EU Deforestation Regulation

A general overview

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Forests in the EU legislation

The European Union (EU) has been actively working on legislation to combat deforestation and forest degradation as part of its broader environmental and sustainability goals.

Here's a general overview of the EU's approach to deforestation:

- **EU Timber Regulation (EUTR)**
  Enacted in 2013, the EUTR prohibits the placement of illegally harvested timber and timber products on the EU market. It requires operators to exercise due diligence to ensure that the timber they trade is legal. This regulation has been repealed by the EU Deforestation Regulation with effect on 30 December 2024 (see below).

- **FLEGT Regulation**
  The Forest Law Enforcement, Governance, and Trade (FLEGT) Regulation includes measures to prevent the import of illegal timber into the EU, improve the supply of legal timber, and increase the demand for wood products from responsibly managed forests. It also established Voluntary Partnership Agreements (VPAs) with timber-producing countries.

- **Green Deal**
  The European Green Deal, announced in 2019, aims to make Europe climate neutral by 2050. It envisages various strategies, including, inter alia:

  (i) Farm to Fork Strategy;

  (ii) the EU Biodiversity Strategy for 2030; and

  (iii) the EU Forest Strategy for 2030.

- **'Farm to Fork' Strategy** (part of the Common Agricultural Policy)
  While primarily focused on sustainable food systems, this strategy also includes measures to protect natural resources and reduce the environmental and carbon footprint of the food production and supply chain, which indirectly benefits forest ecosystems.

Deforestation occurs when forests are converted to non-forest uses, such as agriculture and road construction.

Forest degradation occurs when forest ecosystems lose their capacity to provide important goods and services to people and nature.

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Forests in the EU legislation (Cont'd)

- **EU Biodiversity Strategy for 2030**
  The EU Biodiversity Strategy for 2030 is a comprehensive, ambitious plan adopted by the European Commission to protect nature and reverse the degradation of ecosystems. It is part of the European Green Deal and aims to address the key drivers of biodiversity loss. The strategy sets out a long-term plan for protecting nature and includes several key commitments and targets.

- **EU Forest Strategy for 2030**
  Through this strategy, the EU aims by 2030 to: (i) protect forests and the value of the many ecosystem services they provide; (ii) plant at least 3 billion additional trees in the EU; (iii) contribute to a modern, climate-neutral, resource-efficient and competitive economy; (iv) preserve lively rural areas and help maintain wealthy rural populations; (v) ensure that products consumed in the EU do not contribute to global deforestation.

- **EU Nature Restoration Law**
  The EU proposal (not yet formally adopted) focuses on restoring biodiversity and increase resilience in nature across its regions, aiding climate goals, and fulfilling global agreements. It sets binding targets to restore specific ecosystems and species, aiming to cover at least 20% of EU land and sea by 2030, with a goal to have restoration measures in place for all relevant ecosystems by 2050. Key targets include the large-scale restoration of diverse habitats such as wetlands, forests, grasslands, and aquatic environments, and the expansion of habitats to support the recovery of species populations.

- **LULUCF Regulation**
  The Regulation on land, land use change and forestry, recently revised in 2023, sets out how the land use sector contributes to EU's climate goal, particularly promoting sustainable forest land management and the role of forests as carbon sinks.

- **EU Deforestation Regulation**
  On 31 May 2023 the European Parliament and the Council has approved the EU Deforestation Regulation no. 2023/1115 (also called the Regulation on Deforestation-free products).

EU Deforestation Regulation

Purpose

The EU Deforestation Regulation (EUDR) contains rules on placing on EU market or export to third countries of certain commodities and products derived from these commodities, with a view to minimising EU's contribution to deforestation and forest degradation worldwide and reducing EU's contribution to climate change and biodiversity loss.

The purpose of the EUDR is to fight:

- Deforestation, namely the conversion of forest to agricultural use;
- forest degradation, namely structural changes to forest cover through conversion of primary forests into planted forests.

The EUDR requires natural and legal persons trading in many commodities, as well as products derived from these commodities, to conduct extensive due diligence on the value chain to ensure the goods do not result from recent (post 31 December 2020) deforestation, forest degradation or breaches of local environmental and social laws.

Operators and traders have to comply within 18 months from the adoption (i.e., by 30 December 2024) – for micro and small enterprises the compliance is due by 30 June 2025.

Every 5 seconds - night and day -, nearly **1 football pitch** of tropical primary trees felled or burned.

Source: WRI report - *Forest Pulse: The Latest on the World's Forests 2022*

Timeline

23 July 2019

European Commission adopts the 2019 Communication on **Stepping up EU Action to Protect and Restore the World's Forests**

9 June 2023

Regulation (EU) 2023/1115 published in the **Official Journal** of the European Union

29 June 2023

Regulation on deforestation-free products **enters into force**

30 December 2024

Regulation on deforestation-free products **enters into application**

30 June 2025

Regulation on deforestation-free products enters into application for **Micro and Small undertakings**

* EU Timber Regulation will remain in force until 20 December 2024, except for some timber products produced before 29 June 2023, in relation to which the EU Timber Regulation will be applicable even following this term.

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EU Deforestation Regulation (Cont'd)

To whom it applies

Operators established in the EU

namely any natural or legal person who, in the course of a commercial activity, **places** relevant product on the EU markets **or exports** them from the EU market.

Traders established in the EU

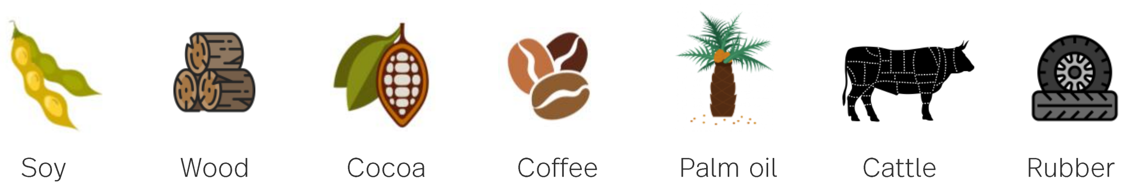
any person in the supply chain other than the operator who, in the course of a commercial activity, **makes relevant products available** on the market.

Operators established in third countries (art. 7)

where a natural or legal person established **outside the Union places relevant products on the market**, the first EU person who makes such relevant products available on the market shall be deemed to be an operator established in the EU

What is covered

The law has initially included **7 commodities** within the scope of the EU regulation:



Within each commodity, the regulation defines which products are included within the scope of the law, according to a list of EU customs codes.

The list also includes **many derived products** listed in the Annex to the regulation (e.g., meat products, leather, chocolate, coffee, palm nuts, palm oil derivatives, glycerol, natural rubber products, soybeans, soy-bean flour and oil, fuel wood, wood products, pulp and paper, printed books).

EU Deforestation Regulation (Cont'd)

What is forbidden

Pursuant to article 3 of EUDR, it is prohibited to place or make available on the market or export from the EU relevant commodities and relevant products unless they are:

- deforestation-free (products produced on land that has not been subject to deforestation or forest degradation after 31 December 2020);
- produced in accordance with the relevant legislation of the country of production;
- covered by a due diligence statement indicating no more than a negligible risk of non-compliance.

Importantly, and unlike previous EU laws on illegal logging and related trade - such as the EU Timber Regulation -, **the EUDR targets deforestation and forest degradation regardless whether such deforestation and/or forest degradation is legal or not under the local laws.**

Due Diligence

Before being allowed to place on the Union market or export the products concerned, pursuant to articles 4 and 8 of the EUDR, operators must exercise due diligence*, which should include:

The **collection of detailed information** that demonstrates the products comply with Art. 3 EUDR (general prohibition).

Article 9

Carrying out a **risk assessment** in relation to each product aimed at confirming no risk or only a negligible risk of non-compliance.

Article 10

In case of non-negligible risks of non-compliance, the **adoption of risk mitigation measures** to reach "no or only a negligible risk".

Article 11

The same due diligence obligation applies to traders that are not SMEs with regard to the relevant commodities and relevant products that they make available on the market. Less restrictive obligations apply to SME traders.

* Simplified due diligence requirements apply in some cases where the commodities and relevant products have been produced in countries at "low risk" in compliance with the EUDR

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EU Deforestation Regulation (Cont'd)

Penalties

EUDR provides penalties for non-compliance to be set by Member States, including:

- **Corrective action** by operator, including rectification of formal non-compliance, preventing the product from being marketed, recalling the relevant product immediately, donating the product to charitable or public interest purposes or disposing in accordance with waste management;

- **Fines** proportionate to the environmental damage and value of the items (gradually increased in case of repeated infringements) with a maximum of at least 4% of EU turnover in the preceding year and may be increased to exceed the potential economic benefit;

- **Confiscation** of the covered products or confiscation of the revenues gained from the items;

- **Temporary exclusion from public procurement processes and public funding**;

- **Temporary prohibition** from dealing in the EU in those items;

- **Prohibition from using the simplified due diligence process**, for serious or repeated infringements.

Deforestation causes approximately

$2 trillion to $4.5 trillion

in lost biodiversity each year.

Contact us

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