

Including smallholders in EU action to protect and restore the world's forests

Briefing paper - September 2021



A joint briefing paper by: Fair Trade Advocacy Office, Fern, IUCN NL, Rainforest Alliance, Solidaridad, and Tropenbos International





Introduction

The European Commission (EC) is preparing a Forest and Ecosystem-Risk Commodities (FERC) Regulation, with the aim of minimising the EU's deforestation and forest degradation footprint. This demand-side regulation would help achieve priority one of the [EC's 2019 Communication on Stepping up EU Action to Protect and Restore the World's Forests](#) ["the Communication"]. The EC has also committed to developing supply-side measures to support producer countries to tackle the underlying causes of deforestation such as poor governance and weak tenure security rights (see priority two of the Communication).

This briefing paper outlines how the EU can achieve the Communication's priorities to halt deforestation whilst supporting rather than harming smallholders. This will require the EU to deliver a smart and comprehensive mix of demand and supply-side measures to halt deforestation, forest degradation and the destruction of other ecosystems, which includes measures to involve and support smallholders. The paper also includes recommendations for the EU Directive on corporate governance and human rights and environmental due diligence that the EC is preparing in parallel.

While the majority of deforestation and forest degradation is undertaken by large-scale agricultural producers, smallholders represent an important part of the supply chain (see figures 1 and 2 below) and part of deforestation is smallholder driven.¹ To tackle this effectively, the EU regulation must take account of the characteristics of smallholders, and the underlying causes of smallholder deforestation such as poor land and forest governance, and lack of access to land, income, information, finance, markets and social justice.

Ensuring smallholders are not excluded from the EU market will not water down the ambition of the EU's regulatory proposal, in fact it will make it more effective. It will also improve social justice and help the EU meet its commitments under the EU Green Deal, the Paris Agreement, the Convention on Biological Diversity (CBD) and the Sustainable Development Goals (SDGs).

¹ Pacheco, P., Mo, K., Dudley, N., Shapiro, A., Aguilar-Amuchastegui, N., Ling, P.Y., Anderson, C. and Marx, A. (2021) Deforestation fronts: Drivers and responses in a changing world. WWF: The report mentions the increasing number of smallholders growing commodity crops in several regions. One example is the expansion of smallholder farming producing commercial crops in Bolivia. Another example is the expansion of smallholder farming systems and the adoption of oil palm by smallholders in Indonesian Borneo.



Smallholders' role in producing forest and ecosystem-risk commodities

Smallholders form the backbone of the economy in many producer countries. A wide variety of definitions of smallholders coexist. The EU Renewable Energy Directive² uses a threshold of 2 hectares and define smallholders as:

Smallholders means to farmers who conduct independently an agricultural activity on a holding with an agricultural area of less than 2 hectares for which they hold ownership, tenure rights or any equivalent title granting them control over land, and who are not employed by a company, except for a cooperative of which they are members with other small holders, provided that such a cooperative is not controlled by a third party.

We propose to build on that definition while recognizing that the characteristics of smallholders differ considerably between regions and commodities. Any measures should recognize

the local differences and characteristics of smallholders including size.

About 500 million farms worldwide (84% of the total) are smaller than two hectares (ha). But they are far from homogeneous and only around 40% sell a substantial amount of their crops. Smallholders' important role in achieving sustainable development and food security is increasingly recognised in international policies such as SDG Target 2.3.³

In tropical forested countries, smallholders, often including Indigenous Peoples and local communities (IPLCs),^{4,5} can and do play a crucial role in addressing climate change and keeping forests standing. But they can also contribute to forest destruction and degradation.

² See ILUC Delegated Regulation of the EU Renewable Energy Directive (C2019) 2055.

³ Target 2.3: By 2030, double the agricultural productivity and incomes of small-scale food producers, in particular women, Indigenous Peoples, family farmers, pastoralists and fishers, including through secure and equal access to land, other productive resources and inputs, knowledge, financial services, markets and opportunities for value addition and non-farm employment.

⁴ As more rural communities are integrated into global markets, traditional agriculture is being replaced by permanent smallholder farms, for example in the Mekong Region (see also WWF, 2021).

⁵ Indigenous Peoples are descended from populations who inhabited a given country or region before the time of colonisation or the establishment of state boundaries. It is a common term for more than 5,000 distinct groups who identify themselves as Indigenous Peoples. The term 'local communities' is usually used to refer to communities that directly depend on, and have a strong connection to the land and natural resources, and whose land governance is shaped by custom. (Both definitions adapted from Oxfam, ILC and RRI 2016. Common Ground: Securing land rights and safeguarding the Earth. Oxford: Oxfam).

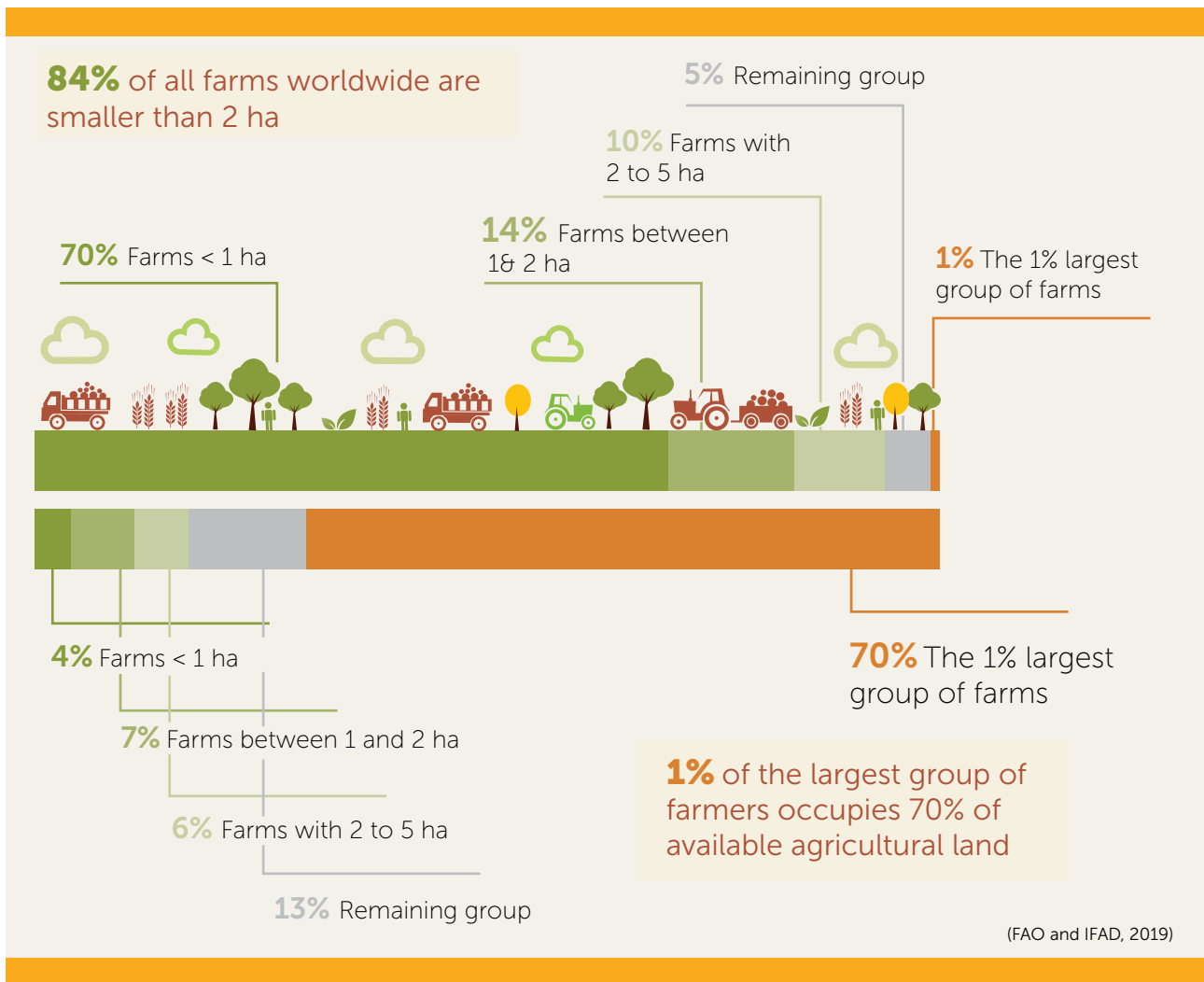


Figure 1: Estimate of the number of smallholder farms and percentage of farm categories operating on available agricultural land

Large-scale commercial agriculture (including cattle ranching, cultivation of oil palm, soy and sometimes maize) accounted for 40% of deforestation between 2000 and 2010, and local subsistence agriculture for another 33%.⁶ There are significant regional variations: for example, commercial agriculture accounts for almost 70% of the deforestation in Latin America, but for only one-third in Africa, where small-scale agriculture is a more significant driver. A study from Gaveau et al (2021) mentions that between 2001 and 2019, 30% of deforestation in Indonesia was linked to oil palm, with industrial

plantations associated with three times as much forest conversion as smallholder plantings (with smallholders defined as below 50 ha).⁷

Smallholder driven deforestation and forest conversion mostly happens for subsistence agriculture or local markets, but it is also linked to the production of (export) crops such as cocoa, coffee, oil palm and rubber, some of which are destined for the EU market. Smallholders produce several FERCS. Seventy to 90% of global production of cocoa, rubber and coffee⁸ comes from smallholders. For palm oil in Indonesia and

6 FAO. 2016. State of the World's Forests 2016, Forests and agriculture: land-use challenges and opportunities. Rome.

7 <https://www.researchsquare.com/article/rs-143515/v1%27>, David Gaveau et al (2021), Slowing deforestation in Indonesia follows declining oil palm expansion and lower oil prices.

8 In Vietnam, around 600,000 smallholders (< 1 ha) produce 95% of the coffee. In Brazil, there are around 300,000 smallholders (< 5 ha) representing 75% of coffee growers. In Ethiopia, 90% of coffee is produced by two million smallholders with an average farm size between 0.5-2 ha. See also: "Coffee production in the phase of climate change: Country profiles", IDH in cooperation with Global Coffee Platform, Coffee and Climate, Conservation International and Specialty Coffee Association, see: https://www.idhsustainabletrade.com/uploaded/2019/08/CountryProfile_Climate_Coffee_ALL.pdf

Malaysia, around 40% of production comes from farms smaller than 50 ha (the threshold for smallholders used by the Roundtable on Sustainable Palm Oil (RSPO)), while the average size of smallholder palm oil farms in Indonesia is three ha.⁹ In soy and beef production in South America, smallholders with less than two ha play a minor role: smaller sized producers are mainly family farms (between 50 and 100 ha) that produce 15 to 30% of Brazilian soy and beef respectively. Figure 2 shows smaller producers' contribution in different FERC sectors.

It is therefore key to ensure that the regulation—and accompanying supply-side measures—take account of smallholder concerns in order to contribute to a sustainable, deforestation-free agricultural sector. This, including the definition of smallholders, should be done through appropriate guidance to the regulation or multistakeholder processes.

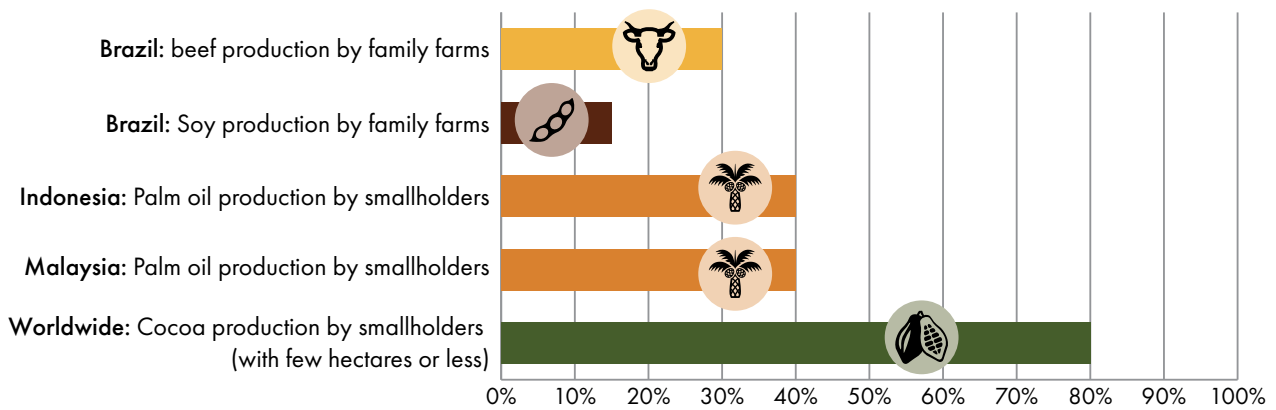


Figure 2: Estimated contributions of small-sized producers to the supply of FERCs (Tropenbos International and IUCN NL, 2019)

⁹ Daemeter Consulting (2015): Indonesian Oil Palm Smallholder Farmers: A Typology of Organizational Models, Needs, and Investment Opportunities. Daemeter Consulting, Bogor, Indonesia.



The importance of mitigating unintended side-effects

The EU should mitigate the risks of a possible unintended side effect of the new regulation: the exclusion of smallholders from the EU market. This may occur if additional costs of compliance are passed to smallholders, while they are unable to meet and/or demonstrate compliance with new requirements due to lack of land titles, knowledge and finance, etc. As smallholders generally can't benefit from economies of scale, it is often more difficult and expensive for them to organise and/or prove compliance.¹⁰ Efforts to trace products back to smallholders are mostly still in a pilot phase and so purchasers might decide it is less

risky and more efficient to buy from large-scale producers, who have been better equipped to quickly meet stringent criteria.

The design of EU legislation and the accompanying supply-side measure must therefore avoid widening the gap between large and small producers by increasing smallholders' capacity to comply with and adopt sustainable and climate-resilient practices. They need direct access to information, infrastructure, finance and risk-management tools.

¹⁰ Lessons can be learnt from some certification schemes over the last years, for example in the palm oil sector. Most smallholders in Indonesia are not yet equipped for compliance with RSPO certification. But not only RSPO, but also the less stringent national Indonesian Sustainable Palm Oil (ISPO) standard, basically demanding legal compliance, requires considerable support and investment to have smallholders on board. See e.g.: [Jelsma I., R. Jezeer, J. van Dam and E. Purwanto. 2020. Towards the development of a feasible EU action plan against deforestation. Insights from the Indonesian palm oil sector. Briefing Paper. Bogor, Indonesia: Tropenbos Indonesia and Wageningen, the Netherlands: Tropenbos International.](#)

Recommendations for smallholder inclusion in upcoming EU action to halt deforestation

Below we recommend how the EU could develop measures to avoid smallholder exclusion and support their positive contribution to the implementation of the regulation. Our recommendations are inspired by five guiding principles (see Box 1). We have divided them into demand side measures (to be included in the EU FERC Regulation (an initiative of Directorate General (DG) Environment) and in the Human Rights and Environmental Due Diligence Directive (an initiative of DG Justice), and in accompanying supply-side measures (including partnerships with producer countries).

The EC has not presented an operational plan of action for supply-side measures although various instruments for partnering with producer countries have been mentioned, including EU Forest Partnerships, Green Alliances and Multiannual development cooperation programmes. It is unclear, however, how these will interact with the regulation.

All demand and supply-side measures should be aligned and reinforce each other.

Box 1: Principles to ensure EU Deforestation actions are smallholder inclusive

To ensure EU policies on deforestation-free supply chains effectively recognise the rights and roles of smallholders, and addresses the underlying drivers of deforestation, the following principles must be integrated into its design and implementation:

Any measure to remove deforestation from FERC supply chains shall:

1. Respect and support the right to equitable access to resources for smallholders, including women.
2. Recognise that poverty is a root cause of smallholder-driven deforestation and that living incomes and wages are key enablers to improve agricultural practices, including reducing deforestation and degradation.
3. Recognise that smallholder realities differ across the world and that measures should be proportional to the scale, intensity and risk of their operations.
4. Ensure the effective, free, meaningful and informed participation of smallholders in decision-making and in the design, implementation and monitoring of measures, to recognize and address existing power imbalances along the value chains.
5. Recognise the potential role of smallholders, including women, as agents of change in achieving sustainable and deforestation-free agriculture and food systems, and establish incentives to empower smallholders to promote and undertake sustainable and climate-resilient practices.

The EU FERC Regulation (demand-side measure) should:

1. Recognise in its preamble that poverty is one of the root causes of smallholder-driven deforestation and forest degradation.
2. Require operators to undertake all reasonable efforts to support smallholders in overcoming risks in compliance, for example in relation to insecure tenure rights or limited access to markets, knowledge or finance.
3. Require operators to undertake reasonable efforts to ensure smallholder suppliers pay only a fair share of the costs of complying with the regulation. Companies should indicate how they ensure that the additional requirements for smallholders are matched by sufficient prices and investments.
4. Ensure that the regulation requires companies (or their suppliers) to respect land and tree tenure (including customary) rights, and the right to Free, Prior and Informed Consent (FPIC). This will promote equitable access to resources.
5. As part of an implementing act, develop guidelines¹¹ for companies on what constitutes a comprehensive and effective due diligence system to ensure respect for land use and tenure rights, including taking account of the different needs of men and women (i.e., gender responsive due diligence). Specifically it should highlight and respond to the multiple forms of discrimination and the particular risks and barriers faced by women and girls within the agricultural sector. Guidance should be tailored to specific commodities, countries and communities' needs.
6. Develop and include tools (including technological solutions) that smallholders can use to verify what is happening on the ground. These tools should be agreed in consultation with smallholders and could include using satellite data or community monitoring, for example as part of a deforestation observatory. It will be important to ensure that producers, and especially smallholders, benefit from information generated through increased traceability (such as market trends) and have ownership of data including maps.
7. Require full disclosure of the process, outcomes and impact on the ground, including transparency about who the stakeholders are and how their views were included in the due diligence policy, risk identification, mitigation and monitoring. This process should be based on effective, free, meaningful and informed participation of stakeholders or their representatives (such as unions or cooperatives) and consider and address additional barriers to participation faced by smallholders including women.
8. Require companies to provide evidence of effective complaints and grievance mechanisms that are accessible for smallholders especially women.
9. Provide commodity-specific incentives to reward progress along Supply Roadmaps (see supply-side measures) with improved EU market access for smallholders. Possible measures include improved ratings with national or regional benchmarking, lower tariffs and recognition of public licensing systems if they fulfil robust criteria.

¹¹ Lessons could come, for example, from the Organisation for Economic Cooperation and Development (OECD) guidance on minerals which has suggested measures to create opportunities for artisanal and small-scale miners, or from the EU Conflict Minerals Regulation which reuses most of the OECD guidance.

The EU Human Rights & Environmental Due Diligence Regulation should:

1. Explicitly refer to the right to an adequate standard of living included in Article 25.1 of the Universal Declaration of Human Rights and Article 11 of the International Covenant of Social Economic and Cultural Rights.
2. Develop guidelines setting out how companies should deliver on the human right to an adequate standard of living, including addressing their purchasing practices and paying a price that enables a living income and living wages (based on credible benchmarks). The guidelines should (amongst others) require companies to develop time-bound plans to close gaps between actual wages/incomes and living wages/ incomes and encourage them to maintain long-term sourcing relationships with suppliers. Companies should engage with suppliers and report on those practices throughout the due diligence process¹². Guidance should be tailored to specific sectors, countries and communities' needs.

EU supply-side measures (including partnerships) should:

1. Include the development and implementation of joint country and commodity Roadmaps with producer countries. These should address the underlying causes of deforestation and outline smallholders' practical and technical needs to be able comply with EU requirements. Issues to be considered would include the need to improve tenure and user rights, and ways to access markets and financial resources. The first step in developing these Roadmaps should be a joint assessment with FERC producer countries, in consultation with relevant stakeholders (see principle 4 in Box 1) to agree upon:
 - a. How farmers, and especially smallholders and particularly women, can meet the EU regulatory requirements. This should help identify potential problems as well as ways to overcome them.
 - b. The (in)direct impacts of the EU regulation and possible unintended consequences on specific landscapes, commodities and actors, especially smallholders, and what can be done to mitigate these.
 - c. The (in)direct drivers of deforestation and forest degradation on the ground, and what needs to happen to tackle them, including policy actions by producer countries.
 - d. How to enforce national policies and legislation to secure tenure and land use rights, or reform legislation to ensure it recognises customary rights.
 - e. How to improve access to finance, productive resources, markets, and information about opportunities to diversify livelihoods.
 - f. How to ensure technical and financial support for smallholders to improve and secure their land use and tenure rights and, especially for women, gain (equal) access to land.¹³
2. Ensure effective, free, meaningful and informed stakeholder participation during the development, implementation and monitoring of the Roadmap. Stakeholders should include small-scale farmers, local non-governmental organisations (NGOs) and IPLCs -- who are often left out of national policy-making but are key rights-holders. There should also be a balanced representation

¹² The expectations under OECD Guidelines for due diligence are that companies consider sector risks in scoping risks in an enterprise's own operations as well as its business relationships. Sector risks are risks that are prevalent within a sector globally as a result of the characteristics of the sector, its activities, its products and production processes. As an example, it mentions low wages in the textile sector, but obviously, low income of especially smallholders is an evident sectoral risk on the agricultural sector.

¹³ Women own a smaller share of all agricultural land than men. Women reported owners are less likely than men to have a legal document proving ownership of their plots or to have their names on the land ownership document. FAO 2018. The gender gap in land rights. Available at: <http://www.fao.org/3/i8796EN/i8796en.pdf>

of women. Effective monitoring of progress made along the Roadmaps is important to hold stakeholders accountable for progress and to adapt objectives if needed.

3. Promote, in partnership with producing countries and through cooperation with the financial and private sectors, incentives for farmers (including smallholders) to move towards sustainable practices. This could include rewarding farmers for restoring degraded land, keeping trees standing or for maintaining other ecosystem services (such as carbon capture, water or biodiversity) to maintain the agricultural landscape's resilience and productivity.
4. Promote landscape/jurisdictional approaches¹⁴ in which farmers organisations, the private sector and producer and sourcing country governments work together, to promote deforestation-free sustainable and climate-resilient farming models and land uses that also meet smallholder needs.
5. Facilitate and increase smallholders' access to affordable financing and loans to invest in sustainable production, in collaboration with financial institutions and FERC producer and consumer countries such as the United States of America or China.
6. Include measures for smallholders, including women, to improve tenure and user rights as well as access to markets and financial resources. The need and design of support measures should be identified and agreed upon through a multi-stakeholder process.
7. Facilitate a process between stakeholders in the value chain, including countries, companies and producers (especially smallholders), to develop pricing models that enable farmers to earn a living income and produce sustainable deforestation-free goods.

14 See for example: landscape initiatives reported the following governance, institutional and social capital outcomes: 44% of local communities gained capacity to sustainably manage agriculture and natural resources and 43.4% said coordination and cooperation among stakeholders improved while 44.8% of ecosystem services that support agriculture were restored/protected. In: Denier, L., Scherr, S., Shames, S., Chatterton, P., Hovani, L., Stam, N. 2015. The Little Sustainable Landscapes Book, Global Canopy Programme: Oxford.





Conclusion

To be truly effective and raise the bar as much as the floor, demand-side and additional supply-side measures to tackle deforestation in EU FERC supply chains should strengthen rather than weaken the position of smallholders.

Companies producing, trading and financially supporting FERCs should, in moving away from deforestation and forest degradation, ensure they do not exclude smallholders. On the contrary: they should engage with smallholders and support them to adopt sustainable practices by providing financial and structural resources and ensuring farmers can make a better living from selling their goods.

Supply-side measures such as Forest Partnerships and other instruments should be targeted at major FERC-exporting countries and include mechanisms that support smallholder farmers to meet the EU requirements and to undertake

sustainable and climate-friendly forest management and agriculture.

Measures should be accompanied by clear action points and targets to be assessed on a regular basis. On the demand side, this requires a strong and effective regulation. On the supply side, it requires an effective mix of trade incentives, scaled up forest diplomacy and additional financial and human resources. These will differ depending on the country and the commodity. Improved policy coherence and better coordination between the Directorate-Generals and the European External Action Service would help ensure this mix of measures is effective.

This joint briefing paper by Fair Trade Advocacy Office, Fern, IUCN NL, Rainforest Alliance, Solidaridad and Tropenbos International offers recommendations on how the EU can achieve the Communication's priorities to halt deforestation whilst supporting rather than harming smallholders.

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