



EUROPEAN COMMISSION

Brussels, 4.6.2022
C(2022) 3311 final

Miloš Vystrčil
President of the Senát
Valdštejnské náměstí 17/4
CZ – 118 01 PRAGUE 1

Dear President,

The Commission would like to thank the Senát for its Opinion on the proposal for a Regulation of the European Parliament and the Council on the making available on the Union market as well as export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010 {COM (2021) 706 final}.

The Commission welcomes the Senát's broad support for the aims of the proposal but notes its concerns relating to a number of specific issues. The Commission is pleased to have this opportunity to provide some clarifications regarding its proposal and hopes that these will allay the Senát's concerns.

Regarding comments on the due diligence system, the Commission studied several possible alternatives in the Impact Assessment on minimising the risk of deforestation and forest degradation associated with products placed on the EU market. The option chosen – a benchmarking system with a tiered improved mandatory due diligence system relying on a deforestation-free definition – would ensure that the EU puts in place a regulatory framework that is ambitious and implementable, while incentivising the sustainability transition in countries, both within and beyond the EU, thereby making the EU a global standard-setter. The new initiative takes a decisive step forward by addressing not only illegal deforestation, but all deforestation driven by agricultural expansion to produce the commodities and products in the scope of the Regulation.

Regarding the need for an evaluation of the results of the EU Timber Regulation, the Commission agrees with the Senát and has conducted a fitness check of the Timber Regulation that was published¹ together with the Impact Assessment. This was done to ensure that the lessons learnt during the implementation of the Timber Regulation were taken into account in the new initiative.

¹ [Proposal for a regulation on deforestation-free products \(europa.eu\)](https://europa.eu)

The proposal builds on the due diligence system of the Timber Regulation but introduces several improvements. These include the coverage of legal and illegal deforestation; stricter traceability obligations that link the commodities to the plot of land, where they were produced via geolocation; a benchmarking system that will categorise countries or parts of countries as low, standard or high risk; the coverage of large traders – and not just operators – with the main obligations of the Regulation; the obligation for operators to file a due diligence statement confirming that they have exercised due diligence and providing essential information for Member States authorities to enforce the Regulation, and an EU information system to host all information and organise it in a machine-readable way. The Commission is confident that these improvements will contribute to increasing the effectiveness of the policy intervention.

The Commission is also fully aware of the importance of imports of the commodities for the EU and for the Czech Republic and that the competitiveness of the European industry and economy as well as sustainability will form part of the priorities for the Czech EU Presidency starting on 1 July 2022.

In response to the more technical comments in the opinion, the Commission would like to refer to the attached annex.

The points made are based on the proposal presented by the Commission, which is currently in the legislative process involving both the European Parliament and the Council. The Senát's Opinion has been made available to the Commission's representatives assisting the ongoing negotiations of the co-legislators and will inform these discussions.

The Commission hopes that the clarifications provided in this reply address the issues raised by the Senát and looks forward to continuing the political dialogue in the future.

Yours faithfully,

*Maroš Šefčovič
Vice-President*

*Virginijus Sinkevičius
Member of the Commission*

Annex

The Commission has carefully considered the issues raised by the Sénat in its Opinion and would like to offer the following observations grouped by topics.

➤ ***The risk of substantial increase in the administrative and financial burden for operators and traders as well as for the national control authorities***

The Regulation does not place EU companies at a disadvantage. The Regulation sets common rules for any company – from the EU or from abroad – placing the products covered by the scope on the EU market. The Impact Assessment backing the proposal estimated the costs of compliance for companies to set up and operate their due diligence systems (between €158 million to €2,354 million per year). These costs are lower than the expected benefits of the policy intervention, which are estimated at around 3.2 billion annually. In addition, the proposal foresees a one-year adaptation period for enterprises, and two years for micro-enterprises, to be able to adapt to the changes required.

The benchmarking system will facilitate the due diligence of the operators by identifying low risk countries. Sourcing from those will only require simplified due diligence.

In the open public consultation on the initiative, a majority of industry associations and private companies supported the idea that homogenous EU rules against deforestation and forest degradation could contribute to levelling the playing field and reducing unfair competition from companies that do not care about sustainable supply chains. A recent report focusing on 350 relevant corporations concluded that 72% of them did not have a deforestation commitment for all the forest-risk commodities in their supply chains. In addition, one third of these companies did not have deforestation commitments at all².

➤ ***The recommendation for the digitalization of the process***

An innovation of the legislative proposal on deforestation, in comparison with the previous system under the EU Timber Regulation, is the creation of an information system or digital database set up by the Commission and put at the disposal of Member States to streamline and facilitate enforcement. The Information System will host the information submitted via due diligence statements, with key data such as country of production and geolocation coordinates. It will allow for competent authorities of all EU Member States to access that information in a machine-readable format, which will enable them to organise enforcement activities and risk-based inspections in a systematic way. Third, it will allow for automatic digital controls based on parameters such as geographic coordinates. For example, all shipments from a precise municipality from a certain commodity or product could be flagged up.

➤ ***The country benchmarking system***

The benchmarking system will classify countries or regions into three categories of risk: low, standard or high risk. All countries will be considered standard risk by default. The Commission could then propose, based on a public and objective assessment, to place countries or regions into the high or low risk categories via implementing act.

² [Forest 500 - 2021 Report](#)

The assessment will be based on rate of deforestation, rate of expansion of agriculture land for relevant commodities, production of relevant commodities and products, nationally determined contributions (NDCs) to the United Nations Framework Convention on Climate Change (UNFCCC), national laws and enforcement of those laws, and the existence of relevant agreements with the EU and their effective implementation.

Products and commodities sourced from low-risk areas will be subject to simplified due diligence duties, meaning operators will be required to collect information but not assess and mitigate risk in their supply chains.

Products and commodities sourced from high-risk areas will be subject to enhanced scrutiny, meaning a high number of checks by enforcement authorities in EU Member States.

The Commission will make the country risk categorisation publicly available and update the list regularly. Countries will be informed of the intention to change classification and will be given the opportunity to comment. The Commission will also make publicly available the information used for benchmarking, the reasons for the proposed changes of classification and the replies from the countries concerned.

➤ ***The World Trade Organisation framework***

It is important to emphasise that no commodities or countries will be subject to discrimination. The proposed rules will apply equally to commodities and products produced inside and outside the EU. The product scope is based on objective criteria, focusing on those products and commodities where the EU's deforestation and forest degradation impact – because of its consumption and its own production – is highest.

There is no ban against products coming from any country. The rules are designed to make sure that products sold in the EU from any country, including EU Member States, comply with the same requirements in terms of preventing deforestation.

It is also important to emphasise that the EU, with the new proposal, will be imposing a set of requirements on the products sold on its own market. These requirements are objective, scientifically based and non-discriminatory, and they are proportionate to the environmental objectives of the initiative, which are to reduce EU-driven deforestation, and consequentially greenhouse gas emissions and biodiversity loss.

At the same time, the Commission will continue to work in partnership with producing countries and will be reinforcing its support to partner countries with regard to protecting forest. This will include improving governance and land tenure, increasing law enforcement and promoting sustainable forest management.

➤ ***The impact of the proposal on supply chains***

The potential impact of the deforestation regulation on the prices and the availability of the six commodities covered (wood, cattle, palm oil, soy, coffee, and cocoa) is expected to be very limited, according to the Impact Assessment of the initiative.

This is based, among other factors, on the previous regulatory experience on wood (the EU Timber Regulation) and the 2020 cut-off date, which aims to prevent further deforestation – rather than punishing old deforestation. This means in practice that almost all global current

commodity production would be compliant with the deforestation-free requirement of the proposal.

Several research papers and industry associations have been conducting research on the price impacts of the traceability and supply chain segregation requirements related to sustainability. For example, one study by Duralim, Céréopa and Abcis in 2020 estimated the premium for establishing sustainable supply chains for soya and palm oil in about +3.4€ per ton under mass balance and +18€ per ton under segregated supply chains. This is at about +0.7% for mass balance and +3.8% for segregated supply chains as compared with current price per ton for soybeans – and the relative premium per ton would be even lower for palm oil, which is more expensive.

➤ ***The cooperation between the EU and producer countries***

The Commission agrees that close cooperation between the EU and producer countries will be essential.

The Commission will engage with producer countries concerned by this Regulation to develop partnerships and cooperation to jointly address deforestation and forest degradation, focusing on the conservation, restoration and sustainable use of forests, deforestation, forest degradation and the transition to sustainable commodity production, consumption processing and trade methods.

A commitment has been included in the proposal to support partner countries to strengthen the capacity of governments, private sector and civil society stakeholders to work together to address deforestation and forest degradation challenges. These could take the form, among others, of forest partnerships, which, while much wider in scope, should also support producer countries in developing appropriate legislation and other tools facilitating compliance with the Regulation paying specific attention to the challenges faced by small holders.

The Commission's international engagement will also include consumer countries. The EU is only one of the major markets for the products that drive deforestation. Hence, we will further step up our dialogue with the other major markets to encourage them to take similar steps to reach the shared objective of halting global deforestation.