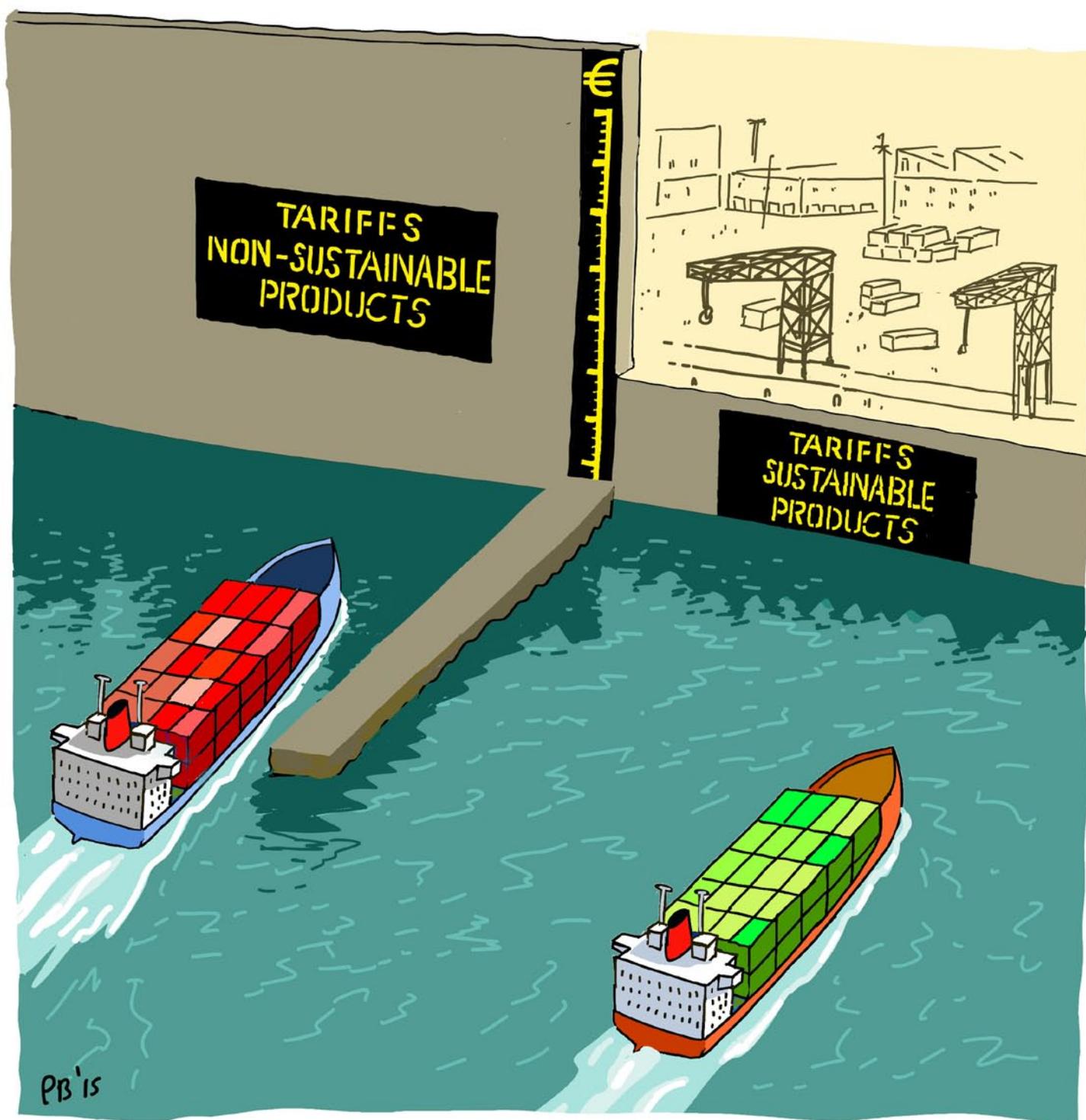
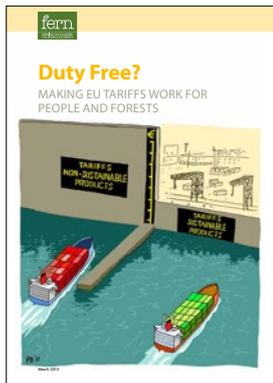


# Duty Free?

MAKING EU TARIFFS WORK FOR  
PEOPLE AND FORESTS





## Acknowledgements

Duty Free? Making EU Tariffs Work for People and Forests

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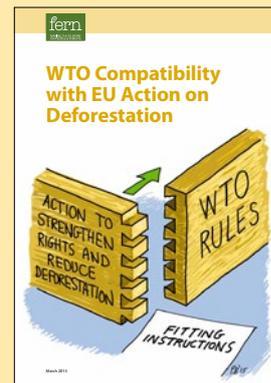
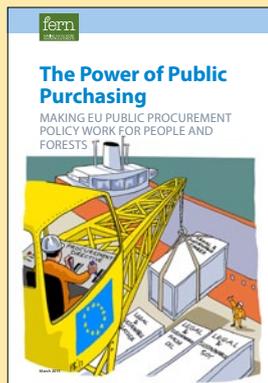
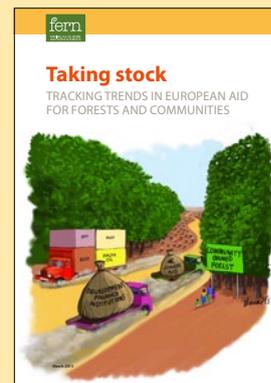
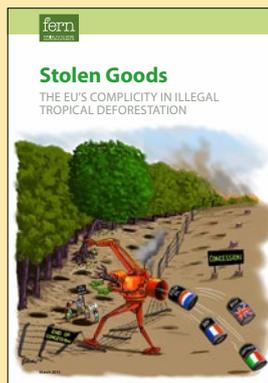
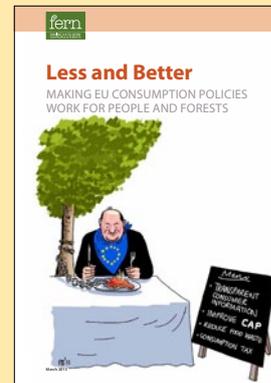
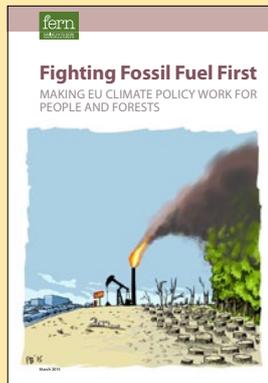
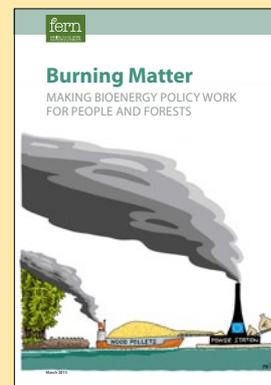
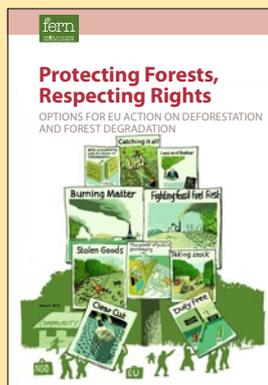
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"I do not want a Europe stuck on the sidelines of history ... I want a Europe at the heart of the action, a Europe which moves forward, a Europe which exists, protects, wins and serves as a model for others."

*Jean-Claude Juncker, President of the European Commission, Opening Statement in European Parliament, 15 July 2014*

The EU has set itself the goal of ending deforestation by 2030. More than 70 per cent of deforestation in the tropics is the result of land being cleared for commercial agriculture. 36 per cent of the crops and livestock products that were grown on deforested land and traded internationally, was consumed by the EU: twice as much as China and Japan combined. Even in 2015, with China's consumption increasing at a rapid rate, the EU still has a far larger footprint per person than China.

Much of this deforestation is illegal. In 2012 alone the EU imported EUR six billion of soy, beef, leather and oil palm that came from land illegally cleared of forests. Not only is our consumption destroying forests: it is undermining global governance and the rule of law.

Market pressure from consumers who do not want to be party to this trail of destruction is increasing. Far-reaching corporate commitments on zero deforestation have shown that businesses are also ready to act. But consumers and companies cannot act alone.

The EU, as one of the largest importers of forest risk commodities needs to act and serve as a model for others. It must base its policies on the fact that many of the world's forests belong to communities who depend on them. Forest protection will not work, therefore, unless it goes hand in hand with respecting and strengthening communities' tenure rights.

This report is one of a series presenting recommendations to the EU for an Action Plan to halt deforestation and respect rights, looking at EU aid, climate, consumption, financial, illegal logging, renewable energy and trade policies. Together, the series forms a comprehensive action plan for the EU, available at [www.fern.org/EUdrivers](http://www.fern.org/EUdrivers).

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# Acronyms

EBA	Everything but Arms
FLEGT	Forest Law Enforcement, Governance and Trade
GATT	General Agreement on Tariffs and Trade
GSP	Generalised System of Preferences
LDC	least developed country
MFN	most favoured nation
VPA	Voluntary Partnership Agreement
WTO	World Trade Organisation

## Summary

Customs duties on imports or exports are called tariffs. Import duties give a price advantage to locally produced goods compared to imports, while export duties dissuade the export of particular products, making supply to the domestic market more price-competitive. Setting lower import or export tariffs for sustainable agricultural products can be compatible with World Trade Organisation (WTO) rules.

This report recommends that the EU should explore how to use tariffs to give a cost advantage to sustainable products.

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Despite the well-known harm caused by the growing of oil palm, crude palm oil for non-food uses has a zero per cent tariff.

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## Introduction

The cumulative outcome of successive international trade rounds over the past 60 years has been a dramatic fall in levels of tariffs (along with the steady removal of other trade restrictions such as quotas). For recommendations about non-tariff measures, see Fern's report [► \*Less and Better: Making EU Consumption Policies Work for People and Forests.\*](#)<sup>1</sup> The process of reducing tariffs has been less extensive in agriculture, largely due to the key political role played by agricultural producers in many countries. Average agricultural tariffs in 2007 were estimated at 15.9 per cent, with a range from 1.5 per cent for Australia to 60.5 per cent for India; the EU's average of 14.6 per cent equalled the average agricultural tariff for developed countries as a whole.<sup>2</sup>

The EU's import duties for products which the EU does not itself produce tend to be low; for example, the EU's import duty on palm oil for use in food is 3.8 per cent, and for non-food applications zero; on soybeans and soybean meal the import duty is zero. Tariffs for timber and timber products vary from zero to 12 per cent. Tariffs on beef, which the EU produces and exports itself, are higher. For most commodities, tariffs on processed products are higher than those on raw products. Refined palm oil, for example, faces tariffs of 5.1 per cent for non-food applications (with some exceptions) and higher rates for other uses (see Table 1).

In common with all developed countries, the EU also offers preferential access to products of developing countries, which is permitted under an exception to normal WTO rules. Under the EU's latest Generalised System of Preferences (GSP) for poorer countries, which came into force in January 2014, the tariff on crude palm oil, for example, is zero for any use.<sup>3</sup>

Compared to the EU's previous GSP, the number of eligible countries has been narrowed, with the aim of focusing support on the poorest and most vulnerable. Malaysia, Brazil and Argentina do not qualify for the latest GSP, owing to their upper-middle-income status, and some countries which do qualify (such as Indonesia) do not benefit from the lower tariff rate for all their exports.

Further tariff preferences are available under the 'Everything but Arms' (EBA) provisions, for the least developed countries, and the 'special incentive arrangement for sustainable development and good governance' ('GSP+'), for countries classified as vulnerable (i.e. suffering from a lack of economic diversification and insufficient integration within the international trading system), which also adhere to a list of 27 international conventions on human and labour rights, environmental standards and good governance. Countries with free trade agreements with the EU may also enjoy lower, possibly zero, tariffs.

"The process of reducing tariffs has been less extensive in agriculture, largely due to the key political role played by agricultural producers in many countries."

1 [www.fern.org/lessandbetter](http://www.fern.org/lessandbetter)

2 Matthews A, 'Will the right tariff average stand up?' 31 May 2012; <http://capreform.eu/will-the-right-tariff-average-stand-up/>. Note that the calculation of average agricultural tariffs is extremely complex.

3 See <http://ec.europa.eu/trade/wider-agenda/development/generalised-system-of-preferences/>



Soyabeans imported for feed carry zero tariffs.

© United Soybean Board/FlickrCC

**Table 1: Import duty rates for a selection of forest-risk commodities<sup>i</sup>**

Commodity	Product	Tariff
Palm oil	Crude oil for food uses	<ul style="list-style-type: none"> <li>• 3.8% for MFN countries<sup>ii</sup>, Indonesia</li> <li>• 0% for developing countries, LDCs<sup>iii</sup></li> </ul>
	Crude oil for other uses	<ul style="list-style-type: none"> <li>• 0%</li> </ul>
	Refined oil	<ul style="list-style-type: none"> <li>• 5.1–12.8% for MFN countries, Indonesia</li> <li>• 1.6–4.4% for developing countries</li> <li>• 0% for LDCs</li> </ul>
Soya	Soya beans	<ul style="list-style-type: none"> <li>• 0%</li> </ul>
	Soya bean flour	<ul style="list-style-type: none"> <li>• 4.5% for MFN countries, China</li> <li>• 0% for developing countries, LDCs</li> </ul>
	Soya bean oil for food uses	<ul style="list-style-type: none"> <li>• 6.4–9.6% for MFN countries, Indonesia</li> <li>• 2.9–6.1% for developing countries</li> <li>• 0% for LDCs</li> </ul>
	Soya bean oil for other uses	<ul style="list-style-type: none"> <li>• 3.2–5.1% for MFN countries, Indonesia</li> <li>• 0–1.6% for developing countries</li> <li>• 0% for LDCs</li> </ul>
	Soya bean meal	<ul style="list-style-type: none"> <li>• 0%</li> </ul>
Biodiesel		<ul style="list-style-type: none"> <li>• 6.5%<sup>iv</sup></li> </ul>
Beef	Fresh and frozen carcasses and cuts	<ul style="list-style-type: none"> <li>• 12.8% + EUR 141.80–gg304.10/kg</li> </ul>
Tropical timber	Industrial roundwood	<ul style="list-style-type: none"> <li>• 0%</li> </ul>
	Sawnwood	<ul style="list-style-type: none"> <li>• 0–2.5% for MFN countries (depending on processing method)</li> <li>• 0% for developing countries, LDCs</li> </ul>
	Veneer	<ul style="list-style-type: none"> <li>• 3–6% for MFN countries</li> <li>• 0% for developing countries, LDCs</li> </ul>
	Plywood	<ul style="list-style-type: none"> <li>• 7–10% for MFN countries, China</li> <li>• 3.5–6.5% for developing countries</li> <li>• 0% for LDCs</li> </ul>

<sup>i</sup> Source: European Commission TARIC database at [http://ec.europa.eu/taxation\\_customs/dds2/taric/taric\\_consultation.jsp?Lang=en](http://ec.europa.eu/taxation_customs/dds2/taric/taric_consultation.jsp?Lang=en)

<sup>ii</sup> MFN: Article I of the General Agreement on Tariffs and Trade (GATT) requires member countries to treat all their trading partners equally when applying customs duties and charges; this is known as ‘most-favoured-nation’ (MFN) treatment. MFN tariffs are therefore the highest charged; tariffs can be lower for particular categories of countries (see above).

<sup>iii</sup> LDC: least developed country.

<sup>iv</sup> Except for biodiesel exports from Argentina and Indonesia, against which the EU is currently applying punitive anti-dumping duties; this is the subject of a WTO dispute.

## The role of tariffs

**Could lower tariffs be set for products identified as sustainably produced, thereby encouraging their import and/or export? This raises a series of practical, legal and political questions.**

The option of lower tariffs for sustainable timber was considered in the early years of the debate around illegal logging, but was never taken up. In fact in 1998 the EU had already incorporated environmental (and labour) clauses in its GSP; countries meeting International Tropical Timber Organisation sustainability standards were eligible to receive special tariff reductions of about 25 per cent. No country ever applied for these environmental special incentives, however, probably largely due to the low rate of duties already applying to timber and wood products. The bureaucracy involved and the implicit acknowledgement of trade and environment linkages (undesirable to many developing countries) probably also contributed to the poor uptake.

"The option of lower tariffs for sustainable timber was considered in the early years of the debate around illegal logging, but was never taken up."



Processed wood has higher tariffs than industrial roundwood.

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Tariffs on products, such as beef, which the EU produces and exports itself, are higher than the tariffs for product it does not produce, such as palm oil.

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In recent years a number of calls have been made for the EU to abolish the tariff on sustainable palm oil, in order to give it a price advantage in the market over unsustainable palm oil (or, at least, palm oil not identified as sustainable).<sup>4</sup> The question of whether lower tariffs for sustainable agricultural commodities would be permissible under WTO rules is considered in a companion report from Fern, **► *WTO Compatibility with EU Action on Deforestation***.<sup>5</sup> As argued there, recent trade–environment disputes suggest that they would be, and there was no WTO challenge to the inclusion of environmental and labour clauses for timber in the EU's 1998 GSP. There is little doubt that this would be a controversial step, however, because of the background of disagreements over trade measures applied against products on the basis of the way in which they are produced, and developing countries' general hostility to this approach.

It would be important, therefore, for the measure to be designed so as not to unduly impact the exports of poorer countries. Capacity-building assistance should be offered to exporters to help them meet the new sustainability standards, possible within the framework of a free trade agreement. The standards themselves would need to

4 See for example 'EU Import Duty on Sustainable Palm Oil May be Lifted by 2013 – Industry Executive', Dow Jones Newswires, 26 October 2012; 'Netherlands to Push for the Lifting of EU Import Tariff on Sustainable Palm', Reuters, January 2012.

5 [www.fern.org/WTOcompatibility](http://www.fern.org/WTOcompatibility)



The aviation industry is looking towards biofuels to mitigate their climate impact.

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"In general, export duties in developing countries tend to be higher than import duties in the EU, and there should therefore be more scope for differentiation."

be practicable and should be designed in an inclusive participatory manner, comparable to those in FLEGT VPA processes, see Fern's report ► *Catching It All: Making EU Illegal Logging Policies Work Better for People and Forests*.<sup>6</sup> They should be based on existing international standards where they exist. All the constraints posed by WTO disciplines, as explored in Fern's report ► *WTO Compatibility with EU Action on Deforestation*,<sup>7</sup> need to be adhered to, including the requirement to subject domestic and imported products to the same requirements.

Such a measure would also open a wider debate around sustainable products; if sustainable palm oil, soy or beef could be given a lower tariff, why not sustainable agricultural products – or other products – in general? This is a debate which should be welcomed, and which the WTO's own discussions about the potential for eliminating tariff and

non-tariff barriers to environmental goods and services are not addressing.

Another option is for producer countries to lower their export duties on sustainable products. In general, export duties in developing countries tend to be higher than import duties in the EU, and there should therefore be more scope for differentiation. The discussion above about WTO applicability and likely political acceptability is just as relevant. As with import duties, the adoption of lower tariffs for exports of sustainable products could be pursued within the framework of a free trade agreement, alongside the provision of capacity-building assistance: see Fern's report ► *Trading Up: Making EU Trade and Investment Policies Work for People and Forests*.<sup>8</sup>

6 [www.fern.org/catchingitall](http://www.fern.org/catchingitall)  
7 [www.fern.org/WTOcombatability](http://www.fern.org/WTOcombatability)

8 [www.fern.org/tradingUp](http://www.fern.org/tradingUp)

## Recommendations to the EU

**Lower tariffs for sustainable products should, all else being equal, increase their competitiveness in the market compared to products not identified as sustainable. Given the increasing interest in sourcing 'sustainable' commodities, the EU should:**

- **Explore opportunities for lowering import tariffs for sustainably produced agricultural commodities. This could most usefully be applied where there is already strong demand for sustainably produced commodities – for example, where there are existing voluntary industry commitments, and public procurement policies – and should be accompanied by the offer of technical and financial capacity-building assistance for sustainable models of agriculture.**
- **Encourage developing countries to lower their export tariffs for sustainably produced agricultural commodities – again, accompanied by capacity-building assistance. As seen above, export duties on agricultural products tend to be higher than EU import duties, so the impact would be greater.**
- **Attempt to incorporate lower tariffs (both import and export duties) for sustainable products in free trade agreements and potential new partnership agreements on agriculture and trade.**



COSCO Pacific on its way to Antwerp, Belgium. Lower tariffs for sustainable products should, all else being equal, increase their competitiveness in the market.

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"This report looks at the present situation with regards to EU import and export tariffs and recommends that the EU explores how to use tariffs to give a cost advantage to sustainable products."



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