

The Accountability Framework

Operational Guidance on Cutoff Dates

DRAFT FOR WORKSHOPPING
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The Accountability Framework initiative (AFi) aims to develop a common Framework to guide the setting, implementation, and monitoring of supply chain commitments. This draft document represents a working consensus of the AFi partners as well as input from prior consultations involving more than 200 companies, NGOs, governments, and other stakeholders to date. The partners are sharing this draft publicly – and actively consulting a range of key stakeholders – to further build and refine the Framework in a way that reflects the views of interested stakeholders. Based on this consultative process, a revised version of this document will be available later in 2018. For more information, please visit <https://accountability-framework.org/process>.

DISCLAIMER: This work product is intended to be advisory only and is not intended to serve as a legal opinion or legal advice on the matters treated. The reader is encouraged to engage counsel to the extent required.

PURPOSE & SUMMARY

This document provides guidance on how companies should set cutoff dates for deforestation-free and conversion-free commitments, as referenced in Sections A1 and A2 of the Core Principles. This includes guidance for companies that source multiple commodities from multiple regions, as well as guidance related to sector-wide cutoff dates.

1. Introduction

Clarity on cutoff dates is essential for enabling companies to establish precise, actionable, and monitorable commitments related to deforestation-free and conversion-free supply chains. At least as important, cutoff dates can send market signals – and ideally help establish sector-wide norms – that curtail land speculation, deforestation, and conversion in frontier areas.

The Accountability Framework Core Principles states that each commitment should specify a target date and a cutoff date related to deforestation and conversion. This Operational Guidance provides further elaboration and explanation of this principle. The following terminology is used:

- The cutoff date specifies the permissibility of deforestation or conversion based on the timing of such events on the ground. Clearance of natural forest after the cutoff date generally renders a given area or production unit non-compliant with no-deforestation commitments.¹ (Similarly, clearance of other natural ecosystems after the cutoff date generally violates no-conversion commitments.)
- The target date is the date by which a given company (or other commitment- or policy-setting entity) intends to have fully implemented its commitment or policy.
- Sector-wide cutoff dates are those that are widely agreed and applied for a particular commodity in a particular geography. That geography may be a country, a region within a country, or several countries sharing a similar production and conservation context. Sector-wide cutoff dates may arise through various means, including: i) voluntary action of groups of companies comprising a large portion of the given sector context, ii) government policy and enforcement, or iii) combinations of these or other means.²

Example: Company “A” has a 2015 cutoff date and a 2020 target date for their no-deforestation commitment

- The target date indicates that the company commits to have fully implemented its no-deforestation commitment by 2020 – i.e., to have no deforestation-linked commodity in its supply chain.
- The cutoff date indicates that ‘deforestation-linked’ means the commodity is not associated with deforestation after 2015.
- To fulfill its commitment, by no later than 2020 the company would need to manage its supply chain to avoid inclusion of suppliers associated with deforestation after 2015. If the company has its own land holdings, then no post-2015 deforestation would be permissible on those lands.

¹ Information regarding the scale of the area or production unit that would be considered non-compliant based on a given deforestation or conversion event will be provided in subsequent versions of the Operational Guidance.

² Sector-wide cutoff dates are those that apply to a dominant portion (if not all) of the given sector/geography context. Thus, for example, the cutoff date defined in the Brazil Soy Moratorium is considered a sector-wide cutoff date for the area where this Moratorium applies. Cutoff dates in voluntary standards that cover only a minority of a given sector (e.g., certification programs of the Forest Stewardship Council, Roundtable on Sustainable Palm Oil, and Round Table on Responsible Soy) can help companies demonstrate sustainable sourcing and help recognize sustainable producers, but are not considered sector-wide cutoff dates for the purpose of this guidance.

2. Guidance on selection and adoption of cutoff dates

2.1 For company-level commitments, cutoff dates align with or pre-date issuance of the commitment

All company commitments related to deforestation or conversion should specify cutoff date(s) addressing the full scope of the commitment. This is necessary for guiding management of the company's suppliers or own operations, sending clear market signals to upstream suppliers, and assessing compliance.

To decrease incentives for additional deforestation or conversion in advance of a cutoff date, company cutoff dates should be set no later than the date that the commitment is issued. In the event of new commitments issued after 2020, companies should align with global goals to halt commodity-linked deforestation by 2020, as specified in the New York Declaration on Forests and the UN Sustainable Development Goals. A cutoff date no later than January 1, 2020 would bring companies in line with these targets. Cutoff dates specified in company commitments should not cause them to be weaker (less protective) than legal requirements in any context where they apply.

For companies that source multiple commodities from multiple regions, cutoff dates may differ between commodities and regions. Cutoff dates for each commodity and location should reflect sector- and context-specific considerations (see Sections 2.2-2.4, below). If portions of the company's commitment do not yet specify cutoff dates (e.g., the company has a corporate-wide forest policy but only a specific deforestation-free commitment with cutoff date for one commodity), this should be rectified to specify clear commitments, including cutoff dates and target dates, for all relevant portions of the company's business (see Core Principle D1: Scope).

2.2 Sector-wide cutoff dates should be developed and adopted where possible

While clear company-level policies and cutoff dates are essential, isolated commitments by specific forward-thinking companies are unlikely to have a significant positive effect on the ground if conversion is or has been continuing widely in the sector. Sector-wide approaches – in which a critical mass of actors in a given sector are able to coalesce around an agreed-upon cutoff date – are therefore preferred as a more comprehensive and lasting solution. This approach can help curtail new deforestation and conversion and avoid leakage or the development of parallel supply chains that do not adhere to deforestation- or conversion-free norms. Harmonized cutoff dates can also simplify monitoring, verification, and supplier management by creating an agreed-upon baseline and associated mapping and data products that clearly identify compliant and non-compliant suppliers. Sector-wide cutoff dates may be implemented through voluntary action of companies, public policies, and their associated monitoring and enforcement mechanisms, or a combination of these.

2.3 Seasonality of cutoff dates

Both company-specific and sector-wide cutoff dates should be established in view of monitorability considerations. This pertains to when during the year the cutoff date is established, since in some contexts land-cover change may be easier to monitor at certain times of the year than others. Dates should reflect the availability and accuracy of the mapping products that are expected to be used to monitor the commitment. For instance, cutoff dates should take into account the seasonality of data-collection periods, regular periods of burning, harvest seasons, or other events that could impede monitoring. This will help ensure that reliable baseline maps (as of the cutoff date) can be established and that commitments can be readily monitored at least on an annual cycle.

2.4 Guidance per scenario

Based on the preceding considerations, companies are advised to specify and implement cutoff dates as follows (see also Table 1):

- If a sector-wide cutoff date exists, companies making new commitments should reference and utilize it in their own commitments and supply chain management.
- If there is not yet a sector-wide cutoff date, companies should make good-faith efforts to work collaboratively with peer companies, government, and/or civil society to help establish a sector cutoff date. If a sector cutoff date is established, pre-existing commitments that did not specify cutoff dates or that had later cutoff dates should adjust their commitment to align with the sector-wide cutoff date.

Table 1: Guidance for establishment of cutoff dates for no-deforestation commitments

If a sector-wide cutoff date or moratorium exists (or is established)		If a sector-wide cutoff date or moratorium DOES NOT exist	
and your company...	...then you should...	and your company...	...then you should...
Had a pre-existing commitment with a cutoff date that was earlier than the sector cutoff date	Retain earlier date ³	Had a pre-existing commitment with specified cutoff date	<ul style="list-style-type: none"> ▪ Manage supply chain to avoid purchase from suppliers associated with post-cutoff date deforestation or conversion and/or work to bring existing suppliers into compliance ▪ Make good-faith efforts to help establish sector cutoff date
Had a pre-existing commitment with a cutoff date that was the same as the sector cutoff date	Apply the sector cutoff date	Had a pre-existing commitment without a specified cutoff date	<ul style="list-style-type: none"> ▪ Specify cutoff date as being the date of commitment issuance (or earlier) ▪ Make good-faith efforts to help establish sector cutoff date
Had a pre-existing commitment with a cutoff date that was later than the sector cutoff date	Adjust commitment to incorporate the sector cutoff date	Does not have a commitment	<ul style="list-style-type: none"> ▪ Issue commitment with cutoff date as the date of commitment issuance (or earlier) ▪ Companies making new commitments after 2020 use a cutoff date of January 1, 2020 or earlier to align with relevant global goals ▪ Make good-faith efforts to help establish sector cutoff date
Had a pre-existing commitment without a specified cutoff date	Adjust commitment to incorporate the sector cutoff date		
Does not have a commitment	Issue a commitment that reflects the sector cutoff date		

³ The AFi partners are further analyzing whether companies that already have commitments with earlier cutoff dates could, under certain circumstances, adopt a later sector-wide cutoff date if one were established. Input on this point is welcome as part of the public consultation.

3. Communication and adoption of cutoff dates throughout supply chains and at-risk landscapes

To demonstrate fulfillment of no-deforestation or no-conversion commitments, companies must work proactively to prevent further ecosystem conversion in the vicinity of their operations or sourcing areas. This means that cutoff dates should not be construed narrowly as simply a filter to determine which suppliers are eligible for inclusion in a given supply chain. Rather, they provide a basis for the company to use its influence to help address deforestation and conversion on the ground, commensurate with its size, influence, and position in the supply chain. This should be done in several ways, which are summarized in the Core Principles and will be elaborated further elsewhere in the Operational Guidance:

- Commodity-buying companies should communicate to suppliers that they will accept only materials that are not linked to deforestation or conversion after the cutoff date. Suppliers should, in turn, work to make that information available to mills, producers, and other upstream actors. This communication may occur through site visits, information campaigns, trainings, collaboration with government extension services, or other approaches.
- If the company purchases commodities on the spot market, regularly changes its suppliers, or sources from smallholders, it should work to communicate this message to both current and prospective suppliers in its sourcing region with the aim of curtailing deforestation and conversion by those actors most prone to directly causing it. Such communication may require collaboration between producers, mills, and traders and may require support from multiple buyers, sector-wide approaches, and/or government or multi-stakeholder initiatives at the jurisdictional or landscape level.
- Company approaches to managing non-compliant suppliers should take into account the time that may be required to communicate and diffuse information on cutoff dates to small- and medium-sized producers as well as indirect suppliers. This is especially true for suppliers who have made more recent commitments to forest conservation (or who have been more recently informed about no-deforestation expectations) and who often operate in forest frontiers where commitments may have the greatest impact. Communication and outreach processes should prioritize engagement with these producers, who may require more assistance, to avoid their exclusion from supply chains while effectively curtailing their role in future deforestation. See Core Principle 3: Supplier Management.

4. Deforestation or conversion after a cutoff date

In cases where commodity-linked deforestation or conversion has taken place after the cutoff date, the relevant production unit or entity associated with this deforestation or conversion is typically deemed non-compliant with a deforestation-free or conversion-free commitment. This raises two questions: 1) at what scale or level is non-compliance determined; and 2) what options are available for retaining or re-integrating the non-compliant actor or production unit within a deforestation-free or conversion-free supply chain? These questions will be addressed in future Operational Guidance on Non-Compliance as well as on Remedy, Remediation, and Compensation. Input on guidelines for addressing non-compliance related to post-cutoff date deforestation or conversion is encouraged as part of the present workshop period.