

## Product Risk Radar

### EU Deforestation Regulation

**Last updated: 15 January 2024**

#### Overview

On 31 May 2023, the new EU Regulation aimed at tackling deforestation and forest degradation (2023/1115/EU) (the “[Deforestation Regulation](#)”) was published in the Official Journal. The new Regulation requires companies to undertake due diligence into the source of a wide range of commodities, including cattle, cocoa, coffee, palm oil, rubber, soya, and wood, to ensure that they have not been obtained as a result of deforestation.

The Deforestation Regulation forms part of the European Green Deal initiative and aims to ensure that EU consumption does not contribute to global deforestation and forest degradation arising from agricultural expansion linked to the relevant commodities. It was proposed in response to estimates that EU consumption accounts for 10% of global deforestation, specifically arising from the conversion of forestry to agricultural land for the production of commodities. The Regulation aims to guarantee EU consumers that products bought on the EU market do not contribute to global deforestation and forest degradation.

#### The scope of the new regulation

The Deforestation Regulation will repeal and replace the EU Timber Regulation (995/2010/EU), which applied to timber and certain types of timber products. The new Regulation expands the scope to include commodities associated with deforestation, including cattle, cocoa, coffee, palm oil, rubber, soya, and wood, as well as derived products including leather, chocolate, furniture, and palm oil derivatives.

The Deforestation Regulation will primarily affect businesses placing the above commodities on the EU market or exporting them from the EU. The key sectors affected include retail, food/beverage, apparel, automotive, life sciences, biofuels, paints and coatings, and cosmetics.

The EU Commission will adopt a benchmarking system to assess source countries to determine the level of risk of deforestation and forest degradation. Commodities originating in “low-risk” countries will be subject to a simplified due diligence procedure whereas the procedure for “high-risk” countries will be more demanding.

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## Obligations of suppliers in relation to the Deforestation Regulation

From 30 December 2024, businesses placing relevant products on the EU market (or exporting them) will be required to ensure that products are “deforestation-free”. This means that products must be produced on land that has neither been deforested after the 31 December 2020 cut-off date, nor has seen primary and naturally growing forests converted into plantations. Further, products must have been produced in compliance with all applicable and relevant laws in force in the country of production, including those relating to human rights, and the rights of local indigenous populations must have been respected.

Businesses will need to demonstrate effective due diligence procedures covering information gathering, risk assessment, and risk mitigation measures. Importantly, businesses will be required to submit to the authorities, before placing on the market or exporting, a due diligence statement confirming that the relevant checks have been undertaken and identifying the specific geolocation of all plots of land where the relevant commodities were produced to help facilitate compliance checks.

## Enforcement

If a supplier is found to be non-compliant with the Deforestation Regulation, the competent national authorities designated by each Member State are entitled to:

- confiscate regulated products and any revenues gained from transactions involving confiscated products;
- issue fines of up to 4% of a trader’s total annual turnover in the EU;
- temporarily exclude businesses from public procurement processes and public funding for up to 12 months; and
- in the case of serious and/or repeated infringements, to temporarily prohibit exports of regulated products in the EU market and exercise of the simplified due diligence process.

## Why is this important?

The Deforestation Regulation will impose due diligence obligations on a much wider range of products than the previous Timber Regulation regime. To comply with the Regulation, businesses will need to ensure that they have due diligence processes in place that include information gathering, risk assessment, and risk mitigation measures. Businesses will also need to put in place appropriate processes to ensure that signed due diligence statements can be prepared in respect of all shipments.

This Regulation sits alongside a growing number of regulations and proposals in the EU aimed at requiring companies to take greater responsibility for the impact on human rights and the environment of their extended supply or value chains, including the Commission’s proposed Corporate Sustainability Due Diligence Directive and Regulation Prohibiting Products made with Forced Labour.

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