The burning issue
Will no-deforestation pledges work on the ground?
Deliver social impact and drive commercial success

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Editor’s letter

Welcome to the July 2017 issue

This month we look at the burning issue of deforestation, and how corporate commitments to address this growing risk in their supply chains is playing out in four different commodities on three continents. Mark Hillsdon looks at how brands are pushing the beef and soya industries to reduce deforestation risks in Brazil, where forest loss is now accelerating after a decade of going into reverse.

He also analyses the prospects of a recently brokered agreement to end deforestation in the cocoa supply chain, which will involve empowering smallholder farmers, primarily in Ghana and Cote D’Ivoire.

I examine whether a newly minted methodology called the High Carbon Stock Approach will end years of dispute between companies and NGOs over what constitutes forest in Indonesia, and allow brands to implement deforestation commitments.

Our other briefing this month is on corporate progress on human rights. Claire Manuel analyses the impact of the new Corporate Human Rights Benchmark, the first-ever ranking of companies and human rights, which raised some eyebrows by giving Rio Tinto and BHP Billiton top marks alongside Marks and Spencer.

In the US, April Streeter takes soundings about the impact of President Donald Trump’s attempts to roll back key legislation governing corporate human rights obligations, while Diana Rojas profiles one US electronics company that pioneered conflict-free tantalum in the Democratic Republic of Congo.

A little light reading for the beach…

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Editor

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Delivering scalability, efficiency, social and business impact

Move to a Responsible-Centric Supply Chain:
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France’s announcement earlier this month that it will end “imported deforestation”, banning imports of unsustainably produced palm oil and soy is indication of how far deforestation has risen up the agenda for policy makers, NGOs and big brands.

In May, eight major companies, including McDonald’s, France’s L’Oréal, Swiss fragrance company Firmenich, and Johnson & Johnson, joined a new supply chain platform by not-for-profit CDP that seeks to secure a deforestation-free value chain. “With such a large proportion of company revenues attached to commodities in their supply chain that are driving deforestation, this is now a critical business issue,” said CDP’s head of supply chain Dexter Galvin.

According to CDP $900bn in annual turnover is at stake, with cattle, timber, palm oil and soy the commodities most responsible for tropical forest loss. Tree loss is responsible for an estimated 10%-15% of global greenhouse gas emissions, as well as habitat loss and social conflict.

The 400 members of the Consumer Goods have pledged to achieve zero net deforestation in their supply chains by 2020. Yet according to the UK based think tank Global Canopy Programme the current rate of progress means ambitious deforestation targets are not going to be met.

In this issue we assess moves to end commodity-driven deforestation on three continents starting with palm oil in Indonesia, beef and soy in Brazil, and cocoa in Africa.
Hope for breakthrough in battle to save the Orangutan

By Terry Slavin

A surge in corporate no-deforestation commitment hasn’t stemmed habitat destruction from the rapid spread of palm oil plantations in Indonesia, as a new report by RAN on illegal deforestation in Sumatra highlights. We assess whether a new methodology for implementing them could help turn the tide

Corporate commitments to end deforestation caused by palm oil have multiplied in recent years amid increasing investor and consumer concern about growing demand for this cheap commodity, found in about half of consumer products, from bread and breakfast cereals, to household detergents and cosmetics. It is also being used in biofuels and power plants.

Global production has doubled over the past decade, expanding more rapidly than almost any other agricultural commodity, according to Ceres in a new investor brief on palm oil. And annual demand is expected to grow another 50% to 77 million tonnes in 2050. The “rapid and poorly managed” expansion is causing massive large-scale deforestation and significant greenhouse gas emissions from clearcutting and burning tropical forests, Ceres’s Engage the Chain report points out. Indonesia, the biggest palm oil producer, has lost an area almost the size of Germany since 1990.

Not only are the forests that provide ecosystem services such as water, food, and fuel to indigenous communities being destroyed, smoke and haze...
from the clearcutting and burning blanket much of South East Asia for months on end, with serious health consequences, the report says. It is also having a devastating impact on biodiversity, particularly the endangered Sumatran Tiger, with 43% of the Tesso Nilo National Park in Sumatra over-run by illegal palm oil plantings.

According to research from Washington-based Chain Reaction Research, there are now 365 companies with No Deforestation, No Peatland, No Exploitation policies. It calculates that 29% of Indonesia’s leased out landbank, an area equal in size to 10 million football fields, risks becoming stranded assets if buyers’ no-deforestation policies are implemented.

**Curbing deforestation**

But the big question is whether these no-deforestation policies are actually stemming the destruction of forest and peatland. A scorecard of the biggest companies’ deforestation-free commitments by Greenpeace last year found that only two of 14 companies surveyed, Ferrero, maker of Nutella, and Nestlé, are on track to meet their commitments, and only Ferrero can trace nearly 100% of its palm oil to the plantation where it was grown. Unilever, the world’s largest purchaser of palm oil, only scored “decent” marks for responsible sourcing and transparency.

“Our analysis shows that companies have yet to take control of their supply chains and are unable to say with any confidence that the palm oil they use is not driving the destruction of rainforests, threatening endangered species or contributing to social conflicts in Indonesia,” Greenpeace said.

A hard-hitting new report by the Rainforest Action Network this month, meanwhile, highlighted the risks for brands from a single deforestation event far down in their supply chains. It said no deforestation policies from some of the world’s major brands, including General Mills; Kraft Heinz; Kellogg Company; Mars; Mondelez; Nestlé; PepsiCo; Unilever; McDonald’s; and Procter & Gamble, “aren’t worth the paper they’re written on” because they may have been associated with illegal deforestation in the Leuser ecosystem in Sumatra, home to the largest remaining populations of the Sumatran tiger, Sumatran elephant, Sumatran rhino and the Sumatran orangutan.
RAN said this is because the brands source from large palm oil traders, including Wilmar, Musim Mas, Golden Agri Resources, and Cargill, which have failed to take the “corrective action” they have promised since 2014, when RAN first highlighted illegal clear cutting by one palm oil supplier, PT Agra Bumi Niaga. RAN produced satellite images showing that the area in its concession covered by forests had reduced from 420 hectares in June 2016 to 88 hectares in April 2017.

“Major brands continue to hide behind corporate greenwash while forests are flattened in the Leuser Ecosystem to make way for Conflict Palm Oil plantations,” RAN concluded.

A lack of unity
Simon Lord, group chief sustainability officer for Malaysia-based Sime Darby, the world’s biggest producer of certified sustainable palm oil, which was not named in the RAN report, told Ethical Corporation that some of the palm oil traders named, including Wilmar and Musim Mas, are the ones that are working hardest to make palm oil sustainable. “It’s always the same names that are attacked. ... The ones who are trying to make a difference. The ones who are most transparent. Because by trying to live up to standards that are above the industry norm we expose ourselves and time and time again we get hit.”

Wilmar, which controls 45% of the global palm oil trade, said last year that it had made “significant progress” on its 2013 commitment to eliminate deforestation, exploitation and peatland development from its supply chain, including publishing a list of crude palm oil mill sources that supply its refineries. However Wilmar’s chief sustainability officer Jeremy Goon, also pointed out that “much remains to be done, including the development of a clear means to measure and track the progress of sustainability commitments to assess its effectiveness in reducing actual deforestation”.

Lord agrees that the lack of a single methodology supported by both NGOs and companies has made it difficult for companies to implement their
no deforestation commitments. Companies have made them because Roundtable on Sustainable Palm Oil rules are no barrier to companies clearing high-carbon forest, as the rules mainly cover undisturbed primary forest, of which there is little remaining in Indonesia. Most of the plantation concessions are on fragmented landscapes of secondary forest that are in various stages of regeneration.

In the absence of strong rules from the RSPO, two alternative methodologies evolved, with big differences on what secondary forest should be protected, either because of their carbon and biodiversity value or their value to indigenous communities.

A stalemate between two competing approaches was resolved late last year, after Sime Darby and Unilever brought leading industry players and NGOs together in a series of workshops to agree a converged High Carbon Stock (HCS) Approach to assessing forests, and released a toolkit in May guiding companies on how to implement them.

Adita Sen, climate and sustainability advisor for Oxfam in the US, which was an observer but not participant in the development of the High Carbon Stock Approach, describes it as “an important step forward. … Companies now have the methodological clarity they need to start moving toward deforestation-free supply chains.”

One caveat is that while the methodology gives primacy to the issue of land rights and free and prior informed consent by affected communities, it remains to be seen, in practice, whether indigenous communities will be brought into the decision-making process. Oxfam would also like to see pathways to enhance the livelihoods of small-scale palm oil farmers.

Lord says when more companies begin implementing their commitments using the HCS Approach, even more of companies’ palm oil concessions, awarded by the Indonesian government, will be out of bounds because they will not be able to develop them sustainably. This is the case with Sime Darby’s 220,000 hectare palm oil concession in Liberia, where the new approach will not allow the company to lift a moratorium on planting it imposed on itself in 2014. (see Trying to square the deforestation circle in Liberia)
Revoked land

But here’s the rub: a key point in the Chain Reaction report is that compliance with no-deforestation commitments is no guarantee that forest and peatland will be protected. This is because under current government of Indonesia regulation, growers’ licenses can be revoked after three years if they do not develop their land into palm oil plantations. “Licenses can then be redistributed to other actors, including those active in other commodity sectors that are not necessarily bound by any NDPE policy.” Chain Reaction said.

Lord confirms that the Indonesian government has exercised this right. “Several large companies I know about have had high carbon value areas taken away from them and given to other companies. … It’s always a threat.”

Besides palm oil, the land could also be awarded for rubber plantations, a commodity that is almost as ubiquitous as palm oil in south-east Asia (covering about 70% of the acreage covered by palm), according to researchers from the University of East Anglia’s School of Environmental Sciences. As Ethical Corporation reported last year, among tyre makers, the biggest users of rubber, only Michelin has committed to a deforestation-free supply chain.

Gabriel Thoumi, director of capital markets at New York-based Climate Advisers, and one of the authors of the Chain Reaction report, says many small and mid-sized Malaysian companies have both palm and rubber plantations, and overlapping boards.

He points to an additional problem: while deforestation-free commitments bind individual companies, joint ventures, even between two companies that have individually made zero-deforestation commitments are not covered. “There’s a gaping hole in the NPDE in that it doesn’t cover joint ventures, and in some cases a significant amount of revenue is coming to the companies from their joint venture sales.”
PepsiCo ‘not serious’
One high-profile case was Malaysia’s IOI, which was suspended from the Roundtable on Sustainable Palm Oil last year after a complaint by Dutch NGO Aidenvironment, leading major multinationals, including Unilever, Kellogg’s and Mars, to drop IOI Group as an approved supplier.

But the more egregious example is PepsiCo, whose heightened palm oil commitment, made in 2015, specifically exempts its joint-venture partner Indofood from adhering to its heightened social and environmental standards.

Indofood, which produces PepsiCo products in Indonesia, is Indonesia’s third-largest private palm oil company and the last company among the top three palm oil growers yet to adopt a responsible palm oil policy.

Eric Wakken of Aidenvironment, the Dutch NGO that forced the RSPO to sanction IOI and authored the RAN research on Indofood, says PepsiCo has shown it isn’t serious about its no-deforestation commitment by letting Indofood off the hook.

“Indofood continues to carry out peatland conversion. They aren’t engaging with civil society or [palm oil] buyers in a positive way. …. Usually plantation growers will surrender [when they come under pressure] but others, like Indofood, are focused on the Indonesian market and have less interest in being part of the international market.”
Wakken says NGOs like Rainforest Action Network and Greenpeace will keep up the pressure on PepsiCo and other companies including South Korea’s Daewoo, Korindo and Nobel for sourcing what they call “conflict palm oil”.

But despite such leakages, he believes the no-deforestation movement is “like a tanker that will not be turned around”.

“NGOs have been successful in pressing the palm oil industry to commit to end deforestation and peatland conversion even though the Indonesian government had allowed that type of development,” he says. “I think we are slowing deforestation down, but it’s hard to demonstrate right now as the policies have only been in force for three and a half years.”

Positive impact
Even if the Indonesian government does withdraw the licences of palm oil companies that are sitting on stranded assets and give them to companies without deforestation commitments, he says the market for commodities linked to deforestation is shrinking, even in Asian markets.

“No large international brand wants to be associated with deforestation anymore,” Wakken says. “We estimate that two thirds of all palm oil refineries in the world are owned by companies with no-deforestation commitments.”

Meanwhile, palm oil companies want to show that they can actually have a positive impact on declining species. Sime Darby is one of a group of palm oil growers, including Musim Mas, Wilmar, PT ANJ Agri and United Plantation Bhd, that has formed an alliance with conservation NGOs called the Palm Oil and NGO Alliance (Pongo, for short).

Part of its remit is to prevent the estimated 10,000 orangutans who currently live on non-certified palm oil concessions, mainly on the island of Borneo, from becoming extinct if their habitats are not managed properly. This would turn the 20,000 hectares of palm oil stranded assets into conservation sites, and presumably make it more difficult for the Indonesian government to revoke their licenses. Wakken says the Indonesian government should listen to the no-deforestation message from the market. “It’s time the government takes it [the High Carbon Stock Approach] into its land-use planning.”
Sustainable solution still elusive for African palm oil

By Terry Slavin

Sime Darby is looking for a way to balance development for poor farmers with forest conservation in Liberia

While the high carbon stock approach methodology will help companies implement no-deforestation commitments in Indonesia’s fragmented landscapes, it is ill-suited to help in densely forested Africa, where most new palm oil development is now occurring. According to a new report from the World Resources Institute, expanding palm oil plantations in Liberia and Sierra Leone will have contributed to a six and 12-fold increase, respectively, in deforestation in 2015 compared to 2001.

“It’s a methodology everyone can agree with,” says Simon Lord, chief sustainability officer of Sime Darby of the High Carbon Stock Approach. “But there is still one problem. It works in a fragmented landscape but when a country is forested and the forest is old, what do you do?”

Since January 2014, when Sime Darby signed up to the Sustainable Palm Oil Manifesto, committing to no further deforestation, no planting on peat, and no exploitation of workers and communities (a precursor to the High Carbon Stock Approach), the company has had a moratorium on all new planting in Liberia, where it was awarded a concession by the Liberian government to develop 220,000 hectares in 2008. “Since 2008, we’ve only developed 2,000 hectares in Liberia,” he says. “And we were only able to develop that because we knocked down rubber trees and planted palm oil.”

A big part of the problem with the concession, as in others awarded by the Liberian government, was the absence of free prior and informed consent from communities, Lord says Sime Darby has been working diligently to obtain FPIC from all the affected communities in the concession. What remains unchanged is the density of forest cover on the concessions, which under the High Carbon Stock Approach must remain touched. Dense forest covers more than
40% of the country and are considered one of west Africa’s most important carbon sinks and biodiversity hotspots.

**Poverty in Liberia**

A visit to Liberia earlier this year with the environmentalist Jonathan Porritt, who is advising the company, convinced Lord that it is in the interests of the communities as well as Sime Darby for a solution to be found.

According to the World Bank, around 70% of Liberia’s citizens still live below the poverty line of $1.90 a day, with levels of male unemployment running at 70-80%. The population of 4.5 million is growing fast, with an average fertility rate of 4.6 children per woman.

“Many of these communities live in abject poverty. I went to 21 communities and every single one of them is crying out for development,” Lord said. They expressed anger that Sime Darby’s promises to plant palm oil have come to nought, though the company has built schools and health clinics, and invested $18m in a mill.

He says shifting cultivation, once a regenerative process, is now one of the biggest drivers of deforestation in Liberia because of the huge population pressures. In particular, spiralling demand for charcoal for cooking purposes is leading to whole trees being cut down.

Last Christmas Lord came up with a model for community-based palm oil cultivation, called the Evergreen Model, that would encourage farmers to give up shifting cultivation and move to static farms, with one third of the land keep intact as forests, one third of land farmed as a commodity crop, and one third set aside to grow food crops so farmers don’t jeopardise their ability to feed themselves in pursuit of palm oil dollars.

The Sime Darby board is reluctant to sink any more money into Liberia, he says, so is looking for partners to come help fund trials, with Greenpeace and the High Carbon Stock Approach having already shown interest.

Lord says the model could apply to any commodity in many countries in the developing world. “It’s a tremendous shift in mindset, but I think it needs to be done,” he says. “We are trying to find a solution that means we don’t go down in history as a company that destroys forests, but at the same time we don’t go down in history as a company that turns its back on social development. We still believe we can balance responsible development in these countries with meeting our no-deforestation pledge.”  ■
Beef supply chain blamed as deforestation climbs in Brazil

By Mark Hillsdon

As the likes of Walmart and McDonald’s close in on their 2020 deforestation pledges, green groups hope they can use their collective power to put pressure on rogue ranchers

Last year, after nearly a decade of declining deforestation in Brazil, progress went into reverse, and loss of forest increased by 29%. Much of the blame was placed squarely at the feet of the meat industry, amid allegations that cattle linked to deforested land are making it back into the supply chain as loopholes begin to appear in the increasingly fragile agreements that govern the industry.

Rich biodiversity

Brazil is the most biodiverse country on earth, but its rich flora and fauna must share the forests and savannah with an estimated 226 million head of cattle. It’s a vast bovine herd that was responsible for an estimated 71% of total deforestation in South America between 1990 and 2005.

In fact, beef causes twice as much deforestation as palm oil, soy and wood products put together says Sharon Smith, tropical forest and climate initiative campaign manager at the US-based Union of Concerned Scientists.

Clearing forests has multiple effects. As well as destroying habitats, it damages water courses and soil fertility, and there’s a double carbon
The whammy: as well as destroying a carbon sink, burning the forest releases huge amounts of CO₂ into the atmosphere.

In the early 2000s, as international scrutiny increased, things began to change. There was a new political will to tame deforestation and crack down on illegal logging, with protected territories established and enhanced law enforcement, including new satellite technology that allowed agencies to monitor forests and, importantly, raise public awareness of what was happening.

In 2006 the soy industry imposed a moratorium on sourcing from recently deforested land (see Pressure grows for expansion of Amazon soy moratorium) and three years later the Cattle Agreement was launched, an enlightened yet ultimately flawed voluntary code brokered by Greenpeace that required meatpackers to scrutinise sourcing and monitor farms for social, environmental and labour practices.

Together these measures worked and UCS’s most recent report, “Cattle, Cleared Forests and Climate Change”, showed how not buying beef from ranches linked to deforestation had led to a drop in Amazon deforestation of 70% between 2005-2014.

**Limitations**

So why the reversal in the last couple of years? According to Oliver Salge, Greenpeace Brazil’s international Amazon campaign coordinator, the cattle agreement always had its limitations. “It only involved the largest three slaughterhouses and not the entire sector,” he explains. “In other words, it did not address deforestation on indirect supplying farms nor the entire cattle sector.”

So-called indirect suppliers are unmonitored ranches that cattle may, at some stage, pass through as they’re fattened up on the way to the slaughterhouse. Many such ranches have been implicated in deforestation, continues Salge, who also regrets that the agreement only covers the Amazon and effectively ignored deforestation in other parts of South America.

These shortcomings have recently been exacerbated by the political upheaval in Brazil. The powerful agri-business lobby has grown in strength,
bolstered by increasing influence within Michel Temer’s government. Blairo Maggi, the owner of the country’s biggest soy producer, Amaggi Group, has been appointed agriculture minister, while chief of staff Eliseu Padilha owns ranches within the Serra Ricardo Franco state park.

“We can see signals that the political climate in Brazil is shifting,” says Smith. Last year the environment budget was slashed by 51%. It was a signal, she adds, “that the government was not as serious as it had been previously.”

**JBS scandal**
The meatpacking industry’s commitment to the Cattle Agreement has also been called into question with a scandal engulfing JBS, the world’s biggest meat-packing company. According to an investigation by the Brazilian environmental agency IBAMA the company has knowingly been buying cattle that were raised on illegally deforested land. Greenpeace has suspended all negotiations with the company until it can prove the meat is free from deforestation.

“When you see that the largest company, JBS, has actually been illegally sourcing beef that’s generated from cattle laundering …. it undermines the entire sustainability and deforestation commitment, not only of JBS but also the downstream brands that are relying on this company,” says Smith.

This last point is critical as it means that companies that have pledged to rid their supply chains of deforestation could, unknowingly, still be buying beef products associated with recent deforestation. But as the likes of Walmart and McDonald’s close in on their 2020 deforestation pledges, Smith hopes they can use their collective power to urge meatpackers to act and exert their own influence on ranchers. “That’s the kind of leadership we need to see from the larger companies,” she says.

**Cattle tracks**
A possible solution to cattle laundering already exists in the form of the GTA (guia de trânsporte animal), a tool used for tracking cattle through the supply chain for health reasons.
Brazil has already demonstrated that it is possible to decouple agricultural sector growth from forest loss.

“If the environmental sector had access to this information, they would be able to do a lot more to monitor cattle transit,” says Smith. “This would include not just the first-tier ranches feeding directly to the slaughterhouses but also the indirect supplying ranches further down the supply chain.”

But so far agribusiness has been resistant and refused to make the information public.

“Transparency is key for the growth and responsibility of any sector,” she continues. “Hiding behind this process of proprietary information just means that customers and international companies doing business in Brazil don’t have access to the information they need to ensure consumers that their products aren’t driving illegal activities.”

In a statement from JBS to Ethical Corporation, the company reiterated its commitment to a deforestation-free beef supply chain and said it supports the introduction of what it calls a “green GTA”, based on a list of farms embargoed by the IBAMA that would “avoid animals from farms involved in deforestation entering the national cattle supply chain.”

However, the statement also talks of “government agency indecision implementing the green GTA”, adding that “indirect supplier monitoring must be based on a sector-wide solution involving the industry, civil society, the Federal Public Prosecutor and government agencies.” Perhaps somewhat conveniently, the current government seems to have lost its appetite for implementing such environmental controls.

Another of Brazil’s top meatpackers, Marfrig, also told us that it is now using a new tool, request for information (RFI), in which cattle breeders register the origin of animals acquired from indirect suppliers and check them...
The best performing ranches in the New Land programme have reduced their greenhouse gas emissions by 90%.

Monitoring the supply chain

Not-for-profit CDP is currently piloting a new reporting programme to help cut deforestation in the supply chain, and bring greater standardisation to companies’ activities across various commodities.

Dexter Galvin, head of supply at CDP, says his organisation is working with companies to gather information from their key suppliers on how they are managing the risks linked to forest loss. “We’re trying to push the responsi-
bility down the supply chain and ensure that we’re improving procurement standards and driving a requirement for better quality data,” he explains.

“In commodity supply chains there’s a lot of opportunity for unsustainable sourcing. If you give companies an inch they can take a mile ... any ambiguity, any relaxing of standards, weak procurement policies, that can have a serious ripple effect.”

Galvin believes there’s a huge expectation from consumers that the brands they are buying are on top of issues such as deforestation, too. “Consumers don’t want to have to consider these issues when they’re standing in the supermarket.”

**Time for sanctions?**

A boycott of Brazilian beef, much of which is shipped to China, seems unlikely, but other sanctions could be brought to bear. Norway is threatening to withdraw billions of dollars of financial assistance if the recent trend of deforestation continues, although there have been charges of hypocrisy given the country’s involvement in drilling for oil in the Arctic Circle.

“Brazil has invested a lot in portraying its agricultural practices as sustainable in international markets, but recent attacks by the Temer government on environmental monitoring, information transparency and overall law enforcement put this green image into question,” says Salge.

However, he adds: “Customer demands and a change in the purchasing patterns by the international markets are likely to be heard by responsible Brazilian politicians.”

Galvin agrees, and believes that even if the Brazilian economy is struggling, relaxing environmental and ethical regulations is no panacea. “A lot of big retailers and purchasing organisations want tight controls in the supply chain. They expect that, and if they don’t see that they may actually choose not to source from those markets. It’s a big risk to avoid having a strong regulatory regime.”

Smith believes that it’s down to manufacturers to drive the changes. “When the agribusiness lobby is so strong, and when there are signals that environmental progress in tackling deforestation in Brazil is on the reverse … I think it’s critically important for the brands that are doing business with Brazil to signal that this is an unacceptable pathway forward.”
Pressure grows for expansion of Amazon soy moratorium

Deforestation is not just an Amazonian problem. The Union of Concerned Scientists has pointed to growing forest loss in Gran Chaco, an area that touches Brazil, Paraguay and Bolivia, as well as Brazil’s Cerrado, a tropical savannah that is succumbing to another commodity, soy.

Brazil is the new frontier in soy production. The UN’s Food and Agriculture Organization estimates that by 2025 the country will be the largest producer of soybeans in the world, with production set to increase from 89 to 136 million tons, the vast majority destined for China.

According to Greenpeace, as much as 90% of the world’s soy is used as animal feed, with soya meal now the world’s most heavily traded agricultural product. In 2006 the Soy Moratorium came into force, which Greenpeace describes as one of its most successful campaigns in Brazil. But while it may have spared the Amazon from the ravages of soy farming, farmers moved in elsewhere.

Soybeans now represent 90% of all agriculture in the Cerrado biome, an area where, between 2000 to 2014, agriculture expanded by 87%, with soy beans particularly well adapted to the region’s acid soils.

In one five-year period, deforesting and burning of the Cerrado released nearly 1.5 million tons of carbon-dioxide equivalent (C02e) into the atmosphere, equal to the annual emissions of over 300 million cars.

There are now calls to expand the scope of the moratorium. Initially viewed negatively by the industry, it is now seen as a major commercial triumph, with deforestation-free soybeans opening the door to many new markets.

The impact has been dramatic, with deforestation having fallen by 86% in the Amazonian municipalities covered by the moratorium. NGOs hope the same will be done in the Cerrado, says Greenpeace Brazil’s Oliver Salge. “Greenpeace and other NGOs participating in the Soy Working group have already asked producers and traders in the group to include the Cerrado in the Soy Moratorium, or to find a specific solution to stop the deforestation in the region.”
Thinking small to tackle cocoa deforestation

By Mark Hillsdon

The cocoa industry has been highly fragmented in its approach to moving Africa’s smallholder farmers to sustainable production. A new industry-wide initiative hopes to change that.

In March some of the biggest names in the cocoa sector met in London to sign the Cocoa and Forests Initiative, an agreement designed to end deforestation in the industry’s global supply chain by 2018. Brokered by the Prince of Wales’s International Sustainability Unit, the likes of Nestle, Cargill and Mars have now committed to working with public, private and civil society partners to develop a common vision.

The statement talks of empowering smallholder farmers and their families, improving productivity and helping to finance sustainable development, but will this familiar language usher in a new roadmap for the industry?

Tropical and topical

A plant of the forest, cocoa thrives in hot, rainy, tropical conditions and is grown in a narrow belt either side of the Equator, stretching from Mexico in the west across to Papua New Guinea in the east.

In recent years, with our love of chocolate showing no sign of abating, demand for cocoa has soared. According to the World Cocoa Foundation, Africa is now responsible for nearly three-quarters of all cocoa production, with more than 60% coming from just two countries, Cote d’Ivoire and Ghana.
Deforestation from cocoa, at around 3.8 million hectares a year, is much smaller than from the big four – soy, cattle, palm oil and wood products, which account for around 40% of all deforestation globally. But cocoa farms are often in areas that are incredibly biodiverse and have already been devastated by decades of largely unchecked felling.

Between 1988 and 2007, for instance, the Guinean Rainforest in West Africa lost 2.3 million hectares of forest to cocoa cultivation, while the Global Canopy Programme estimates that if Cote d’Ivoire carries on at its current rate of deforestation (estimated at around 2.7%) it will lose its entire forest cover by 2034.

According to Nicolas Petit, a senior green commodities advisor at the United Nations Development Programme, this growing demand, along with increased consumer interest and NGOs keen to apply the lessons learnt from tackling deforestation in other commodities, has put cocoa and deforestation firmly under the spotlight.

One of the main problems is the way in which cocoa is farmed. While crops such as soy and palm oil are largely grown on big plantations, making them, theoretically at least, easier to monitor, around 90% of cocoa is grown on smallholdings, involving between five to six millions farmers worldwide. This makes effective, industry-wide initiatives difficult to implement.

“Although most of the deforestation is coming at a smallholder level, they don’t have the capacity to address the issue, so really the action needs to be taken by governments, NGOs and companies,” says Petit.

Christian Mensah, the Rainforest Alliance’s senior manager for West Africa, agrees. “Smallholders cause deforestation because they are poor, they do not have resources to invest in rejuvenating and replanting their existing stock,” he says. “You actually have to work with all kinds of stakeholders … to find different ways of persuading smallholders to protect the forests that are left.”

**Sustainable farming**

To thrive, young cocoa trees need shade, so clear-felling large areas of virgin forest to plant new ones is ultimately counter-productive. Deforestation is, of course, also a major driver of climate change. This is already being felt...
in Africa, with droughts and reduced rainfall leading to smaller cocoa beans, lower yields and ultimately less income for the farmers.

Over the years, a mind-boggling array of projects and initiatives has been developed to try and make cocoa farming more sustainable, and incentivise farmers not to take an axe to the remaining pockets of forest.

On the one hand there are voluntary certification schemes, which rubber-stamp the sustainable credentials of the cocoa that traders and manufacturers buy. According to research by the World Bank, the three major certification standards, run by the Rainforest Alliance, Fairtrade and sustainable farming organisation UTZ, cover 42% of cocoa pods produced annually. But while all include deforestation-related requirements, there is no industry standard or set of measures to define what deforestation actually means.

“Certification has a lot of benefits and a lot of shortcomings,” says Petit. “It’s one of the ways to address sustainability but it’s certainly not the only way.”

“Each of the schemes has its strengths and weaknesses,” he continues. “Some certifying companies are stronger on one aspect than another – Fairtrade are going to do more on the social side; the Rainforest Alliance are going to do more on the environmental side,” he said before conceding that: “All these initiatives and sustainability standards are creating confusion.”

There is some clarity, with UTZ set to merge with the Rainforest Alliance later this year, helping to cut down on duplication and administration costs. Petit is also hopeful that cocoa will follow palm oil’s lead in the EU and move to one single certification scheme.

Alongside certification, major companies also run their own sustainability strategies, such as Nestlé’s Cocoa Plan, Olam’s Livelihood Charter and Mondelez’s Cocoa Life programme. Many fall under the remit of Cocoa Action, an umbrella programme run by the WCF, although it has only recently started to look at the issue of deforestation, having previously focused on addressing productivity and child labour.
Businesses are also making public commitment to cut deforestation. Nestlé, for example, has pledged that by 2020 none of its products will be associated with deforestation, while Ferrero says that it will use voluntary standards to make sure 100% of its cocoa comes from sustainable sources by 2020.

Petit believes these pledges are a step in the right direction because they are very public and “there are a number of civil society actors that are checking how those commitments are then implemented”.

Christopher Stewart, head of corporate responsibility and sustainability at agri-business Olam, says that deforestation is “a big focus for our customers, many of which have signed no-deforestation pledges” and that it’s up to producers and traders “to make sure that we supply them with the product that they want.”

However, the suggestion is that this demand for sustainably grown cocoa needs to come from manufacturers first, and isn’t something that the industry will naturally seek to implement. And amid all the good intentions, there’s still talk of a lack resources, which seems strange coming from an industry that includes some of the world’s most profitable agri-businesses. Given the importance of a flourishing forest to cocoa production, it’s very much an act of enlightened self-interest.
Climate-smart cocoa
Mondelez’s Cocoa Life sets out to tackle several of cocoa’s many challenges at the same, explains the programme’s head, Cathy Pieters. Alongside technical support around fertilisers and pesticides, it also teaches farmers how to grow more cocoa on less space, leaving land free for other crops and reforestation.

Cocoa Life also works to develop alternative income-generating activities so that communities aren’t just dependent on cocoa, and is piloting a scheme to support farmers through the whole process of replanting, including arranging external financial support.

Mondelez has also signed a memorandum of understanding with the Ivorian government to start mapping cocoa farms so that they can identify areas that are most at risk of deforestation.

In Ghana, Olam has collaborated with the Rainforest Alliance to build more resilience into the cocoa supply network, helping to give local communities more control over their forest resources. They have adopted a “landscape approach” that looks beyond the farm gate and addresses risk in the whole cocoa supply chain.

“Farmers are now beginning to understand the forest’s importance, not only as a means of food security and income but also the way it enables the crop to actually survive in the face of climate change,” says Mensah.

A leap of faith
Cocoa trees are productive for around 30 years, after which yields can drop dramatically. Until now, the solution for many farmers has been to clear new land to make room for new cocoa plants. But now farmers are being encouraged to grub up their old trees instead, and replace them with new ones on the same land. But it’s a way of working that takes a leap of faith by the smallholder as it leads to a substantially reduced income until the new trees crop.

The Rainforest Alliance is looking at various models to help them make this transition, explains Mensah. One involves dividing the average 2.5 ha plot into fifths, which can then be replanted rotationally over the following five years. By the time the whole farm has been completed, the first two plots will be producing cocoa.

‘There needs to be a step-change to accepting that farming coca sustainably is the best way to produce high yields, not cutting down more trees’
But the real beauty of the model is that in order to give the young cocoa trees the shade they need, farmers are encouraged to plant quick-growing plantains and bananas in between them, which also double as a food crop for the family.

The RA is now developing a business case for the model, which will give the financial sector the confidence to invest in these smallholders and help fund the transition of their farms.

**Unified approach**

Yet, much like the pockets of trees the industry is trying to save, the whole approach to deforestation feels somewhat fragmented. “We need an industry-wide acceptance of the challenges,” says Mensah. “The industry should come together and have a common vision, a common strategy, a common action … rather than having scattered programmes all over the sector.”

The Cocoa and Forests Initiative could be the answer. With cocoa’s role in deforestation set to be a major discussion point at November’s COP23, the meeting is an opportunity for the industry to present its roadmap. Since it was launched, 33 of the sector’s biggest players have signed up and there have also been solid commitments from the governments of both Cote d’Ivoire and Ghana, something Pieters describes as “crucial”.

In the past there has often been a conflict of interest, with governments set on meeting the demand for cocoa, and maintaining strong foreign earnings, while NGOs have campaigned to stop the expansion of cocoa into virgin forest. Now there could be common ground.

“It’s a statement of intent,” says Petit, optimistically. “It shows that everybody is coming together. There needs to be a step-change by all involved to accepting that farming cocoa sustainably is the best way to produce high yields, not cutting down more trees.”

But he’s not getting carried away and says questions still exist around money, defining which activities will have the biggest impact, and the level of input from governments, who he believes need to find the resources to put in place an enabling environment, with regulation, legislation and enforcement that stops deforestation. “Private companies cannot be expected to do everything.”

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Marks and Spencer leads way on human rights

Terry Slavin

The UK retailer tops the first-ever corporate ranking by making human rights central to its rebooted Plan A

Legislation to combat modern slavery have rightly driven this most issue up the agenda of companies in the past few years. But there have been other important developments in corporate human rights. In this month’s briefing we focus on two of them.

The first is the impact of the first-ever public ranking on companies’ performance on human rights, launched by the Institute for Human Rights and Business in March. Marks and Spencer, which scored top marks, is showing the way forward. It last month issued its second human rights report, and has made human rights central to its recently rebooted Plan A 2025, with 19 of 100 commitments focused on human rights.

Although there has been criticism of the benchmark, as Claire Manuel reports in the following pages, John Morrison, chief executive of the institute, emphasises that it is only a pilot, covering 98 companies from the three highest risk industries: agriculture, apparel and extractives, and only those that are publicly listed. “What we want to do this year is issue an alert to the world” that the benchmark now exists, and will come out on an annual basis, Morrison said. In subsequent years the benchmark will increase in scope.

While in Europe policy makers are getting tougher on human rights violations, in the US the regulatory environment is going in the opposite direction under the new president Donald Trump. We look at how US companies are responding.
New corporate human rights benchmark ‘a work in progress’

By Claire Manuel

The first-ever ranking of companies on human rights raised eyebrows by giving Rio Tinto and BHP Billiton top marks alongside Marks and Spencer. While the methodology has been criticised, it is seen as filling a vital gap for investors.

Six years have passed since the UN Human Rights Council endorsed the Guiding Principles for Business and Human Rights, after years of research and consultations led by UN Special Representative and Harvard professor John Ruggie.

The principles were designed to ensure that companies “do not violate human rights in the course of their transactions and that they provide redress when infringements occur”. They outlined how companies could use the UN’s protect, respect and remedy framework in order to better manage their human rights challenges.

The principles are aligned with the 10 principles of the UN Global Compact (UNGC), which bears the signatures of more than 12,500 companies and organisations from around the world.

A November 2016 report commissioned by the Business and Sustainable Development Commission said: “There is no more pressing or more powerful way for business to accelerate social development than by driving respect for human rights across their value chains. The proposition that all companies...
not only can contribute at scale to development through these networks of business relationships, but that they have a responsibility to do so, is the quiet revolution that sits at the heart of the UN Guiding Principles on Business and Human Rights.”

Last month companies and trade unions agreed to a renewed Bangladesh Accord. The Accord, created in response to the terrible Rana Plaza fire in 2013, is a legally binding agreement to make factories in Bangladesh safe for workers. It was due to expire in May 2018 but will now be extended to 2021.

And at the G20 labour and employment ministers meeting in May, ahead of this month’s Hamburg summit, pledges were made to promote sustainable global supply chains by “fostering the implementation of labour, social and environmental standards and human rights in line with internationally recognised frameworks.”

The complex issues of human rights in the workplace – from labour rights to modern slavery and trafficking – continue to present challenges to companies of all sizes. “Third-party labour provision, which is in everybody’s global supply chains, is where a lot of the vulnerability sits,” said John Morrison, chief executive, Institute for Human Rights and Business, speaking at Ethical Corporation’s Responsible Business Summit in June. During the same session, Oxfam GB CEO Mark Goldring urged buy-in from the top level in order to tackle these issues: “It’s about organisational health, not just formal compliance.”

**Measuring performance**

While frameworks, initiatives and legislation regarding corporate human rights abound, measuring actual performance is a little murkier. Launched in March, the Corporate Human Rights Benchmark (CHRB) is the first-ever public ranking of corporate human rights performance. Led by investors and non-profit groups, the benchmark’s methodology is the result of extensive multi-stakeholder consultation around the world over two years, involving representatives from over 400 companies, governments, civil society organisations, investors, academics and legal experts.
Supported by 85 investors, accounting for $5.3trn in assets under management, the benchmark currently analyses 98 companies from three industries that are high-risk in human rights terms: agriculture, apparel and extractives.

Magdalena Kettis, head of thematic engagement at Nordea and a member of the CHRB steering committee, said although the pilot covers fewer than 100 companies, “it provides a starting baseline and will over time be developed through subsequent iterations across more industries to encompass 500 companies.”

Mark Wilson, Aviva chief executive officer, said at the launch of the benchmark: “We are in the grip of a classic market failure: a lack of transparency and imperfect information means that the true cost of business behaviour – good or bad – is not actually accounted for,” says Wilson. “This is where benchmarks like the CHRB come in. This is about more than setting standards, it’s about ranking companies, it’s about making this data public and, importantly, free.”

Companies are scored on 100 indicators across six measurement themes and in this pilot most of the companies did poorly. A clear majority, 63 out of 98 companies, scored less than 30%. “This is something that should concern every investor,” said Lord Bates, minister of state at the Department for International Development, speaking at the CHRB launch event.

Perhaps more surprising than the overall poor results (the average score was only 28.7%) are the companies who scored well. Up at the top, alongside Marks and Spencer Group, which is known for its firm commitment to sustainability, sit mining companies Rio Tinto and BHP Billiton; these three companies comprised the very small group of leading performers, scoring between 60% and 69%. Nestlé, Adidas and Unilever scored between 50-59%. At the other end of the spectrum, McDonald’s, Petrobas and Wal-Mart Stores scored in the 10-19% range, while Grupo Mexico, Macy’s and Costco Wholesale only managed a measly 0-9%.

Morrison believes that rights-respecting companies are the ones investors want to do business with, that governments want to champion, that consumers want to buy from, and that talented people want to work for. “Ulti-
mately, respecting human rights should be a competitive advantage,” he says. “By making corporate human rights performance transparent and understandable, the CHRB is seeking to achieve this.”

Fiona Reynolds, managing director, UN PRI, agreed. “Investors are hungry for information and disclosure,” she said. “We are seeing a lot more questions around human rights.” PRI has a collaboration platform where investors can share information, and the past year has seen engagement on a range of human rights issues, from LGBT rights in Texas to indigenous peoples’ rights at the Dakota Access Pipeline.

“We expect this will continue to grow,” says Reynolds. Within ESG (environmental, social, governance investing), she said, “‘S’ issues have been the poor cousin to the ‘E’ and the ‘G’, but now they are coming to the fore, with more investors engaging on them – and we expect that to go forwards, not backwards.”

Eринч Sahан, from Oxfam GB’s private sector team, described the benchmark as an objective tool that “asks uncomfortable questions, and cuts through the PR around sustainability and CSR. A comparison of company approaches allows everyone to hold companies to account on where they’re falling behind, and give praise to those that are leading the way.” Critically, he continues, it means that no one can become complacent.
But while companies and NGOs alike have welcomed the benchmark, some said its methodology needs some development.

“It’s somewhat disappointing to see an average score of 30%, which most would regard as failure,” said Tom Butler, CEO, International Council on Mining and Metals. He believes competition is a particularly strong incentive for extractives companies, which could explain their better performance. “My members are a competitive bunch and they do pay attention to benchmarks such as this. But it’s important to get the structure right, in order to instil the ambition to do better as opposed to conveying a sense of failure.”

For the benchmark to gain traction, he said, companies need to feel that it is fair. “The challenge for a benchmark like this is that you need to become a reliable proxy, then everyone starts using you.”

While the International Trade Union Confederation also supports the initiative, Sharan Burrow, ITUC general secretary, would like to see the methodology include critical indicators for workers, such as freedom of association and collective bargaining. “It must also cover the supply chains of a company where up to 94% of the workers who generate profit for major multinationals can be effectively a hidden workforce,” she says. “We understand the methodology will be reviewed so these indicators and others can be included.”

If the benchmark becomes more comprehensive, ITUC’s Burrow believes the CHRB will be a game-changer in driving human rights performance in the business sector, as companies see the reputational risk of failing to apply the UN Guiding Principles. “The best outcome would be that the index is upgraded to provide a comprehensive picture with the capacity for companies to seek support to ensure that human rights violations are taken out of competition, as now called for by the G20 labour ministers,” she says.

The benchmark is based on publicly available information only, so the human rights performance score depends not only on how companies behave but also on their disclosure.
One drawback to this approach is that companies that publicise their work in the area of human rights will score more highly than those who may also be addressing it, but not shouting it from the rooftops.

In the apparel category, Next only scored in the 20-29% range, despite a strong commitment to human rights. The firm has 47 people in its global code of practice team, who are responsible for undertaking remediation work on the ground as well as auditing its factories. As signatories to the Bangladesh Accord and the Action, Collaboration, Transformation (ACT) project, human rights is an area the company does not take lightly.

Chris Grayer, Next’s head of supplier ethical compliance, believes the CHRB’s methodology is flawed. “We have worked incredibly hard for three or four years on slavery and it’s critical to understand the supply chain,” he said “The fact that CHRB overlooked the Bangladesh Accord and the ACT project was a significant shortfall in their recognition of valued work that brands are undertaking in improving human rights in the ready-made garment industry.”

“The CHRB only took cognisance of what is reported, with no opportunity or interface to see what companies are actually doing,” continues Grayer. “If we had been given just an hour, we could have shown how all our work fits together, rather than into the CHRB’s pre-ordained format. Consultation would have been a much better approach.”

Kettis of Nordea said the index is a work in progress. “The methodology will continue to develop over time, in part through stakeholder consultations.”

But Oxfam’s Sahan points out that no benchmark will give the full picture on human rights performance in supply chains. “We know so little about how workers, farmers and communities are treated in global supply chains. Transparency and traceability is sorely lacking. The CHRB gives an idea of whether companies are completely ignoring these issues, or are trying to grapple with them. This is useful, and will lead to tangible change, but a complete picture is a long way off.”

‘This is useful, and will lead to tangible change, but a complete picture is a long way off’
US Companies keep human rights agenda alive despite Trump

By April Streeter

Many CEOs are forging ahead with due diligence despite the new president’s determination to roll back key legislation

The pressure for US companies to fill a void on human rights-related issues may be getting stronger the deeper the world gets into a Donald Trump presidency.

No US company was a top-performer in the new Corporate Human Rights Benchmark, but six, including Kellogg, the cereal conglomerate (see Kellogg serves up best practice), Coca-Cola and Nike, fell into the second band.

US companies haven’t traditionally positioned human rights as a focus area for improvement and perhaps this isn’t surprising. As the UK academics Stephanie Khoury and David Whyte explore in their 2017 book Corporate Human Rights Violations: Global prospects for Legal Action, in the last decades corporate rights have tended to outweigh human rights in courts of law.

This is magnified with the election of Donald Trump. In reviewing the US president’s first 100 days in office, Khoury and White say his words, actions, and executive orders show disdain for most human rights issues. Instead he is intensely focused on removal of what he sees as unnecessary regulations on business.

This has direct bearing on how human rights concerns are perceived and handled by a system that is already driven by corporate interests, critics say.
“It’s an administration rife with conflicts of interest and opportunities for corruption,” says Gillian Caldwell, CEO of the NGO Global Witness, based in London. “That creates an environment in which the president and people surrounding him can turn their back on good corporate behaviour.”

Pundits agree Trump’s views imperil US leadership on human rights, and may also dampen companies’ eagerness to improve human rights performance.

But that does not change the fact that human rights issues are showing up on more companies’ materiality indexes. Nor is Trump able to wipe away the reputational risk companies can face if human rights violations are made public.

Cross-pressures
Bennett Freeman, former US deputy assistant secretary for democracy, human rights, and labour, and a frequent speaker on human rights and business, said at Ethical Corporation’s Responsible Business Summit Europe last month that business “will do what’s necessary” to fill the void on climate leadership Trump has created, in part because expectations on companies are intensifying, not diminishing.

The “cross-pressures”, as Freeman calls them, lie in the difference between a short-term, nationalistic and isolationist view of the world, embodied by the Trump administration, and a more long-term, globalist and human-rights-respecting view of Brand America.

“I’m not saying that US corporations should pick a fight with the Trump administration,” Freeman says. “I am saying that US companies need to take a global view, and it is not in their interest to head down a road of populism, nationalism and isolationism.”

He adds: “Companies need open markets, rule of law, respect for human rights and borders that are opening, not closing; more trade and investment, not less; [and] more multicultural attitudes if US companies are to truly thrive.”

Shareholders
Freeman’s view jives with what is happening in shareholder activism. Farrell Denby, spokesperson for BlackRock, one of the largest US investment firms
with over $5trn in assets, pointed to engagement priorities BlackRock will pursue this year with companies it holds stock in. Governance, especially diversity, climate disclosure, and human capital management (including a commitment to equal opportunity employment and control of supply chain labour standards) are top themes.

BlackRock supported and helped pass a proposal in May 2017 at Occidental Petroleum that called for the oil company to report on the business impacts of climate change; a similar proposal at ExxonMobil’s annual meeting in June pushed Exxon to “assess and disclose” how it will transition to a low-carbon future. This pressure from large institutional investors around climate change is directly important to human rights because they lead in many cases to the integration of important frameworks in corporate codes of conduct that help protect key rights — or at least this is what investors and NGOs hope.

**Regulation rollbacks**

This makes the Trump Administration’s assault on regulations alarming. Currently an attempt to cripple pieces of the Dodd-Frank financial laws through legislation called the Financial Choice Act has both investors and NGOs like Global Witness worried. Section 1504 of Dodd-Frank, which requires extractive companies to report payments to foreign governments, is intended to limit corruption and is important as extractive drilling and mining companies like Exxon-Mobil (which objected to the rule) are implicated in egregious human rights abuses, especially in indigenous communities where they operate with minimal oversight, according to the Business and Human Rights Resource centre. ExxonMobil has for many years dealt with accusations around abuse in the Aceh Province in Indonesia.

Dodd-Frank’s section 1502, which is a due diligence requirement on the use of conflict minerals, is also connected to human rights because of the perpetual violence, war, and exploitation that money from the sale of these minerals has financed in places like the Congo. Unlike with 1504, large corporations, from Apple to Intel, have supported section 1502 remaining in force.
“Regardless of any regulatory changes,” says Intel spokesperson William Moss, “Intel will remain committed to responsible sourcing [of] minerals for all its product lines.”

Dynda Thomas, a partner at the Squire, Patton, Boggs law firm in Cleveland, Ohio, says in a blog post that lower-than-expected costs and the success of the Conflict Free Sourcing Initiative means companies have not had to put an untoward amount of human or financial resources into complying with section 1502. (see How Kemet went conflict-free in DRC)

Intel’s Moss added that through Intel’s work with the Electronic Industry Citizenship Coalition a new initiative will “broaden and accelerate” the company’s efforts to combat forced labour. Moss said Intel has returned $3.5m in employment fees back to workers in the last three years.

One other bright spot: in mid-July a group of companies including Dow Chemical and Salesforce endorsed new regulation (called the Corporate Transparency Act) around transparency in corporate ownership, citing the need to manage and protect their reputational risk and “safeguard our investments”. Unfortunately, changes to Dodd-Frank rules in the Financial Choice Act would limit investors’ ability to protect their own investments via filing shareholder proposals. Currently anyone with $2,000 in shares held for a year can file a resolution; if Financial Choice passes the Senate in its current form only investors holding 1% of a company’s shares – in many cases this would mean owning billions of dollars of stock – for three years or more would have that right.
Diligence on diversity

Global Witness’ Caldwell says there are signs on certain human rights issues that companies are taking leadership roles without government rules or prodding, and even in opposition to the government. Caldwell cited President Trump’s attempts to ban immigration from seven Muslim-majority nations and his crackdown on illegal immigrants as an example where companies stepped up to disagree with the ban, citing human rights. (See CEOs in push to restore American Dream)

One other area where some US companies have been human rights’ champions is in gay rights and marriage equality. Travis Kelso Turner, executive director of Executive Pride, an LGBTQ workplace equality organisation, says Disney is a great role model, offering same-sex marriage health benefits since 1995.

“If companies want to be viewed as progressive, they need to put in place a diversity and inclusion policy for LGBTQ employees, administered across all facets of the organisation – which could mean on a national or even global scale,” Turner says.

He acknowledges that the election of Donald Trump is causing concern among LGBTQ employees, but that many companies recognise the long-term value of an equal playing field for all employees.

Human rights horizon

One additional harbinger of Trump’s significance to the corporate human rights agenda is in the US Supreme Court, where Trump conservative nominee Neil Gorsuch was recently appointed. In summer 2017 the Supreme Court agreed to hear the case of Jesner v Arab Bank PLC. Jesner centres around whether corporations, in this case the Arab Bank, should be able to be sued for human rights abuses.

“Courts are increasingly providing corporations with rights to the detriment of the public interest,” said Amol Mehra, executive director of The International Corporate Accountability Roundtable. “Where corporations are involved in human rights abuses, they must be held accountable.” This appears truer than ever in the uncertain climate for human rights protection that President Trump has thus far created.
Kellogg serves up best practice on human rights

In Kellogg’s 2017 corporate sustainability report, released last month, human rights concerns are of medium-high importance to stakeholders as well as internally, according to the materiality index. Kellogg’s actions of the last two years in this area provide a good view of where current best practice for big corporations lies. In 2016, Kellogg’s issued a brief statement saying it is working internally and across its supply chain to increase transparency and take action on human rights risks.

A “cross-function” team meets monthly to assess and report the company’s progress; Kellogg’s is using the Sedex self-assessment questionnaires and third party SMETA audits to look for violations in working hours, wages and benefits, child labour, health and safety, freedom of association, and discrimination. A Kellogg spokesperson says the company has made progress in forced labour issues, as demonstrated by a report released this month by the company.

Last year Kellogg trained executive leadership on human rights issues in its supply chain and this year completed audits at its Turkish apple suppliers while it also surveyed Indonesian and Malaysian suppliers about worker wellbeing.

Since Amnesty International detailed child labour problems in part of the supply chain (for palm oil) the company has also meticulously reported its efforts to get all of its palm oil suppliers in compliance with its human rights positions.

While Kellogg’s actions aren’t particularly innovative, they do show that addressing human rights concerns are a logical part of a corporation’s general path toward sustainability goals of transparency, accountability, and good governance.

April Streeter
How Kemet went conflict-free in DRC

By Diana Rojas

By setting up a closed supply chain in the village of Kisengo for one of its most valuable components, the company has turned a handsome profit and boosted development for the mining community.

The first time Kemet CEO Per Loof went to the village of Kisengo in the Democratic Republic of Congo he flew four hours in a helicopter, sitting atop jerry cans of fuel and landing on a never-used field – the freshly painted “H” visible amid the surrounding trees.

That was in 2011 and his goal was to partner with Mining Mineral Resources and pioneer the production of conflict-free tantalum from the eastern Congo. But before that could happen, they formed the Kisengo Foundation to oversee the construction of roads, a hospital and a school. Solar street lights were installed. Wifi was brought in and charging stations installed near the new water wells.

When Loof returns to Kisengo for his annual visit next month, he’ll fly comfortably in a plane, landing on a proper landing strip. And most crucially: none of the tantalum mined in Kisengo goes to finance illicit activities.

While the Trump administration has vowed to do away with Section 1502 of Dodd-Frank, which requires publicly listed companies to determine if their products contain minerals that have fuelled conflict in the Democratic Republic of Congo, claiming that compliance is too costly, Loof says his investment in meeting the rule has paid off – in spades.

“We’ve completely closed the supply chain for this metal,” said Loof, noting that in return for the $2m Kemet and its mining partner spent on advances in
the village (through the foundation) Kemet reaps $40m per year. “We took a chance. If only people knew how little could do so much.”

The Democratic Republic of Congo has been plagued by war after war since 1997. Rebels have mined coltan ore (from which tantalum is removed) to finance the civil war, which has claimed more than five million lives.

Tantalum capacitors pack a lot of punch in a small volume and are found in cell phones, laptops, hard drives, and in many more pieces of electronic equipment. One pound of tantalum powder makes 10,000 capacitors. Kemet is a leading capacitor manufacturer.

In 2010, when the Dodd-Frank financial reforms were signed into law, Loof says the legislation included a “playbook” for creating a closed-mine system that would allow metals from the DRC to be considered legally conflict free. Inspired by the idea, Kemet, a South Carolina based company listed on the New York Stock Exchange, sought out a mining partner, Mining Mineral Resources (MMR), with an exclusive concession in Kisengo.

In establishing the Kisengo Foundation, Kemet and MMR (along with Mineral Resources International AG) prepaid $10m for the tantalum. That money was used in large part to industrialise and automate half of the mine. Working with village elders to assess the needs of the people, another $2m went to build and staff a school and a hospital, and to build roads.

To ensure that the product of the cooperative of village miners does not get waylaid to fund conflict, Kemet instituted a “bag and tag” programme: miners hand over the metal and it is put in a bag and tagged at the mining site. From there, the bags are transported via small truck to the railroad and on to Dar Es Salaam, and ultimately to Thailand or Mexico, where Kemet has its smelters and refining facilities. “We haven’t lost one bag in the four years that we’ve been doing this,” he said.

Although the mines could be completely automated, Loof says it wasn’t done in Kisengo because employment would drop from 5,000 miners to maybe 300. And that loss of jobs, in turn, would lead to social unrest. The
Critics say that Kemet’s closed-loop mines have dramatically lowered the price of tantalum on the world market, resulting in a loss of livelihood by its artisanal miners. The Kisengo miners are part of a cooperative that may only sell to MMR, which has exclusive rights to the product and sets the price below what they could get selling in the open market, including to those who trade in conflict minerals. The mine is patrolled by federal police and those miners who have been caught trying to smuggle their ore out of the village to catch a better sales price have been arrested.

But Loof said that prior to Dodd-Frank tantalum buyers seeking conflict-free minerals were at the mercy of South American and Australian mines, which could set the price at whatever they wanted. Those countries’ mines produce two-thirds of the world’s tantalum. The Kemet-MMR mine has reset the price of tantalum, he said, and normalised it.

Loof, who grew up in Sweden, said Kisengo reminded him of the company town of yesteryear. “What business folks in those days really felt was a responsibility for those towns, where they were the main source of income,” he said, adding that Kemet is simply “giving back” to the miners and their families. “When they [the villagers] are successful and they get ahead, we rejoice with them.”
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