

# Deforestation Regulation

2021/0366(COD) - 09/06/2023 - Final act

**PURPOSE:** to combat deforestation and forest degradation by reducing EU consumption that contributes to it.

**LEGISLATIVE ACT:** Regulation (EU) 2023/1115 of the European Parliament and of the Council on the making available on the Union market and the export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010.

**CONTENT:** the Regulation aims to **minimise the risk of deforestation and forest degradation** associated with products placed on or exported from the EU market. It also aims to reduce the EU's share of global greenhouse gas emissions and biodiversity loss.

## *Due diligence*

The Regulation lays down mandatory due diligence rules for all operators and traders who place, make available or export the following commodities from the EU market: **palm oil, cattle, wood, coffee, cocoa, rubber and soy**.

These rules also apply to a number of by-products such as chocolate, furniture, printed paper and certain palm oil derivatives (used, for example, as components in personal care products).

Due diligence systems should be designed to make accessible information on the sources and suppliers of commodities and products placed on the market, including information demonstrating compliance with no deforestation and forest degradation and legality requirements, *inter alia* by identifying the **country of production** or parts thereof and providing the **geographical coordinates of the plots** concerned.

Smaller operators will be able to call on larger operators to prepare the due diligence statements.

By making the due diligence declaration available to the competent authorities, the operator will assume responsibility for the conformity of the product in question. Operators will be required to keep a record of due diligence declarations for five years from the date of submission of the declaration.

Operators will verify and **analyse the information collected** and any other relevant documentation. Based on that information and documentation, the operators will carry out a risk assessment to establish whether there is a risk that the relevant products intended to be placed on the market or exported are non-compliant.

## *Product checks*

The competent authorities will 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 of countries classified as high risk, the history of non-compliance by operators or traders and the risks of circumvention. Products from low-risk countries will be subject to a simplified procedure.

The Regulation creates a **benchmarking system**, which assigns a level of risk related to deforestation and forest degradation (**low, standard or high**) to countries inside and outside the EU.

The competent authorities will have to carry out checks on **9%** of operators and traders trading in products from high-risk countries, **3%** in the case of standard-risk countries and **1%** in the case of low-

risk countries, in order to verify that they are actually fulfilling the obligations laid down in the regulation. In addition, the competent authorities will carry out checks on **9% of the commodities and products** concerned placed on, made available on or exported from their market by high-risk countries.

The checks on operators and non-SME traders will 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.

### ***Human rights aspects***

The new rules also take into account the protection of human rights in relation to deforestation. Respecting the rights of indigenous peoples in relation to forests and the principle of free, prior and informed consent, as set out in particular in the UN Declaration on the Rights of Indigenous Peoples, will help to protect biodiversity, mitigate climate change and address related public interest concerns.

### ***Penalties***

Member States should ensure that sanctions are **effective, proportionate and dissuasive**. Fines commensurate with the environmental damage and the value of the commodities or products concerned must be set at a minimum of **4% of the operators' annual EU turnover** and accompanied by temporary exclusion from public procurement procedures and access to public funding.

### ***Cut off date***

The regulation sets the date of application of the new rules at **31 December 2020**, which means that only products that have been produced on land that has not been subject to deforestation or forest degradation after 31 December 2020 will be allowed on the EU market or authorised for export.

ENTRY INTO FORCE: 29.6.2023.