

## Enhancing transparency in the land sector under the Paris Agreement

### Non-state actors and corporate pledges, from rhetoric to reality

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#### Key messages

- Article 13 of the Paris Agreement calls for enhanced transparency in climate actions. At the same time, non-state actors (NSAs) are increasingly referred to within the text of decisions and initiatives by the United Nations Framework Convention on Climate Change (UNFCCC). However, the continued use of such a broad and undefined term to represent a complex set of stakeholders – ranging from academia to private sector, civil society to indigenous peoples groups – is unhelpful. There cannot be a ‘one-size-fits-all’ approach to NSAs.
- The private sector is a complex and diverse sub-set of NSAs, with significant variations in capacity, motivations and priorities across companies and value chains. Their response to climate change will be key to setting and achieving the nationally determined contributions (NDCs) made by Parties to the UNFCCC.
- A large number of international corporations have made voluntary commitments to reduce their negative environmental and social impacts in the agriculture and forestry sectors, within their own operations as well as those of third-party suppliers. Many of these pledges have now been registered on the UNFCCC non-state actor platform (NAZCA). As yet, however, there is no systematic way to track and verify these pledges and their impacts.
- One major risk is that stringent and rapidly implemented corporate commitments related to sustainable and ‘deforestation free’ supply chains will exclude already marginalized smallholders, who often operate within broader informal economies, resulting in indirect detrimental social and environmental impacts. Aside from the Cancun safeguards, such risks remain unrecognized by the UNFCCC.
- Public funds, such as the Green Climate Fund (GCF), could be used to financially support smallholders and small and medium enterprises (SMEs), and upgrade their production systems through the adoption of improved practices and by facilitating their access to sustainable supply chains.
- Governments, indigenous peoples groups and civil society organizations, as well as corporations themselves, are monitoring the progress and impact of NSA pledges at different spatial scales. But significant challenges remain regarding the alignment of methods, metrics and data sets, disclosure of information, and the verification and monitoring of indirect impacts.
- There is currently no systematic way to track delivery of voluntary commitments through transparent processes that are open to wider society. Additional efforts, including national and international political architectures are needed.
- There is justification for the UNFCCC to develop guidance around NSA engagement in climate mitigation and adaptation actions. This can help to distinguish between different groups of NSAs and track the activities undertaken by diverse private sector actors, to better understand how they contribute to achieving NDCs.

## Introduction

This paper addresses the newly established Enhanced Transparency Framework under Article 13 of the Paris Agreement (UNFCCC 2015) and looks across platforms and current tracks of negotiations within the UNFCCC related to NSAs. It identifies some of the risks and opportunities facing NSAs pledging to improve the sustainability of their operations. In particular, it focuses on those faced by companies making voluntary commitments to reduce the negative environmental and social impacts of supply chains for agricultural soft commodities. Specifically, the paper explores how corporate pledges<sup>1</sup> contribute to Parties' NDCs.

We also consider the role of third parties, particularly non-governmental organizations (NGOs), in independently monitoring progress. We touch on the benefits and challenges associated with independent monitoring<sup>2</sup> and the important role it will play in ensuring that corporate rhetoric results in workable and equitable realities on the ground.

We identify knowledge gaps and where decision-makers need support. We explain why upcoming UNFCCC negotiations should clarify what is expected of NSAs, and identify information that should be included within the NDCs to enhance the transparency of climate actions and help develop more explicit policy signals for NSAs.

## Enhanced transparency for climate action

Article 13 of the Paris Agreement establishes the Enhanced Transparency Framework. The framework is intended to build trust and confidence between Parties, and promote effective implementation of the Paris Agreement. It relates to both climate actions and financial support and does not differentiate between mitigation and adaptation. This new transparency framework is intended to build on existing arrangements under the convention, which include the system of national communications, biennial reports and biennial update reports, as well as the processes known as international consultation and analysis, and international assessment and review. The way in which countries measure, report and verify their carbon emissions and reductions across all sectors is included in such processes, as are provisions to assist with tracking of finance as well as REDD+<sup>3</sup> safeguards reporting.

The Paris Agreement has added new dimensions to the UNFCCC system, such as the 5-year cycles of NDCs, adaptation communications and the Global Stocktake. Negotiations are ongoing concerning the 'features' of NDCs and the 'information' to be included in them. Alignment will be needed between the NDCs and the information included in countries' reporting, as well as processes related to how actions and support are verified and tracked. This will provide a "clear understanding of climate change actions" (UNFCCC 2015). In addition to the usual carbon inventories, all Parties are expected to provide information necessary to track progress in implementing and achieving their NDCs, which includes adaptation actions and finance (UNFCCC 2015).

### The increasing emphasis on non-state actors

Decision 1/CP.21, agreed by the Conference of the Parties (COP) at its twenty-first session in Paris, calls for enhanced participation of NSAs and in some instances requests Parties to engage with NSAs in various activities to support the implementation of the Paris Agreement. Such measures include supporting NDCs and sharing information with communities and indigenous peoples. COP21 institutionalized this work through what is known as the Global Climate Action Agenda (GCAA). Through the GCAA, the UNFCCC is now seeking new ways to engage with NSAs, including tracking their climate actions (UNFCCC 2016a). Arguably, the UNFCCC engagement of NSAs should go beyond tracking, to including objectives for institutional capacity development, lessons learned, adaptive management and mechanisms to build stronger accountability for NSAs with regard to NDCs. For example, the submission made by Canada concerning enhanced transparency seeks to highlight those modalities, procedures and guidelines that will assist Parties in presenting the efforts of NSAs in capturing the full magnitude and spectrum of climate action (UNFCCC 2016b). In terms of the Global Stocktake, the Association of Independent Latin American and Caribbean States (AILAC) Group<sup>4</sup> of countries, plus New Zealand, recommend that the Global Stocktake should seek inputs from and share information with NSAs. In addition, the Alliance of Small Island States (AOSIS) recommends that NSAs, especially researchers and scientific bodies, should be included (UNFCCC 2016c).

The reference to NSAs or non-Party stakeholders throughout current UNFCCC text is however very broad; so broad as to be confusing and potentially unhelpful. The active inclusion or involvement of NSAs within country-level NDCs is also inconsistent. NSAs are an

1 Please note that commitments and pledges are used interchangeably within the brief.

2 See the parallel infobrief, *Enhancing Transparency in the Land-use Sector: Exploring the Role of Independent Monitoring Approaches*. 2016. Center for International Forestry Research.

3 Reducing emissions from deforestation and forest degradation, and enhancing forest carbon stocks in developing countries (REDD+)

4 Chile, Colombia, Costa Rica, Guatemala, Honduras, Panama, Paraguay and Peru.

extremely diverse group engaging in a wide range of activities related to climate change. They can include NGOs running campaigns for fossil fuel divestment, corporations pledging to eliminate deforestation from supply chains, or indigenous peoples groups investing significant social efforts in securing rights to protect forests.

Thousands of NSA-led adaptation and mitigation initiatives have emerged in recent years, including those made as a part of the Lima–Paris Action Agenda and in support of the 2014 UN Summit and the New York Declaration on Forests.<sup>5</sup> NSAs are also engaging in the monitoring and assessment of initiatives. Examples include, the Carbon Disclosure Project, which monitors and reports companies’ self-declared progress on environmental and social issues, and the World Resources Institute Global Forest Watch, that collects data and satellite imagery on land-use change. These globally recognized initiatives are complemented by many thousands of activities at the national and subnational level to monitor deforestation, degradation and social injustice.

The UNFCCC NAZCA platform has more than 11,000 climate actions listed as at November 2016, made on behalf of 2090 companies (including 448 investors), 2364 cities and 236 CSOs. A significant portion of the registered ‘intended actions’ are being made by private companies. These actions are taking place across a range of sectors including insurance, pulp and paper, retail, food, and energy. Pledges associated with agricultural commodity production and land-use change often focus on eliminating deforestation and preventing the exploitation of local communities and workers.

Many of the companies registered through the NAZCA platform form the building blocks of global supply chains for tropical agricultural commodities produced on an industrial scale, such as palm oil, soy, pulp and paper, and beef. These commodities have been identified as key drivers of land-use change, and hence deforestation, biodiversity loss, pollution, human rights violations and greenhouse gas emissions (CLUA 2014). However, these commodities also make a significant contribution to producer country economies and rural development, and therein lies the trade-off.

On the NAZCA platform, 51 companies have registered pledges relating to agriculture and forestry. Of these 51 companies, only two directly own or manage land, namely Asia Pacific Resources International Holdings Ltd (APRIL) and Asia Pulp and Paper Group (APP).

<sup>5</sup> A commitment made by companies, NGOs and governments to make supply chains deforestation free by 2030.

The rest are down-stream buyers, such as food and consumer goods manufacturers, including prominent transnational brands like Unilever, Nestle and Danone. The registration of these companies raises questions about how and to what extent transnational corporate achievements could be reflected in country-specific NDCs, or whether they should be at all, given the potential for double counting.

## Corporate pledges and their social implications

Despite a flurry of activity and commitments from the private sector, change on the ground is slow and little is known about the direct and indirect impacts of corporate activities. SMEs and smallholder farmers often develop as part of the informal economy of developing countries but contribute significantly to supply chains for agricultural crops, timber and non-timber forest products in local, national and increasingly international markets (Byerlee 2014). Millions of people also rely on small-scale farms for both their access to food and livelihoods. They are, therefore, at the forefront of both mitigation and adaptation efforts in the agriculture and forestry sectors. As commercial scale agriculture has expanded and markets have seen greater integration, smallholders and SMEs are forced to compete with large agribusiness firms that dominate production, processing and trade, to meet a rising demand for food, fiber and fuel at higher standards of quality and sustainability (FAO 2014).

Company commitments are seen as potentially leading to increased market asymmetries, as actors downstream in the value chain might take greater market control and disempower landholders. In recent years, a handful of large international firms have applied their sustainability commitments to their third-party suppliers as well as their own operations.<sup>6</sup> It is cause for concern that stringent and rapidly imposed standards, without parallel support services, could further marginalize small producers. Small businesses face significant challenges in upgrading their operations to meet rising

<sup>6</sup> Examples include commitments from companies such as: Wilmar (<http://www.wilmar-international.com/wp-content/uploads/2012/11/No-Deforestation-No-Peat-No-Exploitation-Policy.pdf>); Cargill ([http://www.cargill.com/wcm/groups/public/@ccom/documents/document/palm\\_oil\\_policy\\_statement.pdf](http://www.cargill.com/wcm/groups/public/@ccom/documents/document/palm_oil_policy_statement.pdf)); Unilever ([https://www.unilever.com/Images/unilever-palm-oil-policy-2016\\_tcm244-479933\\_en.pdf](https://www.unilever.com/Images/unilever-palm-oil-policy-2016_tcm244-479933_en.pdf)); and Nestle ([http://www.nestle.com/asset-library/documents/library/documents/corporate\\_social\\_responsibility/commitment-on-deforestation-2013.pdf](http://www.nestle.com/asset-library/documents/library/documents/corporate_social_responsibility/commitment-on-deforestation-2013.pdf)).

environmental and social standards imposed by international markets and to connect to competitive value chains. These challenges risk the emergence of sustainable and unsustainable supply chains, where those businesses unable to comply end up serving less discerning markets.

Lack of access to inputs – such as financing, fertilizers and seedlings, transport infrastructure, information, and technology – is often linked to the informal development of the sector and the lack of clarity around land tenure. In addition, many businesses are surrounded by perverse incentives that stimulate rent-seeking behaviors. As such, small businesses remain disenfranchised limiting productivity, local livelihoods and their ability to compete (Arias et al. 2013).

An additional challenge is how to protect local social and ecological diversity while meeting evolving international standards. There is a need for standards to look beyond a single-crop, large-scale production model, to more diverse systems. Actions taken to achieve NDCs should involve investment and production models that work with and support all stakeholders who depend on agricultural commodities for their living, whilst preserving local culture and values, and protecting ecological systems. These challenges will require considerable investment. This may be an important consideration for the GCF and other projects using climate finance to mobilize transformational change and a paradigm shift to low greenhouse gas emissions development. Corporate commitments could also help to overcome structural weaknesses, by contributing to territorial planning, supporting land conflict resolution and creating incentives for smallholders to improve their practices in line with international standards.

## Action through multistakeholder engagement

In recent years, corporate scandals associated with environmental and social abuses have directed attention to issues of good corporate governance, ethics, trust and accountability (Marsiglia and Falautano 2005; Gillespie 2012), and have led to the emergence of alternative self- and co-regulatory approaches to managing corporate conduct (Utting 2005; Scherer and Palazzo 2011). As branding, reputation and alliances became increasingly tied to corporate value, NGOs and other independent third parties have successfully used consumer awareness and purchasing power to push companies to

acknowledge their responsibility to not only the economic, but also the social and environmental aspects of business performance (Bendell 2004; Vogel 2006; Elkington 2006).

The governance of globalized commodity production and trade remains a significant challenge, in particular, issues of sovereignty faced by transnational corporations and governments. Numerous multistakeholder coalitions have emerged for 'good' social and environmental practices. Examples include industry associations dominated by large-scale corporates, such as the Consumer Goods Forum and the Banking Environment Initiative, as well as many multistakeholder certification standards such as the Roundtable on Sustainable Palm Oil, Roundtable on Responsible Soy, Marine Stewardship Council and the Forest Stewardship Council, which work with companies and other stakeholders to build market-based mechanisms that support more sustainable production. The Tropical Forest Alliance 2020 is a global initiative that attempts to include government in voluntary multistakeholder dialogues about forests.

A number of governments have begun to build multistakeholder consultative platforms that seek inputs from business and civil society.<sup>7</sup> Despite the emergence of multiple collaborative platforms, few have succeeded in successfully harmonizing standards. Industry associations tend to be too business-orientated while national processes struggle to gain momentum. Voluntary, market-based standards (e.g. RSPO, FSC) form the middle ground, but hold little power to leverage change. As such, non-state initiatives continue to run in parallel to government policy, either complementing or contradicting it.

As such, some efforts to contain deforestation have had leakage effects, resulting in land-use change in other regions, or have risked the exclusion of smallholders (Godar et al. 2014; Gibbs et al. 2015). The Paris Agreement and GCAA could support the development of new platforms, or the adaptation of existing platforms, that move beyond sustainability standards and business associations, to build more inclusive and deliberative global processes that enhance transparency and acknowledge the transnational nature of global supply chains and corporations to prevent leakage at a global level.

<sup>7</sup> For example the Indonesian Sustainable Palm Oil (ISPO) standard.

## Transparency and independent tracking of global supply chains

Independent assessments remain an important tool to ensure that climate change interventions are equitable, trust is built between parties and a jointly recognized result is recorded and adhered to. Sharing information is part of the request made by the UNFCCC in Paris to all NSAs. In addition, consumers, civil society, governments and other companies are increasingly demanding details about the quality, safety, ethics and environmental impact of supply chains. As such, many firms are developing new methodologies, systems and technologies to increase the transparency and traceability of their products. Soon, easy access to such data may become the norm, and this is something that governments can capitalize on.

In the NAZCA platform, much of the voluntary reporting is undertaken via the Carbon Disclosure Project (CDP), an initiative that asks companies to self-report on their progress in three categories related to land use, namely Forests, Climate Change and Supply Chains. Companies' reporting on Climate Change will include progress on emission reduction targets as well as strategies for achieving them, while the Supply Chain report explains, among other things, the sustainability criteria companies adhere to and recent achievements.

However, not all reports submitted to the CDP are accessible to the public and many companies decline to self-report on their progress. In addition, there is no independent verification or audit of the data collected. Industry and government representatives alike remain resistant to transparency for fear of affecting companies' competitive advantage. Policy interventions, whether public or private, face considerable barriers to implementation, including tensions among different levels and sectors of government, the intertwined interests of local politicians and investors, uneven law enforcement, and government reliance on revenues from investors.

## The pros and cons of aligning private and public standards

The trade-offs involved in achieving social, environmental and economic sustainability are increasingly challenging in the field of agriculture and land-use change. Social issues such as the rights of smallholders and indigenous communities

can often compete with halting deforestation and protection of endangered species, while corporations seek revenue and governments are under pressure to achieve economic growth and development targets.

Non-state voluntary standards may, therefore, fail to align with national government commitments under a new accord such as the Paris Agreement. This creates confusion, reduces efficiency, increases costs and discourages collaboration.<sup>8</sup>

NSAs are embedded within states and therefore will have a critical part to play in terms of realizing NDCs. Clearer policy signals at the national level and through international forums, such as the UNFCCC, reduces risk and can attract investment from both the public and private sector (Reber 2016).

Attempts have been made to find common ground between public and private standards. Interest has been expressed at the subnational level where provincial and district governments, seeking to encourage foreign investment are supporting international standards for sustainability.<sup>9</sup> But while there is scope for alignment, particularly in the auditing process, key differences remain in definitions of sustainable production and there is often a large gap between rhetoric and reality.

The voluntary nature of these commitments and lack of accountability, leads us to explore why we are now faced with greater interest in climate action among NSAs. Action on climate change is uneven among NSAs, and the private sector in particular. This is due in part to the private sector operating in a number of different political economies and advocacy contexts – a palm oil producer from Riau, Indonesia, will not experience the same opportunities and pressures as an international agribusiness firm. Understanding why this major shift in engagement, and expectations of engagement, has taken place among NSAs is important in harnessing its potential while minimizing its unintended consequences.

The conversation also needs to move beyond national and international debates to the local level, seeking more input from, and providing greater protection

<sup>8</sup> For example, there is debate in Indonesia around the legality of making concession data public. Uncertainty over the legality of sharing information disempowers local communities and civil society, and creates confusion and problems for companies and land-holders (Butt 2015).

<sup>9</sup> For example, the province of Central Kalimantan in Indonesia is developing a jurisdictional approach to certification following the issuance of the Roadmap to Low Deforestation Rural Development, in 2013.

to, small businesses and marginalized groups. There are risks involved if harmonization leads to homogenization, as an overly harmonized system could reduce diversity (e.g. social, environmental, governance) and potentially erode local resilience. Institutional diversity and its benefits must be acknowledged. It is not clear what steps can or will be taken by parties in order to promote alignment that also safeguards local communities. The accuracy of tracking NSA actions and their impacts would be improved if NDCs could distinguish between the different NSAs and monitor their contributions, and through inputs of NSAs in the global stocktakes.

It is important to have improved transparency in reporting, and initiatives that allow the cross-checking of metrics, methods and achievements. Greater monitoring and transparency of private sector activities will allow the government to better understand local capacities and where support is needed without homogenizing production systems. There are significant opportunities for public funds, such as the GCF, to be channeled toward smallholders, providing public benefits in countries of production. Examples could include subsidizing loan products for banks, covering grace periods for smallholder producers looking to upgrade their methods or supporting indigenous peoples looking to participate in territorial agreements. It is important to monitor direct contributions to the mitigation agenda, but also the indirect social and environmental impacts.

## Conclusions and recommendations

The UNFCCC is encouraging and incentivizing enhanced climate action by NSAs, and their role is becoming increasingly entrenched within UNFCCC policy frameworks, through COP decisions. A significant number of commitments registered on the NAZCA platform are made by private companies, but there is uncertainty about how the activities associated with these commitments will be monitored, accounted for and verified, and what cumulative impact these commitments will have on achieving the long-term goal of stabilizing global temperature rise below 1.5 or 2 degrees.

Concerns are also emerging about the possible negative impacts of such pledges and the role of the UNFCCC in ensuring that social and environmental safeguards are in place, that there is consistency

with provisions of the Paris Agreement and that international laws concerning human rights,<sup>10</sup> participation and ecosystem integrity are respected.

These concerns raise questions about whether the UNFCCC should develop guidance and modalities to track NSA climate actions, and how this relates to the Enhanced Transparency Framework, NDCs and the Global Stocktake. Opportunities to discuss these topics are provided by upcoming negotiations related to NDC information and features, inputs to the Global Stocktake, and the workshop on 'enhancing the effective engagement of NSAs', planned for the meeting of the Subsidiary Body for Implementation in Bonn in 2017. Negotiators and other stakeholders may wish to take the following into consideration during these discussions:

- The modalities and guidelines for the Enhanced Transparency Framework could include guidance for countries on how to monitor, measure and verify NSA actions, including through third-party independent monitoring.
- Diversity must be acknowledged and safeguarded. The accuracy of tracking of NSA actions would be improved if NDCs could distinguish between the different NSAs, and monitor the contributions and progress of large transnational companies, smallholders, financing entities, civil society organizations and indigenous peoples.
- NDCs could include information on both the direct and indirect impacts of NSAs. For example, actions taken with regard to adaptation as well as mitigation; the social, cultural and gender impacts of changes in supply chains; the activities and influence of supply chain service providers such as the financial sector; and improvements in the harmonization of NSA activities and public regulations.
- Knowledge gaps remain, including:
  - Concerns that climate actions will undermine social and economic goals if the appropriate conditions for a just transition are not in place, need to be explored. The role and importance of informal economies needs to be recognized in ways that do not work against marginalized people, such as rural smallholder farmers and their local service providers. These groups should not suffer

<sup>10</sup> Noting that the Preamble of the Paris Agreement acknowledges that Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, and the rights of indigenous peoples and local communities.



negative social impacts of what may appear to be well meaning climate actions.

- Multistakeholder and independent monitoring systems need to be better understood, including the benefits and challenges of using a diverse range of potential 'monitors'.
- At the same time, the possible risks and negative effects of over harmonization or over standardization of monitoring and evaluation systems should be explored, to allow for local diversity while supporting the adoption of improved production standards.
- The true implementation and impact of voluntary NSA pledges must be examined, as must whether there is a need for regulatory strengthening and law reform to support enforcement through penalties for non-compliance.

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