

Retail and wholesale: supporting an EU market for deforestation-free products

Key messages

- **Our sector strongly supports the aim of the proposed regulation to curb EU-driven deforestation** as part of the goals set by the EU Green Deal to meet the ambitions of the Paris Agreement.
- **Retail and wholesale are fully aware of their role and actively tackle societal and environmental challenges.** Many companies are committing to global alliances and use certification and verification schemes to, among others, reduce the impact of their sourcing practices on deforestation.
- To be effective and efficient, the obligation to exercise due diligence should follow **a strict division of responsibilities among actors** in the supply chain, **where the first placer on the EU market of a commodity or product is responsible to ensure that it is deforestation-free, and that any economic operator further downstream is able to access the due diligence information via a robust chain of custody**
- Retail and wholesale are positioned at the end of a very complex supply chain, which reduces the access to, and control of the information generated at primary production level. **However, their strength is that they can check the presence of the necessary documentation and apply mitigation measures in a risk-based manner as part of their quality and risk management processes.**
- **Certification and verification schemes are important tools to support due diligence processes,** as part of risk mitigation and hence they need to be included and recognised.

General introduction

Retail and wholesale act against deforestation

Retailers and wholesalers have long been committed to preventing deforestation in their supply chains. These commitments are implemented either through internal policies and standards closely working with their suppliers to agree on strict and verifiable criteria, or by joining and endorsing global, region or commodity-specific commitment to fight deforestation in specific areas. They work with suppliers, traders, and governments in producing countries, to establish long-term and trustworthy business relationships to reduce deforestation risks. Other actions have involved disclosing progress via measurable indicators or investing in landscape initiatives.

Our aim therefore is to contribute to an effective and enforceable European regulation to combat deforestation built on our key learnings from long standing responsible supply chain management initiatives.

Complexity of the supply chain

Forest-risk commodities are sourced globally and, as such, linked to long and complex supply chains. It is a significant challenge for retailers, wholesalers and international trading companies to obtain full

traceability throughout the supply chain for all the various ingredients in a product, from plantations and forests through production to retail.

The supply of these commodities and products typically involves forest/plantation owners, processors, importers, traders, wholesalers, manufacturers, and others before the final product reaches the customers. This gets even more complex for commodities indirectly present in supply chains, such as soy used in animal feed to produce products such as beef, eggs or dairy that can, in turn, be used as ingredients in other end-products.

Allocating appropriate and proportionate obligations along the supply chain

Our sector is at the end of an, often, very complex supply chain making it impossible to replicate the entire due diligence process. To be effective and efficient, the obligation to exercise due diligence should follow a strict division of responsibilities among actors in the supply chain, **where the first placer on the EU market of a commodity or product (the “operator”) is responsible to ensure that it is deforestation-free**, and that any economic actor further downstream is able to access information required by this regulation, including on origin, via a robust chain of custody.

Specific comments on proposed measures

Clear definitions (Article 2)

For our sector, implementation of this regulation is only feasible, and will in general be more effective, if definitions for deforestation; forest and forest degradation are clear and in line with globally accepted concepts.

(6) Forest degradation –this is a novel and untested definition that will impact the forestry and wood sector in particular. As a possible solution we suggest using more developed definitions, such as set out by the Accountability Framework Initiative. Further collaboration with international forestry experts (e.g. EFI, ITTO) on the practical implementation in producer countries where high levels of forest degradation have been reported, is needed.

(8) ‘deforestation-free - This exclusion of verifiable recycled relevant commodities and products as set out in recital 28 should be explicitly mentioned in this definition.

(12) (13) definitions of ‘operator’ and ‘trader’ – These definitions should differentiate the roles and responsibilities when placing a product on the EU market or when making it available. Article 6 point 5 makes the definition confusing, as a trader is considered an operator due to its size only, hence we suggest this paragraph is removed.

Obligations and responsibility along the supply chain (Articles 4 and 6)

Systemic change needs strong buy-in from the entire supply chain across the globe and our sector is ready to do its part. Yet, in the proposal, retailers and wholesalers (that are not SME’s) are **expected to meet the same obligations as operators** laid down under articles 4, 6, 8, 10 and, most notably, the information requirements listed in article 9. **This is leading to a duplication of responsibilities and actions.**

For our sector, the implementation of this regulation is only feasible, and will overall be more effective, through a **proportionate allocation of responsibilities along the supply chain**¹. These responsibilities **should be assigned in line with commonly applied and generally accepted division between producers, manufacturers and importers in EU product law.**

One model to follow is Art. 11 of the proposal for a General Product Safety Regulation² which states “Before making a product available on the market, distributors shall verify that the manufacturer and

¹ [Blue guide](#)

² Proposal for a regulation of the European Parliament and of the Council on general product safety, amending Regulation (EU) No 1025/2012 of the European Parliament and of the Council,.



the importer have complied with the requirements set out in Article x as applicable". Another option to follow is the differentiated responsibilities of the EUTR between importers and traders.

As such, under article 6, and in line with long established EU product law, traders (distributors) can be responsible and liable for verification of the presence of the **due diligence statements** drawn up by the operator as first placer on the market.

Certainly, retail and wholesale companies act as operators for their own brand products containing the listed commodities but have no influence on other manufacturer's product (A-Brands). They can work with their tier-1 suppliers, from whom retail and wholesale companies can ask additional information and assurance.

Due diligence obligations (Article 8, 9 and 10)

It is important to ensure proportionality, especially for small and medium enterprises, and avoid overlap, duplication or divergence from national and EU Corporate Due Diligence laws. The obligations as set in articles 8 and 9 go beyond due diligence requirements and in essence result in an obligation for full transparency of the supply chain without specifically requiring the transmission of due diligence information.

Full traceability (including geo-location) is extremely complex and expensive and **should only be required for high-risk areas**.

The first placer on the market of a commodity or product **should be responsible to ensure that the commodity or product is deforestation-free**. Following this, suppliers downstream should be able to access the due diligence information via a robust chain of custody³.

A **legal requirement to transmit due diligence information throughout the supply chain from the operator to the final trader is needed**. Commercial product specifications could be used to transmit the information.

To ensure feasible application of article 9:

- the information requirements should **exclude products which contain only derivatives of the commodity in question**. A minimum threshold (by weight/volume/value addition) for the presence of a commodity in a product should be set.
- For **low-risk countries, operators should be allowed to first perform a risk assessment** based on information on the country of production, location information including the source reliability, validity, and links to other available documentation, before to identify the geolocation.

³ process by which inputs and outputs and associated information are transferred, monitored and controlled as they move through each step in the relevant supply chain



Risk assessment and risk mitigation (Article 10)

To set up due diligence systems in a timely manner, it is important to clarify on beforehand what is expected. Companies should be able to decide and develop their own procedures based on, e.g., existing guidelines and with the necessary flexibility to adapt it for a specific commodity or product.

The proposed regulation should include existing tools and learnings from the EUTR such as:

- Alignment with existing international standards and procedures (e.g., OECD Guidance⁴), UN Guiding Principles on Business and Human Rights⁵
- Consider other best practice such as guidance by the WBCSD Forest Solutions Roadmap⁶ and the Consumer Goods Forum Guidance on Forest Positive⁷, and due diligence.

Third-party certification schemes should be recognised as contributing to a company's due diligence system, including mitigation. Their role shall not be undervalued as certification is an important criterion of compliance.

Benchmarking System (Article 27)

We **welcome and support the proposed benchmarking system** to help identify the risks of deforestation. It is important that the benchmarking assessment is **put in place as soon as possible and ready to be implemented when the Regulation enters into force**, allowing European companies to know which information they need to provide to comply.

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⁴ [OECD Guidelines for Multinational Enterprises](#)

⁵ UN Guiding Principles on Business and Human Rights

⁶ [WBCSD Forest Solutions Roadmap](#)

⁷ [Consumer Goods Forum guidance on Forest Positive soy and palm oil suppliers](#)

