

International Forum on Closing the Gap: Human Rights, Deforestation and Supply Chains

PROPOSALS FOR ACTION

Background: This set of recommendations is the result of a three-day meeting between 14 indigenous leaders, human rights defenders and activists from 11 countries (Peru, Colombia, Paraguay, Argentina, Guyana, Suriname, Liberia, Cameroun, DRC, Malaysia and Indonesia) working with different social justice NGO allies, who together held a forum on "**human rights, deforestation and supply chains**" in the city of Amsterdam, the Netherlands, between the 12 and the 14 of February, 2018. As a result of this meeting, we adopted a '[Call to Action](#)' in a consensual manner issued on 15 February 2018.

In addition, we formulated precise recommendations for different actors, sectors, and initiatives supporting efforts to combat deforestation and involved in formulating policies on sustainable trade. The recommendations presented below are aimed at promoting and accelerating a positive and effective change in the global supply chains of commodities with a high risk of generating conflicts and serious harmful impacts on our peoples, lands, forests and territories.

A. To all national, provincial and local governments, the European Union, the United Nations, local and international civil society

Take urgent action to increase and improve protections afforded to human rights, forest and environmental defenders ("HRDs"), and their families, colleagues and communities by, *inter alia*:

1. Giving increased support to prevention and protection measures for human rights and forest defenders in their territories at the local level, including support, for community-based prevention and protection initiatives for strengthened early warning and security systems;
2. Raising public awareness and empathy of citizens in forest countries on the positive work of HRDs, using the media and dissemination of public information;
3. Establishing dedicated national protection programmes for HRDs, which include an early warning system to trigger the launch of preventive and protective measures and address risks to defenders' family and community members and colleagues;
4. Providing urgent training to security and law enforcement officials, including national police and security forces, on HRDs and the need to refrain from coercion, false imprisonment, intimidation and criminalisation of peaceful protesters and rights activists;
5. Prohibiting and sanctioning human rights abuses occurring in other countries that are committed, caused or contributed to by multinational corporations, resident or registered in local jurisdictions, and providing effective mechanisms of redress that enable foreign victims to pursue remedies in local jurisdictions;
6. Increasing support via bilateral and global programmes for HRDs, including targeted donor support to national initiatives and programmes on HRDs – such as the proposed Integrated Programme for the Security and Protection of Human Rights Defenders in local indigenous, ethnic and smallholder territories in Colombia;
7. Expand and strengthen existing HRD initiatives such as the "Shelter City Initiative" coordinated by Justice and Peace Netherlands, to afford protection to HRDs facing extreme levels of risk/when she or he feels under extreme threat.

B. To the Dutch, UK, French, German, Danish, Norwegian and Italian Governments, as signatories of the Amsterdam Declarations

Pursue, strengthen and accelerate collective and individual efforts of the Amsterdam Declarations signatory countries to implement commitments in the **Amsterdam Declarations**, by, *inter-alia*:

1. Taking additional urgent actions to include stronger elements under this initiative to promote the recognition and protection of **human rights**, and guarantee the secure rights of indigenous peoples and local communities over land and their territories;
2. Supporting traditional and local forms of self-government for defending communal and collective territories, lands and forests against deforestation pressures;
3. Establishing a central ombudsman's office for this intergovernmental initiative, hosted by one of the signatory governments, with powers to receive, investigate and verify complaints and grievances from individuals, local communities and civil society organisations regarding different agri-commodity supply chain actors, including producers, financiers, certification schemes, and national and transnational companies;
4. Exploring country-led options for establishing an independent national sustainable trade ombudsman's office in each signatory country with powers to investigate allegations of human rights abuses and illegal deforestation linked to companies registered in signatory countries (including financiers and consultancy firms) with operations or investments overseas;
5. Setting up public national human rights risk registers for each producer country to guide and carefully scrutinise foreign trade and investment agreements, and to inform due diligence by companies, traders and investors registered or resident in signatory countries;
6. Ensuring that where commodity certification standards are used as a proxy for supply chain sustainability (for palm oil, beef, soy etc), that these certification standards are **fully aligned with international human rights law norms**, backed by robust compliance, verification and accountability mechanisms and that any loopholes in such accountability frameworks are closed, including any gaps in complaints and redress mechanisms and/or membership rules are rectified;
7. Supporting **upward harmonisation of certification standards** and their complaints and redress mechanisms to meet minimum benchmarks for human rights, land rights and forest protection;
8. Adopting measures to require agri-commodity companies, financiers, investors, traders and retailers to undertake robust human rights, land tenure and territory and forest protection due diligence for their supply chains and investments, including through binding national laws on corporate due diligence obligations;

9. Imposing stricter and binding controls on financial institutions registered in signatory countries to ensure they comply with due diligence obligations and do not off-load responsibilities through using financial intermediaries and subsidiaries, banks and financial bodies, which do not adhere to the Equator Principles and fundamental human rights and environmental standards;
10. Adopting more explicit responsibilities for signatory governments themselves in ensuring supply chains entering their jurisdictions are sustainable, compliant with international human rights law and all applicable national laws, and introducing minimum benchmarks to ensure accreditation is only given to robust certification standards which incorporate international human rights norms;
11. Supporting industry and civil society actions, initiatives and programmes to strengthen compliance and increase supply chain accountability to communities, including through **closing accountability loopholes** and actions to make complaints mechanisms of palm oil and other agri-commodity certification schemes more independent, agile and accessible;
12. Providing targeted assistance to organisations and communities of indigenous peoples and other first peoples and/or forest dependent communities to monitor government, company and investor compliance with human rights and land tenure standards in agri-commodity and conflict-commodity supply chains;
13. Promoting well-resourced **national anti-corruption initiatives** in agri-commodity producing nations with high deforestation rates, learning lessons from the strengths and weaknesses of existing anti-corruption drives in Indonesia and Malaysia;
14. Stepping up support to **inter-agency bilateral and multilateral programmes for police and justice cooperation** to tackle illegal forest conversion, forest crime and related human rights violations, backed by robust associated independent monitoring mechanisms;
15. Undertaking public education programmes in each country to raise awareness among citizens and young people of the human rights and deforestation impacts of conflict commodity supply chains, including violence, corruption, criminality, rights abuse and environmental harm associated with the international drug trafficking and the narcotics trade.

C. To the European Union and European Commission

Accelerate actions to ensure EU/EC policy coherence and implement commitments and targets on human rights, forests, conflict commodities and good governance of land tenure enshrined in different EU and EC policies, including the EU Guidelines on Human Rights Defenders (2008), EU's Trade for All Policy (2015), the EU Action Plan on Human Rights (2015), the European Consensus for Development (2017) and renewed EU and European Council commitments to the EUTR and FLEGT and FAO Voluntary Guidelines on Responsible Governance of Tenure ("VGGT"), through, *inter alia*:

1. Taking urgent decisions and concerted actions to develop and adopt a fully-fledged **EU Action Plan on Deforestation and Forest Degradation**;
2. Incorporating well-resourced **right-based components** in the aforesaid EU Action Plan, including:
 - a. Allocation of existing and new EC budget to create a **dedicated EU Community Forest Tenure Fund** providing direct support to indigenous peoples and other first peoples and/or forest dependent communities;
 - b. Targeted EC budget support for **community-conserved forests and territories**, enabling direct and easily accessible funds for grassroots actions in support of community forest management, autonomous traditional systems of self-government, sustainable livelihoods and self-determined development by indigenous peoples and other first peoples and/or forest dependent communities, including support for forest peoples to protect, restore and defend their customary lands, territories, forests and waters, especially in conflict areas;
 - c. Assistance for **independent community-based monitoring of conflict commodity supply chains** to assess compliance with human rights, land and territorial rights and forest protection standards;
 - d. Setting up a new dedicated and permanent dialogue space to establish an "**EU-Indigenous Peoples Forum on Forest Defenders, Territories and Biodiversity**".
3. Formulating new **EU binding instruments to regulate conflict commodity supply chains**, including for agri-commodities (beef, soy, palm oil etc) linked to human rights abuse, illegal land acquisition and deforestation;
4. Expanding and **reinforcing arrangements for preventing, monitoring and verifying human rights impacts of EU bilateral and multilateral free trade and investment agreements**, including via verifiable indicators and independent community-based monitoring and reporting initiatives, including through the development of an EU *Human Rights Risk Register by producer country*¹ -

¹ This might include a public database of human rights risk factors and indicators, which could include, among others: customary land ownership and security; past or present reports of human rights violations including women's rights violations; prevalence of corruption; prevalence of narcotics trade; reported incidences of land-grabbing; evidence of non-compliance with or violation of international law and human rights conventions; serious lack of food security and food sovereignty; lack of water security and sovereignty for local and indigenous communities; intimidation, injury and murder of human rights, forest and land defenders; absence of proof that local communities have their own freely chosen representatives, safe spaces, and means to influence policies impacting their rights, livelihoods, land or territories.

to guide and scrutinise foreign trade and investment agreements, and to inform due diligence by the EC itself, European companies and EU member states;

5. Adopting policies to ensure EU and EC commitment to, and alignment with, UNDRIP and related instruments on the rights of indigenous peoples are respected in EU trade agreements, including through a review of supply chain legality criteria for FLEGT VPAs to include international law and customary law as part of legality definitions;
6. Strengthening compliance with the EU policy on Indigenous Peoples with improved **human rights safeguards and complaints mechanisms for all EC development cooperation**, including developing safeguards to prevent abuse of forest peoples' rights by recipients of EC development cooperation alongside clear criteria for the suspension of funding in cases of proven forced evictions and other right violations;
7. Expanding EU support for crime-free and deforestation-free EU supply chains via **inter-agency, bilateral and multilateral programmes for police and justice cooperation** to tackle illegal forest conversion, forest crime and related human rights violations, including through involvement of Europol, Interpol, importing and producing countries, and local and international civil society organisations.
8. Amending the EUTR scope and rules to cover forest-risk products like charcoal and require the seizure of timber placed on the EU market in violation of its Due Diligence provisions;
9. Reinforcing existing EU support for human rights defenders through strategic partnerships to support national programmes and initiatives for those countries with a high-risk violence against HRDs.
10. Promote, scale up and empower alternative strategies for economically and environmentally sustainable systems of food production via increased support for local food security and food sovereignty and reforms in EU and EC agricultural, trade and development policies to enable strengthened local, diverse and ecological farming systems both in third countries producing and supplying agri-commodities to Europe and in EU countries, including support for small scale technological developments.

General recommendation: Overhaul the current EC grant-making procedures and budget lines to reduce bureaucracy and remove barriers which currently channel the bulk of EC grant funds to consultancies, large global agencies and bigger international NGOs. Changes must ensure EC grants are more accessible to community organisations, indigenous peoples and other first peoples and/or forest dependent communities.

D. Tropical Forest Alliance 2020

To fulfil commitments to uphold forest peoples' rights, ensure effective participation of communities and fully align TFA2020 planning and initiatives (including the Africa Palm Oil Initiative ("APOI") and TFA2020 national action plans and operations) with the UN Declaration on the Rights of Indigenous Peoples and related human rights instruments; and to apply land tenure standards such as the FAO VGGT, the TFA2020 should, *inter alia*:

1. Better integrate full respect for human rights, including respect for customary collective community rights to land and FPIC for indigenous peoples and other first peoples and/or forest dependent communities in its policies through adoption of a human-rights based approach to sustainable supply chains and measures to combat deforestation;
2. Adopt clear mechanisms for the effective protection of customary community rights to land as a central plank of its policy and actions, as one of the most effective mechanisms for reducing deforestation;
3. Guarantee effective engagement with local and national human rights NGOs, as well as communities whose lands are affected by agri-commodity supply chains, including robust procedures to ensure community organisations and forest defenders are informed and supported to participate in any TFA2020 sponsored initiatives that may affect their lands territories and forests;
4. Include an independent, effective, accessible and agile human rights complaints mechanism, as well as a permanent monitoring committee with guaranteed representation indigenous peoples and other first peoples and/or forest dependent communities, in all national TFA2020 programmes and initiatives, with clear outreach and culturally appropriate information on technical policies such as jurisdictional approaches, High Carbon Stock Approach and High Value Forest tools;
5. Undertake annual independent audits of compliance with applicable human rights, tenure and forest protection standards in TFA programmes and projects and enable sanctions and enforcement of applicable laws.
6. Pursue effective conflict resolution and redress for human rights and land rights violations and provide rehabilitation and restitution for the victims and measures to restore the environment.

E. Commodity certification schemes

1. All existing and developing certification schemes (including those emerging schemes for agri-commodities like beef) must be harmonised to include obligatory standards requiring respect for customary community land rights, the right to a clean environment and the application of free, prior and informed consent prior to the acquisition or use of any lands and territories owned by indigenous peoples and other first peoples and/or forest dependent communities according to their customary laws. This requirement should be the subject of a direct, separate confirmation independent validation with affected peoples and communities by certifying bodies prior to any verification or expansion;
2. All certification standards for agri-commodities and other supply chains of products that generate conflict must include specific norms on human rights, including policies on human rights defenders, and safeguards to avoid retaliation against whistleblowers;
3. Any time an audit is conducted of certified production, affected communities should be given the opportunity to submit information directly to the certifying body (to be considered alongside the auditor's report), in order to ensure that communities' perspectives are adequately represented before any decision on (continued) certification is taken.
4. Certification bodies must enable an active role for local communities and independent bodies chosen by rights holder in verifying company performance of FPIC requirements and adopt processes that place the burden of proof on companies to demonstrate that FPIC processes have been properly completed with the full and effective participation of indigenous peoples and other first peoples and/or forest dependent communities;
5. All certification schemes should have genuine, agile, independent and effective redress mechanisms available to communities and for rehabilitation of the environment in cases of environmental damage;
6. In view of the problem of companies exiting certification schemes when complaints, certification bodies should prepare an options paper, which considers options for disincentivising or otherwise penalizing companies which leave certification scheme for non-compliance or suspected non-compliance with their obligations (leaving affected communities and/or workers without redress). This options paper should consider the possibility of requiring a "deposit" or "bond" from producer companies. Once developed, this options paper should be the subject of discussions within the membership of the certifying body.

F. To companies and investors involved in projects acquiring or using customary lands with significant risk of impacts on human rights and ancestral, collective and/or community forests

1. All companies considering operations or investment (direct or indirect) in projects which involve the use or acquisition of lands and territories of indigenous peoples and other first peoples and/or forest dependent communities in forest, rural or peri-urban areas (subsequently referred to as “land investments”) should conduct human rights due diligence in relation to the investment, with specific attention to the possibility of their project violating customary tenure rights (including unresolved claims or those not recognized under national laws). That due diligence should obligatorily include a site visit to consult with local people who may be affected by the proposal (rather than reliance on discussions with governments alone).
2. Companies involved in land investments should engage in internal training of their staff in relation to international human rights obligations, including particularly in relation to customary tenure rights of indigenous peoples and other first peoples and/or forest dependent communities, as well as the requirement of free prior and informed consent (FPIC). Companies should also develop strong internal protocols, compliant with international law, on the conduct of consultations and processes of free, prior and informed consent.
3. Companies should undertake to disclose and publish (redacting only genuinely commercially sensitive information) all contracts with national governments and communities that relate to land investments. In particular, any contract or clause which relates to agreed benefits for communities should be published, and copies made physically available to communities concerned.
4. Companies should respect the letter and the spirit of their engagements with communities, and ensure that, when entering into such agreements, they are drafted in a form which will ensure they are binding and enforceable.
5. Companies should respect the culture of the territories in which they operate.
6. Companies should reconsider their project models, and ensure that all land investments which do or may affect indigenous peoples and other first peoples and/or forest dependent communities include real (and desired) benefits for affected communities. In particular, companies should, as a general principle, provide support to local development initiatives alongside any proposed development (including e.g. marketing support for local products, outgrowing schemes, local production systems, training and employment opportunities etc).
7. Financial institutions must have systems of control and due diligence to ensure that the lending to financial intermediaries and subsidiaries, banks and financial bodies providing credits for agro-industry sector such as soy maize and other commodities including the finances for big infrastructure projects, ports, railways, processing facilities/extraction plants, fully respect human rights, community tenure, protections for natural forests and fragile environments, including aquatic environments.