

Research Paper

Duncan Brack

Energy, Environment and Resources | September 2015

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# Reducing Deforestation in Agricultural Commodity Supply Chains Using Public Procurement Policy

**CHATHAM  
HOUSE**

The Royal Institute of  
International Affairs

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## Summary

- Procurement policy has been used effectively to exclude illegal and unsustainable timber from consumer-country markets.
- As the public sector is a major purchaser of food and catering services for schools, nurseries, hospitals, care homes, canteens, prisons and the military, public procurement policies in this area clearly have the potential to promote the uptake of sustainable products not associated with deforestation.
- Many public authorities, particularly at local and regional level, already have a procurement policy for food; in principle, criteria for sustainable production could be incorporated relatively easily.
- Some products – particularly palm oil, cocoa, coffee and tea – are better suited than others to this approach; for all these products, voluntary certification initiatives currently under way could provide identification mechanisms on which procurement policies could rest.
- Other commodities may not be as suited to procurement policy, and it may be more effective to use other regulations; this applies particularly to soy, for which biofuel regulations are likely to have a bigger impact.
- In cases in which private-sector initiatives are under way to achieve 100 per cent sustainable imports (such a target has been set for palm oil in several countries), procurement policy may be unnecessary. In other cases, the adoption of a new procurement policy could serve as the spur to a private-sector initiative.

## Introduction: Agriculture and Deforestation

The linkages between agriculture and deforestation are well known. A comprehensive study undertaken for the European Commission and published in 2013 estimated that 53 per cent of global deforestation during the period 1990–2008 was due to agricultural expansion.<sup>1</sup> A 2012 study produced for the British and Norwegian governments, using a different methodology and covering the period 2000–10, estimated that agriculture was responsible for about 80 per cent of global deforestation.<sup>2</sup> A 2014 report for Forest Trends concluded that 71 per cent of all tropical deforestation between 2000 and 2012 was caused by commercial agriculture; of this volume, the largest share (49 per cent) was associated with the illegal conversion of forests, while 24 per cent was the direct result of illegal agro-conversion for export markets.<sup>3</sup>

All these studies pointed to the important role played by international markets as drivers of demand. Globally, the crops most associated with deforestation are soy, maize, oil palm, rice and sugar cane, while more than half of deforestation worldwide is associated with pasture and feed for cattle. Although aggregate domestic consumption of these crops exceeds export volumes, international trade is nevertheless significant: according to the European Commission study, during the period 1990–2008 an estimated one-third of the deforestation embodied in crop production (mostly soy and palm oil) was traded internationally. A much higher proportion of beef was consumed domestically; only 8 per cent of the deforestation embodied in ruminant livestock products was estimated to have been exported. The European Union (EU) was the largest global importer of embodied deforestation; its main imported commodities associated with deforestation were soy from Brazil, Argentina and Paraguay, meat products from Brazil, palm oil from Indonesia and Malaysia, cocoa from Ghana and Nigeria, and nuts from Brazil.<sup>4</sup>

Accordingly, there is growing interest in exploring measures that could be taken by consumer countries, such as those of the EU, to reduce the consumption of agricultural commodities associated with deforestation.<sup>5</sup> Many private-sector companies have already adopted similar commitments, among them Unilever, Nestlé, Cargill, Mondelēz, Walmart, McDonalds and the member companies of the Consumer Goods Forum, all of which have pledged to achieve zero net deforestation in their supply chains by 2020.<sup>6</sup>

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<sup>1</sup> European Commission (2013), *The Impact of EU Consumption on Deforestation: Comprehensive Analysis of the Impact of EU Consumption on Deforestation*.

<sup>2</sup> Kissinger, G., Herold, M. and De Sy, V. (2012), *Drivers of Deforestation and Degradation: A Synthesis Report for REDD+ Policy-Makers* (Lexeme Consulting).

<sup>3</sup> Lawson, S. et al. (2014), *Consumer Goods and Deforestation: An Analysis of the Extent and Nature of Illegality in Forest Conversion for Agriculture and Timber Plantations*. Washington DC: Forest Trends.

<sup>4</sup> All figures in this paragraph are taken from European Commission (2013), pp. 20–23.

<sup>5</sup> For a longer discussion, see Brack, D. and Bailey, R. (2013), *Ending Global Deforestation: Policy Options for Consumer Countries* (Chatham House and Forest Trends); and Walker, N., Patel, S., Davies, F., Milledge, S. and Hulse, J. (2013), *Demand-side Interventions to Reduce Deforestation and Forest Degradation* (International Institute for Environment and Development [IISD]).

<sup>6</sup> See <http://www.theconsumergoodsforum.com/strategic-focus/sustainability/board-resolution-on-deforestation>.

The New York Declaration on Forests, agreed at the UN Climate Summit in September 2014, included a commitment to:

Support and help meet the private-sector goal of eliminating deforestation from the production of agricultural commodities such as palm oil, soy, paper and beef products by no later than 2020, recognizing that many companies have even more ambitious targets.<sup>7</sup>

The declaration was endorsed by 36 national governments and 53 companies, among others (it remains open for signature until December 2015).

One of the measures available to consumer countries is the use of public procurement policy to source sustainably produced agricultural commodities, or, at least, products not associated with deforestation. More than 25 countries have already adopted public procurement policies that aim to source legal and sustainable timber and timber products, including paper; the application of such policies to commodities such as palm oil, beef or cocoa is a logical extension. Indeed, during the UN Climate Summit, the UK, Germany and Norway made an explicit commitment to:

[W]ork with other consumer countries to promote national commitments that encourage deforestation-free supply chains, including through public procurement policies to sustainably source commodities such as palm oil, soy, beef and timber.<sup>8</sup>

These three countries were later joined in this undertaking by France and the Netherlands.

This paper explores the potential for governments to use public procurement policy to reduce deforestation, including drawing lessons from experience hitherto with timber procurement policies. Based on those lessons, it considers the various means of using procurement policy to discriminate between products associated with deforestation and products certified with no such association. (Procurement policy could be used to reduce overall consumption of food in general, or some products in particular – for example, through encouraging smaller portions or meat-free meals; this is a broader topic which is not considered here.) The paper draws on work previously published by Chatham House, including Duncan Brack and Rob Bailey, *Ending Global Deforestation: Policy Options for Consumer Countries* (Chatham House and Forest Trends, 2013) and Duncan Brack, *Promoting Legal and Sustainable Timber: Using Public Procurement Policy* (Chatham House, 2014).

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<sup>7</sup> UN (2014), *Forests: New York Declaration on Forests Action Statements and Action Plans* (published on the occasion of the UN Climate Summit in September 2014).

<sup>8</sup> 'Joint Statement on REDD+ by Germany, Norway and the United Kingdom of Great Britain and Northern Ireland, United Nations Climate Summit, 23 September, 2014', available at <https://www.gov.uk/government/news/joint-statement-on-redd>.

## Public Procurement Policy

Public procurement is the acquisition of goods and services from a third party on behalf of a public agency, such as a government department or local authority. It can cover an enormous range of items, from military hardware through office stationery and school meals to consultancy services. In industrialized countries, the purchasing of goods and services by public authorities – central, regional and local as well as their agencies – is estimated to account for about 12 per cent of gross domestic product (GDP) on average.<sup>9</sup> (Higher figures often quoted for procurement – 16–20 per cent, or sometimes even more – usually refer to total government consumption and thus cover spending on employee costs such as salaries and pensions, which is not included in procurement spend.)

Government purchasing varies significantly from product sector to product sector – defence and road-building account for a very high proportion of procurement spend and consumer goods a very low proportion. Comparative data on government purchasing across product types are almost non-existent, but some detailed studies of specific sectors have been made. For example, in the UK the public sector is thought to account for 30–50 per cent of demand for office furniture.<sup>10</sup> As discussed further below, the public sector is a major purchaser of food and catering services for schools, nurseries, hospitals, care homes, canteens, prisons and the military.

Even in those sectors where public procurement accounts for only a small proportion of the market, the evidence suggests that procurement policies can have a broader impact on consumer markets. Suppliers' tendency to rationalize their supply chains enhances the effect of public-sector preferences; for example, if they are required to supply sustainable timber to public purchasers, they tend to opt to supply such products to their other customers as well. One estimate suggested that government procurement could achieve leverage of up to 25 per cent of the market (compared with about 10–12 per cent for direct purchases) if knock-on effects such as these were included.<sup>11</sup>

It should be remembered that all the above figures are for the public sector as a whole – i.e. central, regional and local government as well as (often) quasi-independent government agencies. Across the Organisation for Economic Co-operation and Development (OECD) as a whole, central governments account for about 30–35 per cent of total public-sector expenditure, although the proportion varies significantly from country to country: in relatively centralized states, such as the UK, central government accounts for about 70 per cent of public-sector expenditure, while in highly decentralized ones, such as Canada, the corresponding figure is about 15 per cent.<sup>12</sup> Purchasing of food and catering services takes place at all levels of government but is probably more concentrated

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<sup>9</sup> OECD (2011), 'Size of public procurement market', in *Government at a Glance 2011* (OECD Publishing), available at [http://dx.doi.org/10.1787/gov\\_glance-2011-46-en](http://dx.doi.org/10.1787/gov_glance-2011-46-en).

<sup>10</sup> Efecca (2010), *An Assessment of the Impacts of the UK Government's Timber Procurement Policy*, p. 65.

<sup>11</sup> Simula, M. (2006), 'Public procurement policies for forest products – impacts', presentation at the UN Economic Commission for Europe/Food and Agriculture Organization policy forum on public procurement policies for wood and paper products and their impact on sustainable forest management and timber markets (held on 5 October 2006).

<sup>12</sup> Marron, D. (2003), 'Greener Public Purchasing as an Environmental Policy Instrument', in *The Environmental Performance of Public Purchasing: Issues of Policy Coherence* (OECD), p. 43.

at the local level; in most countries, institutions such as schools, care homes and hospitals are the responsibility of local government.

The way in which public procurement is used can have a significant impact on the overall direction of the market and the market share of particular products. Since at least the 19th century governments have used their purchasing power in the market as a tool to achieve public policy objectives.<sup>13</sup> Early objectives tended to focus on labour issues, such as preventing child or prison labour, encouraging employers to hire unemployed people or demobilized soldiers, and ensuring non-discrimination in the workplace. Environmental objectives increased in importance as concerns over pollution and resource depletion grew from the 1960s onwards. Purchasing requirements such as recycled paper, energy-efficient office equipment and ozone-friendly refrigerators and air-conditioners became commonplace. For example, the US federal government's decision to purchase Energy Star-compliant office machinery helped to change the entire global market for computers and other appliances because of the huge scale of US government purchasing.<sup>14</sup>

More recently, attempts have been made to develop consistent sustainable procurement policies across all areas of public purchasing. The proposed UN Sustainable Development Goals include promoting public procurement practices that are 'sustainable in accordance with national policies and priorities'.<sup>15</sup> Environmental or green procurement policies are now relatively widespread in developed countries; and more comprehensive sustainable procurement approaches, including social objectives, are beginning to emerge.

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<sup>13</sup> McCrudden, C. (2007), *Buying Social Justice: Equality, Government Procurement and Legal Change* (Oxford University Press).

<sup>14</sup> Brack, D. (1999), 'Energy Efficiency and International Trade', in Brack, D. with Grubb, M. and Windram, C., *International Trade and Climate Change Policies* (Chatham House).

<sup>15</sup> Paragraph 12.7 of the 'Proposal for Sustainable Development Goals' (July 2014), available at <http://sustainabledevelopment.un.org/focussdgs.html>.

## Lessons from Timber Procurement Policies

Largely in response to the growing concern over illegal and unsustainable logging, at least 26 countries, mostly in the EU, have now adopted some form of timber procurement policy at central government level.<sup>16</sup> Although some countries have implemented such policies more recently than others, and although the details vary significantly from country to country, the evidence suggests that they are having a positive effect on increasing market share for verified legal and sustainable timber. Although government purchasing of timber products accounts for only a limited share of the market, as discussed above the evidence suggests that timber procurement policies can have a broad impact on consumer markets, both through the impact on suppliers and through the signals they send to the market. As one UK study concluded:

There is an undeniable shift in the behaviour of the timber trade, in particular the leading more progressive companies, and the UK government's timber procurement policy has had a significant impact and been one of the drivers for this change, along with NGO pressure and corporate social responsibility policies aimed at managing risk.<sup>17</sup>

Timber procurement policies are relatively straightforward to introduce. Many countries already have some form of green procurement policy; criteria for legal and sustainable timber can easily be tailored to fit, meaning that usually no new legislation is needed. The main challenge is to ensure that government buyers understand the criteria and can quickly and efficiently ensure that they purchase products that meet them. In practice, all timber procurement policies make use of the private timber certification schemes devised to promote sustainable wood products – the main ones being those of the Forest Stewardship Council (FSC) and the Programme for the Endorsement of Forest Certification (PEFC). Some countries have drawn up their own criteria for sustainability and legality, and have assessed the extent to which the certification schemes meet them; others have decided that various certification schemes, or a wider range of evidence – such as simpler legality verification schemes, or sometimes industry self-certification – are adequate to meet their criteria.

Considerable experience has now been gained in the implementation of timber procurement policies. Based on that experience, the following lessons can be drawn for the application of a similar approach to the procurement of agricultural commodities and related products:

- An easy identification scheme for the products in question is essential. Governments have hundreds of procurement officials managing thousands of contracts across a huge range of products and services; these officials do not have the time to research or check whether individual products or suppliers meet policy criteria. As already noted, the forest certification systems have for some time fulfilled that role in the case of timber; certification or labelling systems already exist for many agricultural products, although their coverage varies significantly from product to product (see further below).

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<sup>16</sup> See Brack, D. (2014), *Promoting Legal and Sustainable Timber: Using Public Procurement Policy* (Chatham House).

<sup>17</sup> Efecsa (2010), p. iii.

- If certification schemes are to play the role of checking that procurement policy criteria are met, an organization is needed to assess whether their requirements match those criteria and whether uncertified products fulfil those same criteria if their suppliers claim such is the case. With regard to timber, both the UK and the Netherlands have established bodies to perform those functions – respectively the Central Point of Expertise on Timber (CPET) and the Timber Procurement Advisory Committee (TPAC). In Germany the latter function is undertaken by the Federal Research Centre for Forestry and Forest Products and the Federal Agency for Nature Conservation. Simpler procurement policies would be those that use the same criteria as those of existing certification schemes.
- It is helpful to offer advice and training to government buyers who are implementing procurement policies (in the UK such support is provided by CPET), as well as guidance on how to purchase the right kind of product (in the UK the Crown Commercial Service publishes both framework agreements and catalogues of preferred products and suppliers).
- The certification systems can be positively influenced by procurement policies. Both the FSC and PEFC systems were revised following their initial failure to meet some of the criteria in the UK's timber procurement policy. Similarly, the existence of more than one certification scheme has proved beneficial, since it provides for competition in meeting government criteria.
- Promotion and communication of the policy are essential, and the supplying industry can have a major role to play in this regard. Those parts of the public sector that are not subject to the policy – such as local or regional governments – can none the less be encouraged to apply it. Furthermore, clear reporting and transparency requirements help to identify problems and weaknesses in implementation.

## Public Procurement for Agricultural Products

As has already been noted, the public sector is a major purchaser of food and catering services for schools, nurseries, hospitals, care homes, canteens, prisons and the military, although the extent of public-sector spend clearly differs from country to country in accordance with the level of state involvement in those services. The 2006 report by the UK Sustainable Procurement Task Force, *Procuring the Future*, identified food as the third most important priority sector for UK sustainable procurement policy; the analysis was based on total spend (i.e. its impact in the market), the scope to do more and risks.<sup>18</sup> At the time, UK public spending on food and catering amounted to £3.2 billion – 2.1 per cent of total procurement spend, or about 10 per cent of the total UK catering sector. Similarly, the European Commission’s 2008 document on green procurement, *Public Procurement for a Better Environment*, identified food and catering services as the second most important of 10 priority sectors.<sup>19</sup> A detailed survey of procurement spend in Scotland estimated that public expenditure on food in 2007–08 amounted to £123.9 million, approximately one-third of the Scottish catering and canteens market.<sup>20</sup> The education and social work, health and prisons sectors amounted to £99.2 million, or 77 per cent of the total.

Interest in applying public procurement policy to food has grown in recent years, owing mainly to concerns over food safety and healthy eating (particularly for schoolchildren), environmental impacts and a desire to source locally. In general, those approaches have tended to be adopted by local and regional rather than central governments (in most countries the first two account for the bulk of public-sector purchasing of food and catering services), but there are examples to be found at all three levels.

### Regional and local government approaches

No comprehensive survey of procurement policies for food and catering at these levels of government has been conducted, but examples include the following:<sup>21</sup>

- In 2010 the Swedish city of Malmö adopted a policy of serving high-quality food in all public canteens, with the aim of achieving 100 per cent certified organic by 2020 and reducing food-related greenhouse gas emissions by 40 per cent over the period 2002–20. By the end of 2012 about 40 per cent of the municipal food budget was spent on organic food.
- After Italian law was amended in 1999 to encourage municipalities to source organic food, the city of Rome started to promote organic food in school meals. Socio-environmental factors

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<sup>18</sup> UK Department for Environment, Food and Rural Affairs (2006), *Procuring the Future: Sustainable Procurement National Action Plan: Recommendations from the Sustainable Procurement Task Force*, pp. 11 and 71.

<sup>19</sup> European Commission (2008), *Public Procurement for a Better Environment*, p. 8.

<sup>20</sup> Scottish Government (2009), *Public Sector Food Procurement in Scotland: An Overview of Current Evidence*, p. 12.

<sup>21</sup> See Foodlinks (2013), *Revaluing Public Sector Food Procurement in Europe: An Action Plan for Sustainability* and the European Commission’s examples of the application of the EU’s green procurement policy at [http://ec.europa.eu/environment/gpp/case\\_group\\_en.htm](http://ec.europa.eu/environment/gpp/case_group_en.htm).

accounted for 49 per cent of the weighting in the award of contracts (price accounted for the remaining 51 per cent); factors such as seasonality, local sourcing and a reduction in energy consumption were subsequently also taken into account. The city currently has a target of 70 per cent organic in all school canteens.

- East Ayrshire local authority in Scotland started to prioritize providing school meals made from unprocessed, local and organic food in 2004; the policy is now applied in 12 schools. Studies suggest a greenhouse gas saving of about 40 tonnes CO<sub>2</sub> per year for an average primary school, and significant benefits to the local economy from the encouragement of sourcing from local small and medium-sized enterprises.
- The Danish capital city of Copenhagen produces about 60,000 meals daily for schools, kindergartens, nursing homes and canteens, and has an annual food budget of about €40 million. It has adopted one of the most ambitious food procurement policies in Europe, with targets of 75 per cent organic by 2012 and 90 per cent organic by 2015; the 2012 target was met on time. The policy emphasizes the importance of creating food literacy among children and young people, and promoting more sustainable and healthier food consumption.
- The Austrian capital city of Vienna supplies food to about 85,000 people in hospitals, kindergartens, schools and nursing homes. Its initial target of 30 per cent organic has already been exceeded in hospitals and kindergartens (both are now more than 50 per cent) but not yet reached in nursing homes. The approach also promotes vegetarian, local and Fairtrade products.
- In the UK the Sustainable Food Cities Network was established in 2011 as an alliance of public-, private- and voluntary-sector organizations that aim to encourage healthy and sustainable food strategies to promote, among other things, health and wellbeing, environmental sustainability, local economic prosperity, resilient communities and fairness in the food chain. Its (voluntary) principles include the commitment that: '[F]ood production should conserve and enhance terrestrial and marine ecosystems and natural resources including soil, water and air'.<sup>22</sup>

The main aims of the above initiatives are to promote healthy, fresh, seasonal, organic and locally sourced food. Fairtrade-labelled products and certified sustainable fish are also sometimes promoted; but the aim of preventing deforestation does not feature, and certified sustainable food products such as palm oil, soy or beef are generally not included.

## Central government approaches

Some central government procurement policies also include food, such as:

- Austria's Federal Procurement Agency introduced a national framework contract for dairy products in 2012; the aim was to supply about 350 kitchens at public organizations under the contract. Criteria included the supply of organic and non-genetically modified products,

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<sup>22</sup> Sustainable Food Cities (no date), 'Principles of Sustainable Food', available at <http://www.sustainablefoodcities.org/about/definitionsustainablefood/principlesofsustainablefood>.

sourcing from smaller dairy producers from the region, deliveries within one working day and value for money.<sup>23</sup>

- France has set a national target of 20 per cent organic food in school meals by 2017. By early 2014 some 53 per cent of school canteens in France were offering organic food, although this represented just 2 per cent of the food served.<sup>24</sup>
- The UK government provided development funding from 2005 to 2008 for ‘Fish and Kids’, a project of the Marine Stewardship Council (MSC), a voluntary certification body modelled on the FSC.<sup>25</sup> This aimed to increase the availability of sustainable seafood in schools, partly as a means to improve awareness of sustainability issues. The MSC provided support to food distributors to help them source sustainable seafood, communicated with and advised local authorities and school-meal providers, and provided educational resources to schools and communities. By April 2007 more than 1,000 schools were using the logo on their school menus, and 4 million sustainable fish dinners were being served to about 250,000 schoolchildren per year.<sup>26</sup> By 2011 about 4,000 schools (out of a total of about 26,000 schools in the UK) had signed up to the project.<sup>27</sup> The MSC also launched a ‘Fish and Kids’ project in Sweden in December 2008.
- The UK government announced in October 2012 that it was targeting 100 per cent sourcing of credibly certified sustainable palm oil by the end of 2015 (see further below).

Several governments are attempting to develop comprehensive frameworks for sustainable procurement. In 2011 the UK government set out its aim to ‘[e]nsure government buys more sustainable and efficient products and engages with its suppliers to understand and reduce the impacts of its supply chain’.<sup>28</sup> In all, 11 sets of government buying standards set out the criteria that central government procurement officials are required to meet (while the wider public sector, including local authorities and the National Health Service, are encouraged though not required to meet them). The buying standard for food comprises 39 sets of criteria, of which 24 are mandatory and 15 best practice. These include:

- Organic or similar products to be encouraged: at least 10 per cent (mandatory) or at least 40 per cent (best practice).
- All fish must be sustainable (certified by the MSC, the Marine Conservation Society or equivalent) (mandatory).
- At least 50 per cent tea and coffee to be fairly traded (mandatory).
- All tea, coffee, cocoa and bananas to be fairly traded (best practice).

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<sup>23</sup> European Commission (no date), *GPP in practice: A National Framework Contract for Green Dairy Products*, Federal Procurement Agency, Austria.

<sup>24</sup> European Commission (2014), *GPP in practice: Organic Food Procurement for School Catering Services*, Len, France.

<sup>25</sup> For further information, see the MSC website (<http://www.msc.org>) and the ‘Fish and Kids’ website (<http://www.fishandkids.org>).

<sup>26</sup> MSC press release (2007), ‘Nearly 4,000,000 school lunches go green with blue eco-label’, available at <http://www.msc.org/newsroom/news/nearly-4-000-000-school-lunches-go-green-with-blue>.

<sup>27</sup> MSC, *Annual Report 2010/11*, p. 9.

<sup>28</sup> Defra (2011), *Greening Government Commitments: Operations and Procurement*.

- Palm oil to be sustainable, from 2015 (mandatory).<sup>29</sup>

Since 2011 progress in meeting procurement goals has been tracked through annual reports on the implementation of the UK government's 'Greening Government Commitments'. These reports have gradually become more comprehensive, with procurement of food and catering included since 2012–13. In that year just two central government departments complied fully with the government buying standard for food and catering in all relevant contracts; six reported 51–99 per cent compliance, five 1–50 per cent and eight zero compliance or no data.<sup>30</sup> Performance improved slightly in 2013–14: five departments met the 100 per cent target, while six achieved 51–99 per cent, two 1–50 per cent and nine zero or no data (an additional department was included in the reporting for that year).<sup>31</sup> In 2014 the government adopted a 'balanced scorecard' approach, designed, *inter alia*, to encourage purchasers to adopt best practice rather than simply meet the mandatory criteria.<sup>32</sup>

In 2005 the Netherlands adopted a target of 100 per cent sustainable procurement by 2010.<sup>33</sup> Criteria were drawn up for 80 product groups, although following criticism from some quarters this was later reduced to 45 – i.e. those that would generate the most benefits for sustainability. One of the sets of criteria covers catering services; it includes a wide range of product characteristics, including standards of animal welfare, sustainably caught fish, and levels of chemicals used in growing plants, as well as factors such as packaging, the choice of meals made available (encouraging, for example, more vegetarian and healthier choices) and the operations of the catering companies themselves.<sup>34</sup> No criteria relate directly to products associated with deforestation. The 100 per cent target was achieved on schedule.

## UK procurement policy for sustainable palm oil

As in the case of local and regional governments, the main aims of central government procurement policies for food and catering have been to promote healthy, fresh, seasonal, organic and locally sourced food. In general, certified food products associated with deforestation have not been included. However, there is one major exception: UK procurement policy for sustainable palm oil.

In April 2011 a UK government-commissioned report on sustainable palm oil procurement drew conclusions from the experience of the timber procurement policy, including its ability to affect a wider market than just central government purchases, and the need for technical support from the government, such as that delivered via CPET.<sup>35</sup> After considering a range of options, it concluded that 'the highest positive impacts would be achieved by a combination of a public procurement policy that incorporates a time-bound goal, together with targeted support and awareness-raising to galvanize action across UK supply chains'.<sup>36</sup> It recommended a target of 100 per cent sustainable

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<sup>29</sup> Defra (2014), 'The Government Buying Standard for Food and Catering Services'.

<sup>30</sup> UK government (2013), *Greening Government Commitments Annual Report 2012–13*, p. 39.

<sup>31</sup> UK government (2015), *Greening Government Commitments Annual Report 2013–14*, p. 58.

<sup>32</sup> Defra (2014), *A Plan for Public Procurement: Food & Catering – Balanced scorecard for public food procurement*.

<sup>33</sup> For a summary of the implementation of the policy up to 2011, see Padding, T. (2012), '100%? Six years of sustainable procurement in the Netherlands' (PIANOo).

<sup>34</sup> Dutch Ministry of Infrastructure and the Environment (2012), 'Criteria for sustainable public procurement of catering' (Version 1.5).

<sup>35</sup> Proforest (2011), *Review of Policy Options Relating to Sustainable Palm Oil Procurement*.

<sup>36</sup> *Ibid.*, p. 7.

palm oil by 2015, as well as collaboration with industry to encourage collective implementation efforts. In October 2012, in a statement made jointly with 14 trade associations and NGOs, the government duly announced that it was adopting the target of 100 per cent sourcing of credibly certified sustainable palm oil by the end of 2015.<sup>37</sup>

At the same time, the government added the requirement for sustainability for palm oil, palm kernel oil and derivatives to the government buying standard for food and catering. The eight sustainability criteria included in the standard are based heavily on those in the Roundtable on Sustainable Palm Oil (RSPO) standard.<sup>38</sup> The government commissioned CPET to elaborate the system further and to provide an advice and information service on sustainable palm oil for businesses and government procurers, including a helpline, web resources, newsletters and seminars.<sup>39</sup> In addition, it pledged to work with the organizations associated with the national statement to monitor progress towards meeting the target and to encourage other consumer countries to switch to sourcing sustainable palm oil. Progress reports to date estimate that between 52 and 60 per cent of the palm oil used in the UK in 2012 was certified sustainable; in 2013 the share rose to 55–71 per cent.<sup>40</sup>

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<sup>37</sup> UK Department for Environment, Food and Rural Affairs (2012), *Sustainable Production of Palm Oil: UK Statement*.

<sup>38</sup> See 'Guidance on Government Buying Standards for Food and Catering Services', available at <http://sd.defra.gov.uk/documents/GBS-guidance-food.pdf>.

<sup>39</sup> See <https://www.gov.uk/government/policies/sustaining-and-enhancing-trees-forests-and-woodland/supporting-pages/using-sustainably-produced-palm-oil>.

<sup>40</sup> See CPET's *Sustainable Palm Oil Newsletter* (January 2015).

## EU Green Procurement Policy

In the EU, public procurement lies within the competence of each member state, although general procurement rules are set at the EU level (see below). For its part, the European Commission has tried to encourage member states to adopt broad green procurement policies. In 2003 it urged them to draw up publicly available National Action Plans (NAPs) for greening their public procurement; and in 2008, its *Public Procurement for a Better Environment* document provided guidance on developing green public procurement strategies and set an indicative target for 50 per cent of all public tendering procedures to be green by 2015.<sup>41</sup>

At the same time, the Commission began developing common green procurement policy (GPP) criteria, with the aim of opening up procurement contracts to companies across the EU. By May 2015 criteria had been agreed for 21 product groups, including food and catering services.<sup>42</sup> Their adoption is voluntary for EU member states. In the case of each product group, core criteria are recommended for use by all public authorities, and comprehensive criteria for use by authorities wishing to purchase the best products in terms of environmental sustainability.

The core component of the food criteria includes organic production; the minimum proportion is left to the purchasing authority to specify, but extra points are to be awarded to bids including more than the minimum proportion. The comprehensive option includes the same requirement for organic products, as well as a requirement for a minimum proportion of non-organic products to be produced in accordance with the criteria of ‘integrated production’ or equivalent systems (essentially, systems designed to make optimum use of natural resources and minimize environmental impacts); again, extra points are to be awarded for bids above the minimum proportion specified. (Other criteria include encouragement for recycled packaging materials, sustainably caught fish and high standards of animal welfare.) The core and comprehensive criteria for catering services include the same criteria as those for food, as well as others related to the environmental impact of companies’ operations. All these criteria date from the launch of the GPP process, in 2008, and are due for review and revision in 2016.<sup>43</sup>

By November 2014 22 (of the 28) EU member states had adopted an NAP or equivalent document.<sup>44</sup> Food was included in the plans of at least 11 member states: Belgium, Cyprus, Finland, France, Italy, Latvia, Lithuania, Malta, Slovakia, Slovenia and the UK.<sup>45</sup>

A 2012 report suggested that the overall 50 per cent target across the EU had been missed; only 26 per cent of contracts met all core green criteria, and there was considerable variation from country

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<sup>41</sup> European Commission (2008), *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Public Procurement for a Better Environment* (COM [2008] 400, 16 July 2008).

<sup>42</sup> For the latest criteria and background papers, see [http://ec.europa.eu/environment/gpp/eu\\_gpp\\_criteria\\_en.htm](http://ec.europa.eu/environment/gpp/eu_gpp_criteria_en.htm).

<sup>43</sup> See the GPP work programme at [http://ec.europa.eu/environment/gpp/gpp\\_criteria\\_wp.htm](http://ec.europa.eu/environment/gpp/gpp_criteria_wp.htm).

<sup>44</sup> The 22 member states that have an NAP are Austria, Belgium, Bulgaria, Cyprus, the Czech Republic, Denmark, Finland, France, Germany, Ireland, Italy, Latvia, Lithuania, Malta, the Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden and the UK; the six that do not are Croatia, Estonia, Greece, Hungary, Luxembourg and Romania.

<sup>45</sup> According to the summaries of those countries’ respective NAPs, available at [http://ec.europa.eu/environment/gpp/pdf/national\\_gpp\\_strategies\\_en.pdf](http://ec.europa.eu/environment/gpp/pdf/national_gpp_strategies_en.pdf).

to country and from product to product.<sup>46</sup> In terms of the number of contracts for food and catering services, 48 per cent contained some of the EU's core criteria and 12 per cent all of them; in terms of value, 89 per cent contained some core criteria and 44 per cent all of them. These figures were below the average for all the sectors included in the survey. With regard to individual criteria, the core requirement for organic food was included in 32 per cent of contracts in terms of number, and the comprehensive criterion for sustainable fishing in 12 per cent.<sup>47</sup>

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<sup>46</sup> Centre for European Policy Studies and College of Europe (2012), *The Uptake of Green Public Procurement in the EU27*.

<sup>47</sup> *Ibid.*, Annex B, p. 40.

# International Procurement Rules: The WTO and the EU

Measures taken by consumer countries to discriminate in trade between sustainable and other products may interact with World Trade Organization (WTO) rules. WTO members are not permitted to discriminate between traded 'like products' produced by other WTO members, or between domestic and international like products, although exceptions are permitted to these general principles under certain circumstances.<sup>48</sup> However, public procurement was explicitly excluded from the 1947 General Agreement on Tariffs and Trade (GATT) – the foundation stone of what is now the WTO system – largely because it was widely used to support national suppliers as an element of industrial policy.

Although government procurement measures are now subject to the WTO Government Procurement Agreement (GPA), this is significantly different from the GATT and other WTO agreements. The GPA is a plurilateral agreement to which not all WTO members are parties: as of August 2015, there were 17 parties to the GPA (including the EU and its 28 member states as one party).<sup>49</sup> While the United States is a party to the GPA, no other major exporter of commodities potentially associated with deforestation is. Furthermore, GPA rules do not apply automatically to all procurement contracts; GPA parties specify the government entities and services they have decided to cover, as well as minimum threshold values, and they can specify exclusions. So agricultural products do not necessarily have to be covered; and even if they are, exemptions can apply.

Nevertheless, the fundamental WTO principles of non-discrimination (between like products from foreign and domestic suppliers) and transparency (of the requirements included in contracts and of the awarding of contracts), which are enshrined in the GPA, may be used more widely than this limited coverage would suggest. The UN Commission on International Trade Law (UNCITRAL), established in 1966 with a general mandate to further the progressive harmonization and unification of international trade law, promotes model procurement laws based largely on GPA rules. Similarly, development assistance, whether from bilateral donors or multilateral agencies such as the World Bank, often incorporates provisions on procurement spend based on those same rules. And national procurement rules may adopt GPA-type provisions as a default approach.

As discussed above, EU member states develop and apply their own procurement policies, but the EU establishes principles to which the individual policies must conform. Those principles aim to ensure that public procurement policies operate in a transparent way, ensure equal treatment of suppliers (e.g. forbid discrimination on the basis of nationality) and achieve best value for taxpayers and consumers of public services alike. At the same time, they allow significant scope for including environmental criteria. On occasion, this has proved controversial, particularly in relation to

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<sup>48</sup> This section is taken largely from Brack, D. (2014). For a longer discussion, see Brack, D. (2013), *Combating Illegal Logging: Interaction with WTO Rules* (Chatham House).

<sup>49</sup> A further 29 WTO members and four international organizations participate in the GPA Committee as observers, of which 10 are in the process of acceding to the GPA; see [https://www.wto.org/english/tratop\\_e/gproc\\_e/memobs\\_e.htm](https://www.wto.org/english/tratop_e/gproc_e/memobs_e.htm).

criteria for sustainable products, where it has sometimes been argued that some aspects of the way in which products are produced, grown or harvested – for example, the conditions of the workforce producing the product – are not relevant to the procuring authority and should therefore not be included in the technical specifications of the procurement tender.

In May 2012, however, a ruling by the European Court of Justice confirmed that criteria based on considerations of an environmental or social nature were permissible. This was the outcome of a dispute case brought by the European Commission against the government of the Netherlands for allowing the province of Noord-Holland to apply procurement criteria for automatic coffee machines that required them to use only products bearing the Max Havelaar Fairtrade and EKO organic labels. While finding that criteria such as these were allowed, the court reasserted the requirement for specifications not simply to conform to particular labelling or certification schemes, and the specification was amended to include labels based on the same criteria.<sup>50</sup>

The 2014 revision of the EU procurement directives makes it clear that technical specifications may relate to production processes and methods provided these are 'linked to the subject matter of the contract and proportionate to its value and its objectives'.<sup>51</sup> This means there should be no doubt that including criteria for sustainability in procurement policies for food and catering is permissible under EU procurement rules. Member states have until April 2016 to transpose the new directive into their own legislation.

The new directive also makes clear that labelling or certification schemes can be specified in procurement policies as an acceptable means of proof that the criteria have been met, subject to various conditions (e.g. the criteria are X, and RSPO certification satisfies X). At the same time, it seems to imply that the criteria can themselves be described by labels (e.g. the criteria are those of the RSPO scheme), but its wording is not completely clear, and it also allows for tenderers to provide equivalent means of proof that the criteria the government is seeking to apply have been met.<sup>52</sup> This seems to imply that the procurement policies that include their own criteria for sustainability conform to the procurement rules, while those that contain no definition of sustainable but simply list possible means of proof – as in the case of several EU member states' timber procurement policies – may not conform. However, none of those policies has ever been challenged.

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<sup>50</sup> The judgment of the Court is available at <http://curia.europa.eu/juris/document/document.jsf?docid=122644&doclang=EN>.

<sup>51</sup> Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC, Article 42(1).

<sup>52</sup> *Ibid.*, Article 43.

## Using Public Procurement Policy for Agricultural Products

In principle, it should be possible to use public procurement policy to favour sustainably produced foodstuffs, thereby helping to reduce the environmental impact – and in particular, the impact on forests – of agricultural production. As discussed, many regional and local governments as well as some central governments already possess procurement policies for food and catering. Criteria related to the impact on forests are not common; the UK procurement policy for sustainable palm oil is the strongest example. Requirements for Fairtrade-labelled cocoa, coffee and tea are common, but the Fairtrade standard does not contain explicit criteria relating to forests (see further below). However, existing policies provide a framework into which additional criteria could be inserted.

In developing public procurement policies for sustainable food, various issues need to be addressed:

### Which products?

The key question is of course: Will government procurement policy have an impact in terms of reducing deforestation? This depends on (a) the extent to which the commodities are associated with deforestation in their countries of origin; (b) the extent to which commodities associated with deforestation are imported; and (c) the extent to which government purchasers buy those commodities.

As noted above, the European Commission's 2013 study suggested that in 1990–2008 the EU was the largest global net importer of deforestation embodied in crop and livestock products, mainly palm oil, soy and beef, although some other commodities, such as cocoa, were major contributors to deforestation in various countries. Even if the country applying the procurement policy is a major importer, however, the commodities may not end up in food or only in food; in such a case, other government policies may have a bigger impact on patterns of consumption.

The following commodities are major contributors to deforestation on a global scale or in individual countries:

- *Palm oil* is used as a cooking oil, and is an ingredient in thousands of food products (as well as non-food products such as cosmetics) and animal feed. It may be difficult to identify all such products, but this is a challenge being addressed by the RSPO and other palm oil certification schemes. In addition, palm oil is used in biodiesel, the consumption of which is promoted in the European market as part of the EU's renewable energy policies.

- *Soy* is used mainly as animal feed, which may lead to difficulties in identifying the final food product, and is a major component of biodiesel. In 2010 only about 13 per cent of global soy production was directly consumed by humans as food.<sup>53</sup>
- *Beef* has a simpler supply chain, and is used almost exclusively as food or an ingredient of foodstuffs. Leather, a by-product of beef production, may be suitable for the application of procurement policy, although the public sector is probably not a major buyer.
- *Cocoa* is a relatively minor contributor to deforestation on a global scale, but is significant in the two main countries of production – Ghana and Côte d’Ivoire. Although some cocoa butter is used in cosmetics, the vast majority of cocoa products are consumed as food and beverages.
- Similarly, *coffee* and *tea* are important contributors to deforestation in some countries, including Indonesia and Central America (coffee) and India, Sri Lanka and East Africa (tea). Both are consumed as food and beverages.
- *Maize* contributed to 11 per cent of global deforestation according to the European Commission study. Expansion of maize production is taking place in many parts of the world; the largest contributors are Brazil, Tanzania, Zimbabwe, Indonesia, Mexico, Paraguay and China.
- *Paddy rice* contributes to 5 per cent of global deforestation according to the Commission study, mainly throughout Southeast Asia and sub-Saharan Africa. Myanmar (Burma) contributed about one-third of the total and Indonesia one-fifth.
- *Sugar cane* contributes to 5 per cent of global deforestation according to the Commission study. Deforestation associated with sugar cane expansion is heavily concentrated (more than 80 per cent) in Brazil, where it is partly driven by biofuel (ethanol) production; deforestation embodied in sugar cane tends to be indirect, as cultivation of that crop displaces cattle pasture, which as a result moves into forest areas.

As previously noted, about one-third of deforestation is embodied in crop products that are traded internationally. Globally, oil crops (soy and palm oil) account for by far the largest share (according to the European Commission study, 63 per cent) of deforestation embedded in trade; they are followed by stimulants such as coffee, cocoa and tea (11 per cent) and sugar (6 per cent).

With regard to crop imports specifically into the EU, the most significant contributions to embedded deforestation were from oil crops (soy and palm oil), which accounted for about 60 per cent of total imported embedded deforestation, and stimulants (coffee, tea and cocoa), which accounted for about 10 per cent.

Although more than half of deforestation worldwide is associated with pasture and feed for cattle, a much higher proportion of beef than of crops is consumed domestically and does not enter trade; nevertheless, the embedded deforestation associated with livestock (mainly beef) imports into the EU amounted to about 14 per cent of the total.

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<sup>53</sup> Potts, J. et al. (2014), *The State of Sustainability Initiatives Review 2014: Standards and the Green Economy* (IISD), p. 253.

Realistically, the EU is the region most likely to use procurement policy as a means to reduce deforestation (as can be seen from its experience of timber procurement). For this reason, the remainder of this section concentrates on the imported commodities most relevant to the EU: soy, palm oil, beef, cocoa, coffee and tea.

For some of these commodities, other government policies may have more of an impact than public procurement. This applies particularly to biofuel policy, especially for soy and to a lesser extent for palm oil; governments are not major purchasers of biofuels, but they set standards and provide subsidies that affect the entire market. For those consumed primarily by humans for food and drink, the size of public-sector purchasing of food and catering services suggests that procurement policy should have an impact – the proportion accounted for by government buyers appears to be no less than that for timber products, and possibly more. This may vary between central and local authorities, but all levels of government appear to be major purchasers of commodities such as palm oil (mainly as an ingredient of foodstuffs), beef, cocoa, coffee and tea.

## Which identification mechanisms?

As noted above, the existence of a credible certification scheme identifying sustainable (or deforestation-free) products is enormously helpful, since it enables government buyers and their supplying companies to identify the products they wish to buy. Some schemes exist for all of the key commodities discussed above, although they vary in their coverage:

- For *palm oil*, by far the most important main certification scheme is the RSPO, which accounted for an estimated 20 per cent of the global market as at mid-2015.<sup>54</sup> Other schemes include the Indonesian Sustainable Palm Oil scheme (which is primarily a legality rather than sustainability standard), the Sustainable Agriculture Network standard, associated with the Rainforest Alliance certified label, and organic (originally standards certified by voluntary organizations but in many countries now replaced by national legislative requirements – e.g. EU Regulation 843/2007, in force since 2009).
- *Soy* is less likely to be certified. The main certification schemes – the Roundtable for Responsible Soy (RTRS), International Sustainability & Carbon Certification (ISCC) and ProTerra – between them accounted for only about 2–3 per cent of the global market in 2013.<sup>55</sup> RTRS membership is currently growing very rapidly, however, and there is also an increasing availability of organic and Fairtrade (standards set by Fairtrade International) soy.
- *Beef* is even less likely to be certified for sustainability standards. The Global Roundtable on Sustainable Beef, founded in 2012, approved principles and criteria for sustainable beef in November 2014. It is not working towards a global certification scheme, instead promoting regional and national initiatives. Small volumes of Rainforest Alliance-certified beef are available, and larger volumes of organic beef.

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<sup>54</sup> See <http://www.rspo.org/about/impacts>.

<sup>55</sup> KPMG (2013), *A Roadmap to Responsible Soy: Approaches to increase certification and reduce risk*, p. 4.

- *Cocoa* is covered by four main certification schemes: Rainforest Alliance, UTZ Certified, organic and Fairtrade. Combined, these four schemes accounted for an estimated 22 per cent of global production in 2012, up from 3 per cent in 2009.<sup>56</sup> Since the six main global chocolate companies, which together account for more than 50 per cent of global cocoa use, all now have (independently) the objective of sourcing 100 per cent sustainable cocoa by 2020, this rapid growth can be expected to continue.
- *Coffee* is generally regarded as the pioneering industry for sustainability standards and certification. In 2012 some 40 per cent of global production was certified under various schemes (compared with 15 per cent in 2008), of which the most significant were Nespresso AAA Sustainable Quality, 4C Association, Fairtrade, organic, Rainforest Alliance and UTZ Certified.<sup>57</sup>
- *Tea* is covered by five major sustainability standards: Fairtrade, organic, Rainforest Alliance, the Ethical Tea Partnership and UTZ Certified. Together, these initiatives certified or verified 12 per cent of global production in 2011–12.<sup>58</sup>

The standards of these certification schemes vary in the extent to which they contain criteria related to the protection of forests:<sup>59</sup>

- *Ethical Tea Partnership*: This scheme prohibits the deforestation of primary forests and secondary forests that contribute significantly to local diversity; if secondary forests are cleared, new fields (sic) must be planted in compensation.<sup>60</sup> The partnership encourages certification to Fairtrade, Rainforest Alliance and UTZ Certified standards.
- *Fairtrade*: Standards are aimed mainly at tackling poverty and empowering producers. Negative environmental impacts on protected areas and areas of high conservation value must be avoided. There are no specific criteria related to forests.<sup>61</sup>
- *4C Association*: The Common Code for the Coffee Community prohibits the cutting of primary forest.<sup>62</sup>
- *ISCC*: Feedstock for biomass and biofuels (including soy) is not to be produced from land that had the following status on or after 1 January 2008: land with high biodiversity value or high carbon stock, including primary forests and ‘other natural areas that are covered with native tree species and do not show clearly visible indications of human activity and where the ecological processes are not significantly disturbed’.<sup>63</sup>
- *Nespresso AAA Sustainable Quality*: This Nestlé programme applies the Sustainable Agriculture Network (SAN) standards (see below).

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<sup>56</sup> Potts et al. (2014), pp. 135–38.

<sup>57</sup> Ibid., pp. 157–61.

<sup>58</sup> Ibid., p. 297.

<sup>59</sup> Note: this is not a comprehensive analysis of the certification schemes discussed here, which contain many other criteria that may be relevant.

<sup>60</sup> Ethical Tea Partnership Standard (May 2013).

<sup>61</sup> Fairtrade Standard for Small Producer Organizations (Version 01.05.2011\_v1.2).

<sup>62</sup> 4C's Code of Conduct (May 2009).

<sup>63</sup> ISCC's 202 Sustainability Requirements for the Production of Biomass (March 2015).

- *Organic*: Standards vary from country to country and region to region, but include a general commitment to protecting the environment and natural systems; there is no specific reference to forests.
- *ProTerra*: Areas of native vegetation and other areas of high conservation value, including primary forest cleared after 2004, cannot be converted into agricultural areas or used for soy production. If deforestation has occurred since 1994 on the production land, certified operations must implement compensatory measures.<sup>64</sup>
- *Rainforest Alliance*: The main body certifying to SAN standards (see below).
- *RSPO*: New plantings since November 2005 must not replace primary forest or any area required to maintain or enhance one or more high conservation values.<sup>65</sup>
- *RTRS*: Native forest cannot be deforested; any land cleared of native habitat after May 2009 must not be used for soy cultivation unless it was previously cleared for agriculture and the forest has not regenerated.<sup>66</sup>
- *SAN*: This standard has comprehensive requirements related to deforestation and biodiversity. A farm cannot destroy any natural ecosystem from the date of application for certification onwards, and no high-value ecosystems must have been destroyed at the farm from November 2005 onwards. If any natural ecosystems were destroyed between 1999 and 2005, the farm must document the scope and ecological impact of the destruction, develop a mitigation plan that compensates for the negative impact, and implement that plan. Cutting, extracting or harvesting trees, plants and other non-timber forest products is allowed only if the farm implements a sustainable management plan that has been approved by the relevant authorities.<sup>67</sup>
- *UTZ Certified*: This standard requires that no deforestation or degradation of primary forest has occurred since 2008; and no deforestation or degradation of natural (non-primary) forest can occur unless an environmental expert confirms that the appropriate clearing techniques will be used and that there is compensation in the form of reforestation activities of at least equal ecological value. On cocoa and coffee plantations, farmers must maintain existing shade trees or plant new ones.<sup>68</sup>

As can be seen, while these schemes share many features, the overall coverage of forests and deforestation varies from scheme to scheme. There may be scope for procurement policies to be used to promote more uniform, and more rigorous, standards relating to deforestation.

The reliance on certification schemes can be problematic, however, especially when they are not sufficiently robust to affect rates of deforestation. Doubts have been expressed, in particular, over the ability of the RSPO to prevent deforestation. For example, although the RSPO standard forbids

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<sup>64</sup> Proterra Standard: Social Responsibility and Environmental Sustainability (Version 2.9.5, 2011).

<sup>65</sup> RSPO's Principles and Criteria for the Production of Sustainable Palm Oil (2013).

<sup>66</sup> RTRS's Standard for Responsible Soy Production (Version 2.0, September 2013).

<sup>67</sup> SAN's Sustainable Agriculture Standard (Version 3, July 2010).

<sup>68</sup> UTZ Certified's Core Code of Conduct (Version 1.0, 2014), Code of Conduct Cocoa Module (Version 1.0, 2014), Code of Conduct Coffee Module (Version 1.0, 2014).

planting on primary forest that has never been logged, this potentially allows forest that has been logged, or is undergoing rehabilitation, to be cleared. Moreover, it does not require segregation throughout the supply chain, allowing mass balance and ‘book and claim’ (similar to offset) systems.<sup>69</sup> Partly in response, the Palm Oil Innovation Group was launched at the meeting of the Tropical Forest Alliance 2020 in Jakarta in June 2013. The group, which comprises NGOs such as Greenpeace and WWF as well as ‘progressive’ palm-producing companies like New Britain Palm Oil and Golden Agri-Resources, aims to demonstrate new models for sustainable palm oil production – namely, ones that improve on RSPO principles and criteria. In particular, its objectives are to break the link between palm oil expansion and deforestation and to improve forest conservation.<sup>70</sup> This offers at least the possibility of putting pressure on RSPO to improve its criteria.

Public procurement policies can also contribute to higher certification scheme standards by drawing up their own criteria and setting target dates by which suppliers must meet them. In the case of timber, the inclusion of particular criteria in procurement policies, particularly in that of the UK, encouraged both the FSC and the PEFC to modify their own procedures to meet them.

Other problems with certification include the cost of the schemes, particularly for small producers. Overall, however, the certification process can help to bring costs down by focusing attention on production and supply chains.

Is there an alternative to certification? Some procurement policies use lists of preferred suppliers who are deemed able to meet the criteria and can therefore bid for government contracts with minimal paperwork and be listed in government catalogues. But if this approach were to be used, it would simply transfer the challenge of identifying the preferred products from the certification schemes to the companies, which would need a system to guarantee they were providing sustainable foodstuffs; moreover, the government would have to have some means of validating their claims, which would be much more difficult in the absence of certification. Assessing all the products produced by a preferred supplier would be very difficult if there were no system for tracing the product through the supply chain. Furthermore, a system for assessing the claims of any other company that asserted it was operating sustainably would also be required. That said, the growing number of private-sector initiatives in this area may hold out the prospect of new identification mechanisms emerging.

## The role that private-sector initiatives can play

In recent years, many companies involved in international agricultural supply chains have undertaken voluntary initiatives to promote sustainable products and adopted commitments to remove deforestation from their supply chains. As noted above, more than 50 companies have signed the New York Declaration on Forests, the aims of which include eliminating deforestation from agricultural commodity production by no later than 2020. There are a number of reasons

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<sup>69</sup> See, for example, Greenpeace (2013), *Certifying Destruction: Why consumer companies need to go beyond the RSPO to stop forest destruction* (2013). However, RSPO has disputed some of the assertions in this report.

<sup>70</sup> ‘Joint Statement: Palm oil companies join NGOs to find palm oil solutions’ of 28 June 2013, available at <http://www.ran.org/joint-statement-palm-oil-companies-join-ngos-find-palm-oil-solutions>.

behind these developments, including pressure from NGOs,<sup>71</sup> concerns over brand image and growing awareness of possible problems with future security of supply.

Public procurement policy can sometimes help to stimulate such private-sector initiatives, as in the case of the 2012 UK statement on sustainable palm oil production described earlier in this paper. The Dutch government, in particular, has gone to some lengths to promote private-sector activity; among other things, it has negotiated covenants and letters of intent with the private sector and provided support to IDH (the Sustainable Trade Initiative), which aims to promote sustainable supply chains.

In some cases, private-sector initiatives may be so well advanced that the use of public procurement is unnecessary. For example, the Dutch Task Force on Sustainable Palm Oil was established in 2010 with the aim of ensuring that all palm oil used in the Dutch market is RSPO-certified by the end of 2015; by 2013 some 61 per cent of palm oil was certified, as against 30 per cent in 2011.<sup>72</sup> Similar initiatives for palm oil are under way in Belgium, Denmark, France, Germany and Sweden. In general, palm oil has been the agricultural commodity on which there has been the greatest focus: by the end of 2014 zero-deforestation commitments by the major global traders of palm oil covered about 60 per cent of all global trade. (Wilmar International accounts for about 45 per cent of global market share in palm oil, Golden Agri-Resources some 5 per cent, and Cargill about 10 per cent.)<sup>73</sup> The same kind of coordinated private-sector action has yet to be applied in the case of other products.

## What is the impact on domestic producers?

In most countries, sustainability requirements in procurement policies must be applied to products regardless of their national origin (see the discussion above on WTO and EU procurement rules). For some commodities associated with deforestation (e.g. palm oil or cocoa), this is of little relevance to consumer countries as they have no domestic production of those commodities. But for others, it is likely to be a concern. The US, for example, is a significant producer of soy, and both the US and the EU are significant producers of beef. As already noted, certification systems for beef and soy do not yet have substantial coverage. For their part, US soy producers tend to see soy certification as a solution to a specifically South American problem and as being of no relevance to them. This makes the application of procurement policy more difficult, and much more subject to lobbying from domestic producers.

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<sup>71</sup> Notably, Greenpeace's campaigns against deforestation associated with Nestlé's use of using palm oil from Southeast Asia and various meat and leather companies' sourcing of cattle from the Brazilian Amazon.

<sup>72</sup> For further information, see <http://www.taskforceduurzamepalmolie.nl>.

<sup>73</sup> Climate Summit 2014, *Forests: Action Statements and Action Plans*, p. 14.

## Conclusion

Procurement policy has been used effectively to exclude illegal and unsustainable timber from consumer-country markets. The public sector is a significant purchaser of food and catering services, and public procurement policies clearly have the potential to promote the uptake of sustainable food products in order to reduce imports of agricultural commodities associated with deforestation. Many public authorities, particularly at the local and regional level, already have a procurement policy for food. In principle, criteria for sustainable production could be incorporated into such policies relatively easily.

There are significant implementation challenges, while some products – particularly palm oil, cocoa, coffee and tea – are more suited to a procurement policy approach than are others. Voluntary certification initiatives are under way for all these products; these may offer identification mechanisms on which procurement policies can rest. The extent to which these certification systems deal with deforestation varies; procurement policies could be used to apply upward pressure to improve their standards. Beef is a more difficult case, since certification is not common for this product. The adoption of a procurement policy for palm oil in the UK is welcome, and its development and effectiveness should be monitored.

Other commodities may not be so suited to procurement policy, and in such cases it may be more effective to use other regulations. This applies particularly to soy, where biofuel regulations are likely to have a bigger impact than is procurement policy. In cases in which private-sector initiatives are under way to achieve 100 per cent sustainable imports (such a target has been set for palm oil in several countries), procurement policy may be unnecessary. In other cases, the adoption of a new procurement policy could serve as the spur to a private-sector initiative.

## Acronyms

CPET	Central Point of Expertise on Timber
EU	European Union
FSC	Forest Stewardship Council
GATT	General Agreement on Tariffs and Trade
GDP	gross domestic product
GPA	Government Procurement Agreement
GPP	green procurement policy
IDH	Sustainable Trade Initiative (the Netherlands)
ISCC	International Sustainability & Carbon Certification
MSC	Marine Stewardship Council
NAP	National Action Plan
OECD	Organisation for Economic Co-operation and Development
PEFC	Programme for the Endorsement of Forest Certification
RSPO	Roundtable on Sustainable Palm Oil
RTRS	Roundtable for Responsible Soy
SAN	Sustainable Agriculture Network
TPAC	Timber Procurement Advisory Committee
UNCITRAL	UN Commission on International Trade Law
WTO	World Trade Organization

## About the Author

Duncan Brack is an independent environmental policy analyst, an Associate Fellow of Chatham House and an Associate of Forest Trends. From 2010 to 2012 he was special adviser at the UK Department of Energy and Climate Change; before that he worked for Chatham House, and from 1998 to 2003 was head of its Sustainable Development Programme. His areas of expertise include international forestry policy, forest governance and the timber trade, climate policy, low-carbon investment, bioenergy, public procurement, the interaction between environmental regulation and trade rules, ozone depletion and the Montreal Protocol, and international environmental crime, particularly illegal logging and the trade in illegal timber.

## Acknowledgments

The author would like to thank Rob Busink, Andre Defreitas, Heather Ducharme, Adelaide Glover, Alison Hoare, Robert Kaukewitsch, Hannah Mowat and Saskia Ozinga for helpful comments on earlier drafts of this paper.

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ISBN 978 1 78413 081 7

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