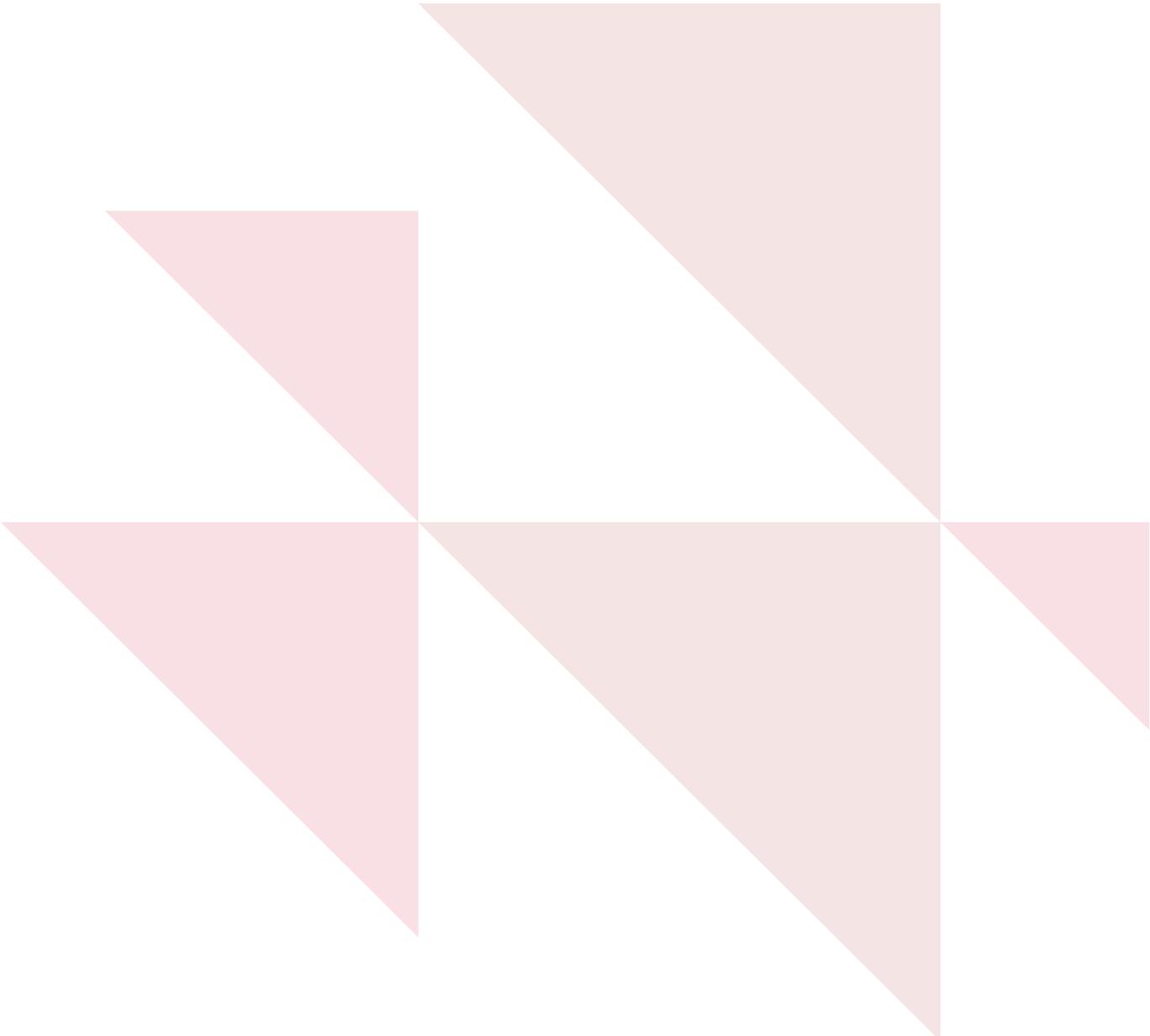


# **CDP EUROPE POLICY BRIEFING: DEFORESTATION-FREE PRODUCTS ON THE EU MARKET**

CDP's policy recommendations for the proposed  
deforestation law



February 2022

## OVERVIEW

CDP Europe supports the objective of the EU's deforestation-free products initiative. The proposed regulation on deforestation-free products aims to curb deforestation and forest degradation provoked by EU consumption and production. The initiative aims to minimize the consumption of products coming from supply chains associated with deforestation or forest degradation, whilst increasing EU demand for and trade in legal and deforestation-free commodities and products.

- ▼ The regulation sets mandatory due diligence rules for operators placing specific commodities on the EU market that are associated with deforestation and forest degradation – soy, cattle products (inc. beef), palm oil, wood (inc. timber products), cocoa and coffee, and some derived products such as leather, chocolate and furniture.
- ▼ The 3-step product-focused due diligence regime is intended to be complementary with the anticipated legislative initiative on Sustainable Corporate Governance (SCG), which aims to improve the EU regulatory framework on company law and corporate governance.
- ▼ A benchmarking system, operated by the European Commission, will identify countries as presenting a low, standard, or high risk of producing commodities or products that are not deforestation-free or in accordance with the legislation of the producer country.

To guide policymakers towards an effective reform, this policy briefing provides recommendations on the scope of the proposal concerning commodities and ecosystems, SME traders and smallholders, as well as the EU's due diligence regime, and the role of the finance sector.

## KEY RECOMMENDATIONS

- ▼ **Scope** – include natural rubber, as well as crucial non-forest ecosystems such as the savannah of the Cerrado region in Brazil.
- ▼ **SME traders** – ensure smallholders will be able to comply with the regulation while maintaining a level playing field by ensuring that smaller businesses are not disproportionately impacted by high costs associated with due diligence compliance.
- ▼ **Due diligence requirements** for the financial institutions which provide finance and investment services to operators in high-risk sectors covered by the deforestation-free regulations.
- ▼ **Liability provisions** – hold companies accountable for non-compliance and improve access to justice for those affected.
- ▼ **Support the proposed cut-off date for inclusion of 'at-risk commodities'** to ensure that production cannot be linked to land deforested after December 2020.
- ▼ CDP supports the proposed definition of deforestation as defined by the FAO: the conversion of forests for agricultural purposes, whether human-induced or not; this definition takes into account land deforested by natural fires and subsequently transformed into agricultural land, which is key to preventing illegal deforestation concealed as natural.

## A Coherent Deforestation-Free Initiative

Key to the implementation of this proposal is a strong due diligence regime, requiring producers to report on all relevant commodities, geographical high-risk areas, as well as sufficient convergence with related EU legislative initiatives on Sustainable Corporate Governance and the inclusion of financial institutions.

### Scope

The EU's proposal represents a crucial turning point in curbing the impact of EU consumption on global deforestation, however **significant elements of the commodities and ecosystems scope are absent.**

- ▼ Natural rubber is not included in the proposed list of risk commodities, despite its contribution to deforestation, especially in South-East Asia.
  - ▼ CDP has been working with Afi (Accountability Framework initiative) to ensure further alignment of our disclosure requirements, which provides consistent measures of progress across commodities including rubber<sup>1</sup>.
- ▼ Important ecosystems, such as the savannah of the **Cerrado region in Brazil**, which is at significant risk of deforestation and degradation relating to the production of soy, are not covered by the proposal.



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<sup>1</sup> CDP Forests 2022 Reporting Guidance

### SME traders

The rules for SME traders under article 6 of the proposal, only require record keeping and are to be exempt from article 9 (information requirements relating to due diligence) and article 10 (due diligence risk assessment and mitigation).

- ▼ SME traders should be required to adhere to proportional and SME-friendly due diligence requirements as outlined in article 3 (prohibition) and 4 (obligations of operators) of the proposal.

### Smallholders

The proposal does not consider how to ensure smallholders will be able to fully comply with the regulation. To ensure a holistic system of reporting, large companies should be required to engage and support smallholders, building up their capacity to ensure the sustainable production of forest-risk commodities.

- ▼ CDP data show that a limited number of companies, reporting in 2020, had targets for engagement with smallholders per forest-risk commodity (FRC) (6% cocoa, 5% palm oil and 2% soy; see Figure 1). Smallholders hold crucial information embedded in the supply chain relevant for the due diligence process and should be included.

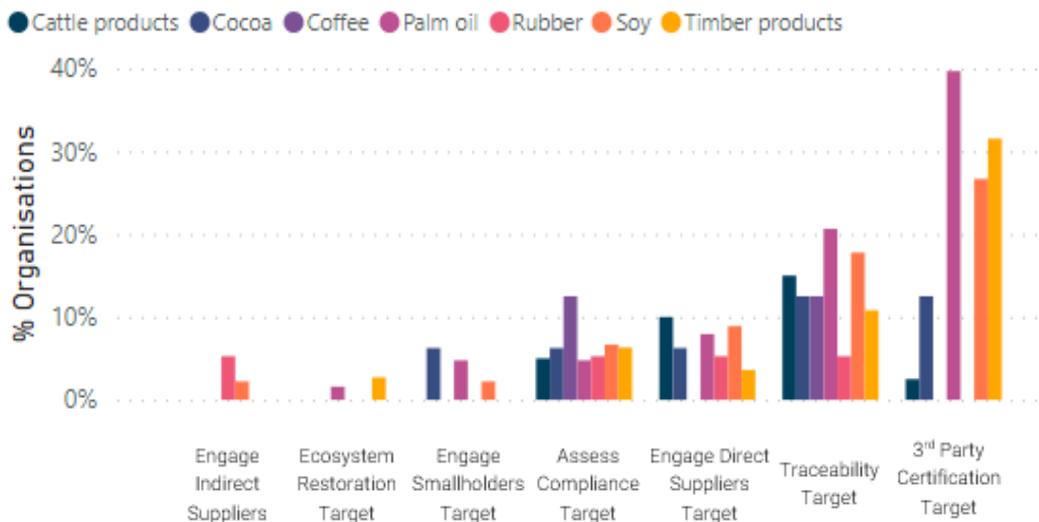


Figure 1: Share of organizations in Europe (EU27, UK and EFTA) that disclose information on their engagement with suppliers and smallholders in 2020

## EU Timber Regulation

The EU Timber Regulation (EUTR) prohibits operators in Europe from placing illegally harvested timber and products derived from illegal timber on the EU market. It was created as part of the EU's FLEGT (Forest Law Enforcement, Governance and Trade) Action Plan and came into force in 2013.

Companies which fall under the scope of the EUTR must carry out due diligence checks, but the deforestation-free products initiative will adapt and improve the system through the introduction of new features such as the due diligence statement (article 4); the geographic information or geo-location requirement; linking the commodities and products to the plot of land where they were produced (article 9); increased cooperation with customs (articles 14 and 24); minimum inspection levels (article 14) as well as the country benchmarking (articles 25-26).

- ▼ **CDP supports the geographic information obligation in article 9, which requires operators to collect the geographic coordinates (or geolocation via latitude and longitude) of all the plot(s) of land where the relevant commodities and products were produced.** This development represents a significant advancement of the requirements; since deforestation is linked to land-use change, monitoring deforestation requires a precise link between the commodity or product and the plot of land where it was cultivated.

## EU Due Diligence Regime

Companies and traders who place EU forest-risk commodities or products containing them on the EU market will have to ensure that they are not linked to deforestation and forest-degradation. They will be required to exercise mandatory due diligence and evaluate the risks in their supply chain.

The new regulation establishes a tiered mandatory due diligence system, relying on a deforestation-free definition, combined with a benchmarking system. Whereas the forests due diligence regime is focused on the product level, the proposal complements the anticipated Sustainable Corporate Governance initiative (SCG), which is expected to set out rules at the company and board level.

The country benchmarking system aims to incentivize countries to ensure stronger forests protection and governance, to facilitate trade and to better calibrate enforcement efforts by helping competent authorities to focus resources where they are most needed.

- ▼ **The introduction of mandatory due diligence requiring economic operators and large traders to provide geographical information on the plot of land of production, is a welcome development in the EU's forests management regime.**
- ▼ **The due-diligence measures build on the existing country benchmarking system and cooperation with partner countries will be fundamental.** While there are currently no plans to place bans on producing countries, there will be mechanisms to support and stimulate producing countries to help them comply with the new requirements.

## SUSTAINABLE CORPORATE GOVERNANCE INITIATIVE

The SCG initiative aims to improve the EU regulatory framework on company law and corporate governance and is expected to deliver due diligence rules to make companies accountable for human rights and environmental harm as well as requiring them to develop plans to mitigate these risks and impacts.

CDP Europe welcomes the convergence between the anticipated SCG initiative and the deforestation-free products proposal.

- While the SCG regime will address business operations and value chains in general, the deforestation approach is focusing on specific products and product supply chains.
- The SCG initiative is expected to propose a horizontal approach to addressing adverse human rights and environmental impacts of companies in their own operations and in their value chains.
- Obliging company directors to consider sustainability aspects in corporate strategies with adequate enforcement mechanisms is a key step towards increasing EU demand for and trade in legal and 'deforestation free' commodities and products.

## Financing Deforestation

The EU's proposal for deforestation-free products is expected to protect approximately 71,920 hectares of forest – presently affected by EU-driven deforestation and forest degradation – annually in the next decade. This would equate to a reduction of at least 31.9 million metric tons of carbon emissions related to EU consumption and production of the commodities associated with forest degradation – resulting in economic savings of at least 3.2 billion EUR annually.

A growing number of financial institutions have introduced policies that cover their investment in or lending to companies involved in forest-risk commodity supply chains. In 2021, over 590 investors with assets of over US\$110 trillion are requesting thousands of companies to disclose to them through CDP<sup>2</sup>.

This regulation does not target the finance sector and investments. The European Commission considers the CSRD and EU taxonomy as sufficient tools to address the impact of finance and the investment sector. However, the CSRD proposal, in its current iteration, considers private companies, which do not meet the threshold of large undertakings, as outside of the scope for mandatory reporting. A lack of information from medium-sized undertakings operating in high-risk sectors will put finance actors at risk from growing liabilities as governments implement legislation to control deforestation.

While the proposed CSRD introduces annual reporting standards for biodiversity and ecosystems – forests being considered as covered under the definition of ecosystems – this

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<sup>2</sup> CDP Request Environmental Information

may still fall short and there is still an important opportunity to seize by addressing the fundamental market incentives for deforestation.

- ▼ **CDP Europe joins the European Parliament in calling for due diligence requirements for the financial institutions which provide finance and investment services to operators in high-risk sectors covered by the deforestation-free regulations<sup>3</sup>.** Financial actors have a responsibility and incentive to undertake due diligence to ensure that supply chain companies are respecting the obligations of this deforestation-free products regulation.
- ▼ **The proposed cut-off date for inclusion of at-risk commodities is a welcome development as this means that production cannot be linked to land deforested after December 2020** and provides a clear market signal to financial actors that investments in deforestation-related activity after this date represents a stranded asset.

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<sup>3</sup> [European Parliament Legislative Initiative Report on EU-Driven Global Deforestation](#)

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## CDP Government Partnerships

CDP Government Partnerships are designed to help governments analyse the impact of policies and regulation to achieve carbon-neutrality and resource efficiency by 2050. CDP's global disclosure system equips national, EU and international policymakers and governmental bodies with the data they need to track and measure the impact of policies, identify gaps, trends and best market practice that can be tackled and incentivized through policymaking to create positive impact and drive the transition.

By endorsing the CDP disclosure system, governments can actively drive the increase in quantity and quality of climate and environmental data of corporates and local governments as well as action on climate change, water insecurity and deforestation.

See here for more information: <https://www.cdp.net/en/policy-and-public-affairs/government-partnerships>

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CDP Europe's annual report is available [here](#).



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