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GOVERNMENTS AND PRIVATE SUSTAINABILITY STANDARDS:
AN ISEAL CASE STUDIES SERIES

Private standards and public policy are not always aligned or coordinated. To realize the Sustainable Development Goals (SDGs) new partnerships and forms of co-regulation will be needed to enable sustainable production, trade and consumption. This series of case studies illustrates how private standard systems, businesses and governments are working together for better sustainability outcomes. It is developed by the ISEAL Alliance, the global association for credible sustainability standards. For more, visit *our webpage.*

PRIVATE SUSTAINABILITY STANDARDS AND THE EU RENEWABLE ENERGY DIRECTIVE

The certification of more sustainable practices is a key element of the European Union's policy to support bio-energy and -fuel production. But there is wide variation in the sustainability performance, quality and credibility of the standards recognised by the EU. These elements are crucial if the policy is to have a positive impact.

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FACT FILE

Country:
EU member countries

Sector:
Biofuel and Biomaterials

Private standards: Various

SDG-related outcomes:

2 ZERO HUNGER
7 AFFORDABLE AND CLEAN ENERGY
8 DECENT WORK AND ECONOMIC GROWTH
12 RESPONSIBLE CONSUMPTION AND PRODUCTION
13 CLIMATE ACTION
15 LIFE ON LAND
17 PARTNERSHIPS FOR THE GOALS

MOVING TOWARDS SUSTAINABLE ENERGY IN THE EU

The EU has committed to cutting greenhouse-gas emissions by 40% by 2030. One of the key instruments for achieving this is the Renewable Energy Directive (EU RED), published in 2009, which requires that 20% of energy consumed in the EU is renewable by 2020. The directive is currently being revised, with both the targets and the scope being re-considered.

Plant-derived fuels (biofuels) can provide a renewable, low-carbon alternative to fossil fuels, particularly in the transport sector. However, the use of biofuels raises significant social, economic and environmental issues, including threats to food security, biodiversity loss and land-use conflicts. Without safeguards in place, biofuels can displace food production and drive ecosystem conversion, which may reduce or even negate any greenhouse-gas savings.[1]

The EU RED aims to ensure that biofuels used in the EU are "produced in a sustainable and environmentally friendly manner"[2] and sets out clear criteria defining the scope of these sustainability safeguards. This case-study focuses on how private standards and certification are used to implement these safeguards. Importantly, in the current revision of the Directive there is a push to stop EU support for crop-based biofuel. This case-study does not look into these proposals but provides a short assessment of the co-regulatory approach developed under the initial Directive.

16 RECOGNISED SCHEMES

The EU RED recognises 16 private standards and certification schemes (as of July 2017).

THE ROLE OF PRIVATE STANDARDS IN THE EU RED POLICY

EU RED is a key example of 'co-regulation', combining public and private regulation. It is implemented in practice either through national regulation (for biofuels produced within the EU) or through approved sustainability standards. To count towards national renewable energy targets, biofuels must comply with EU RED sustainability criteria.

The European Commission recognises a number of voluntary sustainability standards as providing proof of compliance.[3] These include ISEAL members Bonsucro for sugarcane, the Roundtable on Sustainable Palm Oil (RSPO) and the Roundtable on Sustainable Biomaterials (RSB), and 13 other voluntary schemes (as of July 2017). Importantly, these globally applicable voluntary sustainability standards can offer assurance that biofuels produced beyond EU borders comply with the EU RED criteria. This is crucial for commodities such as palm oil, which have complex value chains and may involve many producers, processors and traders in different countries.

Following the introduction of the EU RED, the number of sustainability standards covering biofuels expanded exponentially. This growth happened in two ways. Firstly, a number of existing voluntary sustainability standards for commodities such as sugar, soy and palm oil introduced RED-specific add-ons. Secondly, a number of new certification programmes were designed exclusively around the EU RED criteria.

In general, the first group tended to be much more comprehensive, going beyond the EU RED criteria in terms of both sustainability performance and the rigour of their schemes. The second group, by contrast, was narrowly defined by the EU RED requirements.

PERFORMANCE AND CREDIBILITY

While EU RED has led to the expansion and uptake of voluntary sustainability schemes, this has not always translated into meeting its broader sustainability goals. To understand this better, it is useful to distinguish between two dimensions: performance and credibility.

In terms of performance, various government oversight bodies and environmental organisations have argued that the EU RED sets a low bar for environmental and social performance. Its criteria, they say, effectively certify 'business as usual' and blur the line between standards with a genuine positive impact and those that provide little more than greenwash. One of the reasons the EU RED has fallen short of achieving broader sustainability outcomes is that it has mainly created uptake for these 'low-bar' schemes.

The European Court of Auditors (ECA), the EU's independent external auditor, found that not all the recognised schemes address important sustainability aspects, such as unintended negative social consequences like "land tenure conflicts, forced/child labour, poor working conditions and health and safety risks".[4] The ECA also observed that the European Commission's recognition and assessment framework failed to assess issues such as impacts on food prices for crops that can be used for both food and fuel and indirect land-use change, such as the conversion of cropland, grassland or forest for biofuel production.[5] These issues are at least partially addressed in the revised draft EU RED.

Credibility relates to the process and governance aspects of voluntary certification schemes. Credible standards use consistent and transparent audit and certification systems that allow for uniform implementation. They are governed by coalitions of stakeholders which oversee their procedures so as to identify and minimise any conflict of interest and ensure a wide range of concerns are represented. The ECA recognises the importance of these credibility elements in achieving its policy objectives.[6] The current revision attempts to address this by adding the principles of reliability and transparency to its previous requirement of independent auditing for recognised standards.[7]

> “Credible multi-stakeholder standards go beyond the minimum criteria of the EU RED to address a wider range of environmental and social issues, and have robust and transparent systems in place to ensure the requirements are met.”

Performance, governance and positive sustainability outcomes are interlinked. An analysis of the EU RED-recognised standards by WWF identified that multi-stakeholder schemes – those where a diverse range of stakeholders are involved in all aspects, from standard-setting to audits and governance – tended to have higher ecological and social requirements. It pointed out that such schemes were likely to result in better field-level implementation, due to their solid governance structure, transparency and strong audit and accreditation requirements.[8]

Bonsucro, RSPO and RSB are all examples of multi-stakeholder standards that go beyond the minimum criteria of the EU RED to address a wider range of environmental and social issues, and that have robust and transparent systems in place to ensure the requirements are met.

Using such standards can ensure that, as well as addressing SDG7 (clean energy) and SDG13 (climate action), the EU RED contributes to the other SDGs. For example, the RSB principles include improving food security in food-insecure regions, contributing to SDG2 (Zero Hunger), as well as criteria for protecting areas of high conservation value, contributing to SDG15 (Life on Land).

LESSONS FOR POLICY-MAKING

The EU RED illustrates both the innovative ways in which private standards and certification systems can be used as extensions of public policy, and the challenges in designing and implementing such policies. While it sets an interesting example of how co-regulation can work in practice, the weaknesses in its recognition process make it difficult to understand if and how it is achieving sustainability outcomes.

A number of important lessons on how co-regulation should be designed and implemented can be distilled from the EU RED experience to date.

First and foremost, current analysis illustrates the need for a progressive policy which recognises different levels of performance in the field and incentivises more comprehensive and credible standards systems. In brief, the recognition process for standards and certification programmes should encourage a ‘race to the top’ in terms of both performance and credibility. To do this, a revised process should integrate and adapt international best practices for effective and credible standards systems. This means introducing requirements to ensure schemes are accessible, impartial, rigorous, and relevant to addressing the most significant social, environmental and economic issues. They should also have a built-in monitoring and evaluation programme which allows the EU and other stakeholders to assess the outcomes and impacts of a standard’s implementation. These values are captured in the ISEAL Credibility Principles, while the ISEAL Alliance Codes of Good Practice provide guidance on concrete measures to implement them.[9]

Importantly, adhering to ISEAL Principles also ensures an international standard is aligned with the World Trade Organization’s Technical Barrier to Trade agreement. This agreement seeks to ensure standards do not represent unnecessary obstacles to trade. For instance, they should be developed with open membership and keep in mind the concerns of developing countries.[10]

Secondly, a transparent, EU-level monitoring and evaluation framework needs to be developed to assess how the EU RED is driving more sustainable bioenergy production around the globe. Such a framework could combine impact studies and data from certification audits, which in turn requires stronger oversight of the recognised schemes, as suggested above.

Lastly, policy instruments such as subsidies, tax reductions or other financial incentives could reward producers, importers, manufacturers, consumers or others in the value chain who have made efforts to meet more stringent and credible standards. This would ensure the EU RED has a greater positive impact and creates a race to the top in the production and consumption of sustainable bioenergy.

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1. For example, see: The Royal Society. 2008. Sustainable Biofuels: Prospects and Challenges. https://royalsociety.org/~/media/Royal_Society_Content/policy/publications/2008/7980.pdf http://ec.europa.eu/energy/en/topics/renewable-energy/renewable-energy-directive **2.** See http://ec.europa.eu/energy/en/topics/renewable-energy/biofuels/voluntary-schemes **3.** European Court of Auditors. 2016. Special Report: The EU system for the certification of sustainable biofuels. p. 21, www.eca.europa.eu/Lists/ECADocuments/SR16_18/SR_BIOFUELS_EN.pdf **4.** ibid, pp.21-5 **5.** ibid, pp. 26-8 **6.** EC. 2017. Article 27, section 5. **7.** WWF. 2013. Searching for Sustainability: Comparative Analysis of Certification Schemes for Biomass used for the Production of Biofuels. http://assets.panda.org/downloads/wwf_searching_for_sustainability_2013.pdf **9.** ISEAL Standard-Setting Code www.isealalliance.org/our-work/defining-credibility/codes-of-good-practice/standard-setting-code; ISEAL Codes of Good Practice www.isealalliance.org/our-work/defining-credibility/codes-of-good-practice **10.** See TBT Agreement Articles 4.1, 8.1, 8.2, and 15.2 on implementation and Annex 3 on the Preparation, Adoption, and Application of Standards, the 2012 Tuna-Dolphin Appellate Body ruling on open membership, and “Decision Of The Committee On Principles For The Development Of International Standards, Guides And Recommendations With Relation To Articles 2, 5 and Annex 3 Of The Agreement”, p. 46: 1r10--WTO TBT committee key decisions.