single Entry Point.<sup>83</sup> Moreover, while the

composition of existing civil society mechanisms may vary, they generally consist of non-governmental organisations, business and trade unions, and other stakeholders meeting certain criteria.<sup>84</sup>

Ensuring inclusive civil society consultation and participation throughout every phase of the TA lifecycle is key to ensuring that the concerns of a wide range of food system stakeholders, both in the EU and in partner countries, are adequately considered. Promoting inclusive engagement means moving beyond established advocacy groups to include a wide range of civil society actors, including marginalised groups (such as farming communities, miners, peasant farmers, forest peoples, and grassroots community-based civil society groups) impacted by trade deals, as well as emerging green business sectors.<sup>85</sup>

There is significant room to improve the transparency and inclusivity of current consultation processes. Also, there is an untapped potential for engagement with civil society actors in partner countries, notably with more vulnerable groups and actors who are not represented through existing mechanisms.<sup>86</sup> To promote and facilitate the involvement of diverse food system stakeholders, especially from partner countries, the EU should consider:

### **1. ESTABLISHING DEDICATED MECHANISMS OF MULTI-STAKEHOLDER CONSULTATION THAT FACILITATE THE PARTICIPATION OF VULNERABLE AND UNDERREPRESENTED GROUPS IN TA PROCESSES**

This would be particularly important to ensure that marginalised food system actors, such as indigenous communities, and smallholders in partner countries, would be included in all stages of TA processes.

Such mechanisms must be accompanied by adequate technical and financial support tailored to the unique needs and challenges faced by these groups, which differ from those of the stakeholders already taking part in current processes. This support is vital for enabling the participation of smallholders and indigenous communities living in remote places. For instance, they often face language barriers, requiring interpreters and technical guidance to engage effectively in the process and relay information back to their communities.

### **2. PROVIDING DEDICATED EU SUPPORT TO THE DAG PROCESS, PARTICULARLY IN PARTNER COUNTRIES, FOR INSTANCE VIA DEVELOPMENT COOPERATION OR “AID FOR TRADE” PROGRAMMES**

Financial support could be provided through various mechanisms, including development cooperation and “Aid for trade” programmes. Sufficient resources are vital not only for the mechanism’s adequate functioning but also to incentivise and facilitate the participation of environmental and food system actors lacking the technical or financial capacity to engage in this process. Financial support could be used to organise and facilitate members’ participation in meetings, investigate potential TSD violations, and build members’ expertise on trade and sustainable development issues.

It is equally important to closely monitor the establishment of the DAGs, both by the EU and partner countries to ensure alignment with the terms agreed upon in the TAs. These groups should serve as representative and balanced civil society mechanisms, where the interests of environmental and food system stakeholders are adequately represented.

### **3.3.2. STRENGTHEN SOCIAL, ECONOMIC, AND ENVIRONMENTAL SUSTAINABILITY CREDENTIALS IN TRADE AGREEMENTS**

To balance potential socio-economic and environmental risks and benefits associated with transnational agri-food trade and promote food system sustainability, there is a need to clarify and broaden sustainability commitments in existing and new TAs. A few possibilities should be considered by the EU, such as:

#### **1. EXPANDING THE MEAs CONSIDERED “ESSENTIAL ELEMENTS” IN EU TRADE AGREEMENTS**

One way in which TSD chapters in EU TAs drive sustainability is via provisions reaffirming the parties’ commitment to ratified Multilateral Environmental Agreements (MEAs). However, the effectiveness of these provisions is limited as they fail to stipulate the consequences in case of non-compliance. To tackle this issue, at least in part, the Commission has proposed to elevate one MEA - the Paris Agreement - to the status of an “essential

element” clause, allowing parties to partially or fully suspend a TA, in case of a material breach of the MEA. In doing so, the EU broke new ground by introducing the possibility of trade sanctions as a matter of last resort in response to the other party’s “failure to comply with obligations that materially defeat the object and purpose of the (Paris) agreement”.<sup>87</sup>

This is a step in the right direction as it signals that the Paris Agreement is of the highest political importance and cross-cutting relevance across the TA.<sup>88</sup> Following this positive development, there have been calls for this approach to be expanded to other MEAs. This would allow for a more holistic response to the planetary crisis by tackling issues other than climate change, such as nature loss and pollution, which are perceived as interconnected.<sup>89</sup>

The European Commission has shown some openness to expanding this approach to other MEAs, emphasising the Convention on Biological Diversity (CBD) as a key priority.<sup>90</sup> Indeed, the CBD stands out as a good candidate as it focuses on addressing biodiversity loss – an issue linked with the expansion of agricultural production and agri-food trade.<sup>91</sup> Besides, it tackles an urgent environmental issue of cross-cutting importance for all countries and has gathered nearly universal ratification.<sup>92</sup>

Expanding this approach to the CBD would require including a clause on how the parties will accomplish the agreement’s objectives. For instance, in the EU-New Zealand agreement, the

parties commit to implementing their National Determined Contributions (NDCs) as a way to accomplish the Paris Agreement’s objectives. Similarly, as suggested in a previous Europe Jacques Delors publication, trade agreements could specify that Article 6 of the CBD, which contains an obligation for parties to develop national strategies for the conservation and sustainable use of biological diversity, is essential to fulfil the MEA’s objectives.<sup>93</sup>

When negotiating with developing trading partners, the EU could consider incorporating development-oriented MEA provisions in bilateral and regional trade deals. These could include Article 12 of the CBD regarding the establishment of research and training programmes for developing countries, as well as Article 9 of the Paris Agreement, which mandates developed countries to provide financial resources to support climate mitigation and adaptation efforts in developing countries.<sup>94</sup>

## 2. CLARIFY HOW PARTIES CAN ESTABLISH A MATERIAL BREACH OF THE MEA UNDER THE TRADE AGREEMENT

As the majority of MEAs lack concrete and measurable commitments, determining the precise scope of “essential” obligations made under these agreements proves challenging. Further work needs to be done on how to establish a material breach of the MEA in the context of the trade agreement.<sup>95</sup>



There are several ways in which this could be achieved. To ensure legal certainty, a provision could be added to the trade agreement with an open-ended illustrative list of actions and omissions that would be presumed to constitute a breach of the MEA in question.<sup>96</sup> Alternatively, the parties could include a set of criteria and actions in the implementation roadmaps mandated under the TSD and SFS chapters.<sup>97</sup>

While agreeing to a set of actions together with the trading partner would be ideal, the EU could also opt to provide further detail via an official document e.g. future TSD reviews, communications, or guidelines. This would offer upfront clarity to third countries negotiating or considering negotiating a trade deal with the EU regarding the EU's expectations in this area.

### **3. SEEK CONCRETE COMMITMENTS FROM TRADING PARTNERS ON OTHER SUSTAINABILITY PRIORITIES NOT COVERED BY "ESSENTIAL ELEMENT" CLAUSES**

While TAs should embed cross-cutting sustainable development and environmental objectives throughout the agreement, these must be accompanied by specific provisions aligned with the transition to more sustainable food systems. These could include commitments related to sustainable forest management, sustainable production and consumption, and circular economy, among others.<sup>98</sup> These will provide greater granularity and specificity to the sustainability commitments, stepping up cooperation between the parties on a wider array of sustainability matters.

For instance, recent trade deals between the EU and countries associated with trade in forest-risk commodities have included specific commitments related to deforestation, such as: encouraging trade in forest products from sustainably managed forests (e.g., deals with Canada and Mercosur); developing systems to verify the legal origin of timber products (e.g. Colombia, Peru, and Ecuador); develop certification schemes for sustainably harvested products (e.g. Central America).<sup>99</sup>

#### **3.3.3. A MORE COOPERATIVE AND TAILORED APPROACH TO SUSTAINABILITY IN TRADE AGREEMENTS**

A key point in the 2022 "TSD review" is the Commission's proposal to introduce a tailored

approach to TSD commitments in trade deals.<sup>100</sup> Pursuing a targeted approach specific to each trading partner is particularly important when trying to promote sustainable agricultural trade and food systems sustainability through TAs. Effective strategies to advance these objectives will depend on several factors, including the trading partner's socio-economic circumstances and level of development, as well as the primary traded agricultural commodities between the parties, and associated social and environmental risks.

Going forward, TAs should also be leveraged as a tool to support trading partners in implementing the EU's autonomous measures, such as the EUDR, including through the provision of tailored support and commitment and enhanced cooperation on sustainability matters.<sup>101</sup>

To achieve this, the EU should consider:

#### **1. IMPROVING SUSTAINABLE IMPACT ASSESSMENTS (SIAs) TO ENSURE THAT TRADE DEALS ARE EFFECTIVE DRIVERS OF FOOD SYSTEM SUSTAINABILITY**

Trade negotiations must be informed by a comprehensive analysis of the real costs, benefits, and distributive impacts of the agreement on food system sustainability for both the EU and its trading partners. This is equally important when considering autonomous measures that can potentially undermine sustainability in third countries. Although the EU is the world's leader in the scope of its SIAs, its current approach to environmental impacts on trading partners remains limited.<sup>102</sup>

Building on the EU's methodology for assessing the impacts of trade agreements on biodiversity and ecosystems, moving forward the SIAs should be improved to better match the shifting focus of the EU TAs towards more detailed provisions on social and environmental sustainability.<sup>103</sup> Hence, more emphasis should be placed on the potential adverse effects on food system sustainability as a result of trade liberalisation in partner countries. Among other things, SIAs should considerably improve their assessment of impacts on traditionally vulnerable populations (e.g. indigenous peoples, smallholder farmers, etc), food safety, biodiversity, and ecosystem and climate resilience, as well as on informal economies, which traditionally represent a significant proportion of the agri-food production in developing countries.<sup>104</sup> Securing

sufficient budgetary allocations for conducting EU SIAs will be crucial to achieving the above improvements.

## **2. COUNTRY- AND SECTOR-SPECIFIC COOPERATION PROVISIONS ACCOMPANIED BY DEDICATED FINANCIAL SUPPORT TO DEVELOPING COUNTRIES FOR THE IMPLEMENTATION OF SUSTAINABILITY COMMITMENTS**

TAs can complement the EU's unilateral sustainability measures by creating a more country-specific approach that can address partner countries' challenges, serving as a vehicle to facilitate compliance with the EU autonomous measures. As argued in a previous Europe Jacques Delors publication, EU TAs could include provisions that highlight specific actions that the partner country can take regarding ongoing and future efforts relevant to halting commodity-driven deforestation. Such actions must be considered by the EU when revisiting that country's level of deforestation risk under the EUDR's benchmarking system.<sup>105</sup>

The introduction of sustainability criteria, either via TAs or autonomous measures, often creates difficulties for producers in developing countries to access European markets under preferential trade arrangements. The EU should use its trade-related – and broader – development cooperation instruments to support those producers to meet these criteria and shift to more sustainable practices. This involves supporting TA implementation via development cooperation, the “Aid for Trade” programme, fostering investment, and private sector engagement. Among other things, this could serve to help build capacity for smallholder farmers to meet sustainability standards, enabling their participation in sustainable food trade and sustainable food value chains.<sup>106</sup> Capacity-building efforts should be overseen by the dedicated implementation committees created under the EU TAs, notably under the TSD and SFS chapters, and adapted over time.

Most importantly, the identification of specific areas requiring assistance, and the nature and amount of support needed should take place as early as possible in the negotiating process. This is critical to prevent sustainability matters from becoming obstacles to the conclusion of the deal

and leading to undesirable outcomes, such as watered-down sustainability commitments or even the halting of negotiations. This is particularly important when negotiating with developing countries or transition economies, which often lack the necessary technical, technological, and/or financial capabilities to carry out the sustainability commitments under the agreement nor to comply with stricter environmental standards introduced by the EU's autonomous measures. Failure to take this into account, as seen in the ongoing EU-Mercosur trade talks, might contribute to exacerbated tensions between parties over sustainability matters and delays in negotiations.<sup>107</sup>

## **3. LEVERAGE THE TA'S FRAMEWORK TO STRENGTHEN COOPERATION WITH PARTNER COUNTRIES ON SUSTAINABLE DEVELOPMENT AND FOOD SYSTEM SUSTAINABILITY**

Trade agreements serve as vital platforms for fostering dialogue and cooperation between the EU and its partner countries. Research supported by the TRADE Hub highlights that while the current EU-Mercosur association agreement does not sufficiently address all trade-related environmental risks, it offers an improved avenue for dialogue and collaboration compared to existing trade relationships, such as that between Brazil and the EU.<sup>108</sup>

Within EU trade agreements, dedicated governance bodies such as the Trade and Sustainable Development (TSD) and Sustainable Food Systems (SFS) committees, each with annual work programmes, oversee the implementation of commitments under the respective TA chapters. Notably, the inclusion of SFS committees in recent EU trade deals introduces a new avenue for dialogue and cooperation with partner countries on matters related to the transition towards more sustainable agricultural trade. Among other things, this platform should be leveraged to foster discussions on the main challenges faced by trading partners regarding the implementation of the EU's autonomous measures, discuss support needs, and evaluate the progress of technical and financial support provided under current EU programmes. Additionally, the SFS committee should function as a platform for the EU to gain insight into the local sustainability measures in place in partner countries, and discuss compatibility with EU standards. This could contribute to a smoother implementation of regulations like the EUDR,



informing for instance the level of deforestation risk to be attributed to each country under the regulation.

As only two EU trade deals, namely with New Zealand and Chile, include an SFS chapter and committee, it remains to be seen how this governance structure will be used in practice. However, ensuring coordination between the SFS and TSD committees and established mechanisms (i.e. DAGs) will be key to achieving positive outcomes.

## 4. CONCLUSION

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The EU has taken significant steps to become a frontrunner in food system sustainability. It has translated the European Green Deal and the Farm to Fork Strategy into tangible actions and groundbreaking measures, such as the EUDR and an upgraded TSD approach to its trade deals. These measures are a necessary complement to the major domestic policy reforms to make the European agri-food system sustainable, which still requires significant effort from all stakeholders involved, including political decision-makers and value chain actors from farm to fork.

An important determinant for the success of the trade-related instruments in promoting social, economic, and environmental sustainability is not the adoption of the measures per se, but rather their effective implementation. To this end, the EU should pursue a more inclusive and cooperative approach going forward.

In the run-up to the EUDR's entry into application by the end of 2024, the EU should work on developing targeted support measures and partnership programmes to accompany the implementation of the regulation and build local capacity to support compliance with the new rules. This requires working with partner countries, particularly developing countries and LDCs, and local communities to comprehend the specific challenges on the ground, which vary across value chains and regions. Targeted support specific to commodities and/or supply chains should go hand-in-hand with measures aimed at improving the livelihoods of smallholder farmers. Addressing this socio-economic aspect is often overlooked in the pursuit of environmental sustainability, but is

essential to drive meaningful change in global food systems.

The EU must continue to pursue strong environmental action and advance food system sustainability via its TAs. Trade deals are an effective tool to mitigate adverse socio-economic and environmental impacts of transnational agri-food trade while promoting compliance with MEAs. Thus, trade arrangements should be built on the best available evidence of their social and environmental impacts on partner countries. Besides, TAs should work as vehicles to step up cooperation with partner countries on sustainability matters and be leveraged to complement the EU's unilateral sustainability measures.

EU trade deals must have strong sustainability credentials, based on a holistic approach to sustainability that includes the environmental, social, and economic dimensions. To this end, they should also be accompanied by tailored cooperation mechanisms, including targeted technical and financial assistance to support developing countries in implementing sustainability commitments.

Going forward, the EU should find new ways to better integrate considerations of fairness and responsibility into trade and sustainability discussions. Developing nations often bear the brunt of economic costs from environmental damage but possess fewer resources for transitioning to environmentally sustainable production and trade, including moving towards more sustainable agricultural practices.<sup>109</sup> Therefore, the EU should better account for development considerations when negotiating sustainability commitments in future trade arrangements, as well as when designing and implementing sustainability autonomous measures.<sup>110</sup>



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- <sup>86</sup> Lamy, P. et al. (2021), *see reference 63*, p.19
- <sup>87</sup> European Commission (2022), *see reference 64*, Action point 19.c., p.12
- <sup>88</sup> United Nations Environment Programme, Forum on Trade, Environment and the SDGs (TESS) and Global Governance Centre (2021), *see reference 73*, p.34

- <sup>89</sup> UNEP and TESS. (2023). *Nature-positive trade for sustainable development: Opportunities to promote synergies between the Kunming-Montreal Global Biodiversity Framework and work on sustainable trade at the WTO*. UK Research and Innovation Global Challenges Research Fund (UKRI GCRF) Trade, Development and the Environment Hub (TRADE Hub), UN Environment Programme (UNEP), and the Forum on Trade, Environment & the SDGs (TESS). [https://trahub.earth/wp-content/uploads/2023/03/202205\\_TH-Nature-Positive-Trade-for-Sustainable-Development\\_FINAL.pdf](https://trahub.earth/wp-content/uploads/2023/03/202205_TH-Nature-Positive-Trade-for-Sustainable-Development_FINAL.pdf)
- <sup>90</sup> European Commission (2022), *see reference 65*
- <sup>91</sup> UNEP and TESS (2023), *see reference 89*
- <sup>92</sup> For more information regarding the Convention on Biological Diversity, see: [Convention on Biological Diversity](#)
- <sup>93</sup> These ideas were first developed in the following Europe Jacques Delors publication: Van der Ven, C. et al. (2022). *GT12 – Make-or-break: Including Multilateral Environmental Agreements as “essential elements” in EU Free Trade Agreements*. Europe Jacques Delors. <https://www.europejacquesdelors.eu/publications/gt12--make-or-break-including-multilateral-environmental>
- <sup>94</sup> van der Ven, C. et al., *ibid*, p.14
- <sup>95</sup> van der Ven, C. et al., *ibid*
- <sup>96</sup> van der Ven, C. et al., *ibid*
- <sup>97</sup> Blot, E. et al. (2023). *Reconciling agricultural and sustainability objectives in the EU-New Zealand FTA*. Institute for European Environmental Policy. <https://ieep.eu/publications/reconciling-agricultural-and-sustainability-objectives-in-the-eu-newzealand-fta/#:~:text=Specifically%2C%20the%20EU%2DNew%20Zealand,climate%20change%20and%20environmental%20degradation>
- <sup>98</sup> International Institute for Sustainability – IIS (2022), *see reference 68*, p.12
- <sup>99</sup> UNEP. (2021). *Biodiversity and international trade policy primer: How does nature fit in the sustainable trade agenda?* UK Research and Innovation Global Challenges Research Fund (UKRI GCRF), Trade, Development and the Environment Hub, UN Environment Programme (UNEP), and the Forum on Trade, Environment & the SDGs (TESS). <https://trahub.earth/biodiversity-and-international-trade-policy-primer/>, p.22
- <sup>100</sup> European Commission (2022), *see reference 64*, Action point 4, p.6-7
- <sup>101</sup> van der Ven, C. et al. (2023), *see reference 5*
- <sup>102</sup> United Nations Environment Programme, Forum on Trade, Environment and the SDGs (TESS), & Global Governance Centre (2021), *see reference 73*, p.51-52
- <sup>103</sup> IEEP, Trinomics, IVM and UNEP-WCMC. (2021). *Methodology for assessing the impacts of trade agreements on biodiversity and ecosystems. Service contract for the European Commission (No 07.0202/2019/812941/SER/ENV.D.2)*. Institute for European Environmental Policy (IEEP). [https://environment.ec.europa.eu/publications/methodology-assessing-impacts-trade-agreements-biodiversity-and-ecosystems\\_en](https://environment.ec.europa.eu/publications/methodology-assessing-impacts-trade-agreements-biodiversity-and-ecosystems_en)
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- <sup>105</sup> Van der Ven, C. et al. (2023), *see reference 5*, p.16
- <sup>106</sup> United Nations Environment Programme, Forum on Trade, Environment and the SDGs (TESS) & Global Governance Centre (2021), *see reference 73*, p. 66
- <sup>107</sup> Carreño, B. & Boadle, A. (2023, October 20). Argentina, Brazil seek 12.5 billion euros of financial aid in EU-Mercosur talks. *Reuters*. <https://www.reuters.com/markets/argentina-brazil-seek-12-5-blm-euro-financial-aid-eu-mercursosur-talks-2023-10-20/>
- <sup>108</sup> International Institute for Sustainability – IIS (2022), *see reference 68*, p.16
- <sup>109</sup> United Nations Environment Programme, Forum on Trade, Environment and the SDGs (TESS) & Global Governance Centre (2021), *see reference 73*, p.47
- <sup>110</sup> Lamy, P. et al. (2023). *GT14 – EU trade and the environment: Development as the missing side of the triangle*. Europe Jacques Delors. <https://www.europejacquesdelors.eu/publications/greening-trade-14> and Lamy, P. et al. (2023). *A pro-development green trade agenda for COP28*. Europe Jacques Delors. <https://www.europejacquesdelors.eu/publications/a-pro-development-green-trade-agenda-for-cop-28>

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