Deforestation Regulation

2021/0366(COD) - 19/04/2023 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 552 votes to 44, with 43 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council on making available on the Union market as well as export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010.

The European Parliament's position adopted at first reading under the ordinary legislative procedure amends the Commission's proposal as follows:

Subject matter and scope

This Regulation lays down rules regarding the placing and making available on the Union market as well as the export from the Union of relevant products, that contain, have been fed with or have been made using relevant commodities, namely **cattle, cocoa, coffee, oil palm, rubber, soya and wood**, with a view to:

- **minimising the Union's contribution to deforestation and forest degradation worldwide**, and thereby contributing to a reduction in global deforestation;

- reducing the Union's contribution to greenhouse gas emissions and global biodiversity loss.

Relevant commodities and relevant products should not be placed or made available on the market or exported, unless all the following conditions are fulfilled: (a) they are deforestation-free; (b) they have been produced in accordance with the relevant legislation of the country of production; and (c) they are covered by a due diligence statement.

The amended text defines **'forest degradation'** as structural changes in forest cover, taking the form of conversion of: a) primary or naturally regenerated forests to plantation forests or other wooded areas; or b) primary forests into planted forests.

Obligations on operators

Operators should not place relevant products on the market or export them without prior submission of a **due diligence statement**. Operators that obtain or are made aware of relevant new information, including substantiated concerns, indicating that a relevant product that they have placed on the market is at risk of not complying with this Regulation should immediately inform the competent authorities of the Member States in which they placed the relevant product on the market, as well as traders to whom they supplied the relevant product.

Operators that are **SMEs** should not be required to exercise due diligence for relevant products contained in or made from relevant products that have already been subject to due diligence in accordance with this Regulation.

Information requirements

Operators should collect, organise and keep for five years from the date of the placing on the market or of the export of the relevant products the following information, accompanied by evidence, relating to each relevant product:

- a description, including the trade name and type of the relevant products as well as, in the case of relevant products that contain or have been made using wood, the common name of the species and their full scientific name; the product description shall include the list of relevant commodities or relevant products contained therein or used to make those products;

- the quantity of the relevant products; for relevant products entering or leaving the market, the quantity is to be expressed in kilograms of net mass;

- the country of production and, where relevant, parts thereof;

- the **geolocation of all plots of land** where the relevant commodities that the relevant product contains, or has been made using, were produced, as well as the date or time range of production.

Assessment of countries

This Regulation establishes a three-tier system for the assessment of countries or parts thereof. For that purpose, Member States and third countries, or parts thereof, should be classified into one of the following risk categories: **'high risk'; 'low risk' and 'standard risk'**.

On the entry into force of the Regulation, all countries should be assigned a standard level of risk. The Commission should classify countries or parts thereof, that present a low or high risk on the basis of an **objective and transparent assessment** within 18 months of the entry into force of the legislation.

Checks on operators and non-SME traders

The competent authorities should use a **risk-based approach** to identify the checks to be carried out. Special attention will be paid to the situation of countries or parts thereof classified as high risk, the history of non-compliance of operators or traders with this Regulation, risks of circumvention, and any other relevant information. The proportion of checks is performed on operators according to the country's risk level: **9%** for high-risk countries, **3%** for standard-risk and **1%** for low-risk.

The checks on operators and non-SME traders should include an examination of their due diligence system and an examination of documentation and records attesting that specific relevant product in question is compliant. It should also include:

- on-the-ground examination of relevant commodities or of the relevant products with a view to ascertaining their correspondence with the documentation used for exercising due diligence;

- any technical and scientific means adequate to determine the species or the exact place where the relevant commodity or relevant product was produced, including anatomical, chemical or DNA analysis;

- any technical and scientific means adequate to determine whether the relevant products are deforestation-free, including Earth observation data such as from the Copernicus programme and tools or from other publicly or privately available relevant sources.

Penalties

The penalties for non-compliance should be effective, proportionate and dissuasive. The maximum amount of such a fine shall be **at least 4 %** of the operator's or trader's total annual Union-wide turnover. Penalties also include: (i) temporary exclusion for a maximum period of 12 months from public procurement processes and from access to public funding, including tendering procedures, grants and

concessions; (ii) temporary prohibition from placing or making available on the market or exporting relevant commodities and relevant products, in the event of a serious infringement or of repeated infringements.