

Trade for Prosperity



A Definitive Guide to Boosting International Trade for UK Businesses

DELIVERING SUSTAINABLE GLOBAL VALUE CHAINS



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Advancing the sustainability journey



GREEN FOCUS

Meeting the net zero challenge



SUSTAINABLE TRADE

Priorities, benefits and opportunities



ITPW 2023

Key messages and takeaways

5

things to know about the new EU regulation on deforestation-free products

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On 29 June 2023, the new EU Regulation on deforestation-free products (the “**EU Deforestation Regulation**”) entered into force, replacing (with an extended scope) the existing EU Timber Regulation which had been in force since 2013 to counter the trade of illegally harvested timber and timber products.

The EU Deforestation Regulation will apply in all 27 EU Member States as of 30 December 2024 (or 30 June 2025 for SMEs).

1 MAIN OBJECTIVE: to reduce EU’s impact on global deforestation and forest degradation

The EU Deforestation Regulation’s main objectives include:

- To avoid that the listed products that Europeans buy, use and consume contribute to deforestation and forest degradation in the EU and globally;
- To reduce carbon emissions caused by EU consumption and production of the relevant commodities by at least 32 million metric tons a year; and
- To address all deforestation driven by agricultural expansion to produce the commodities in the scope of the Deforestation Regulation and forest degradation.

2 SCOPE: a large range of products are concerned, from natural rubber products to printed books and leather

The EU Deforestation Regulation applies to seven commodities, including cattle, cocoa, coffee, palm oil, rubber, soy, and wood, which have been identified by the European Commission as being the main causes of EU-driven deforestation.

In addition, the EU Deforestation Regulation also applies to many derived products that contain, have been fed with or have been made using these commodities, and which are listed in its Annex I. e.g. meat products, leather, chocolate, coffee, palm nuts, glycerol, natural rubber, soya beans, soya bean flour and oil, fuel wood, wood products, pulp and paper, printed books and newspapers.

3 OBLIGATIONS: prohibition to place certain products on the EU market or to export them subject to strict due diligence obligations

The EU Deforestation Regulation contains a general prohibition to place on the market (either domestically produced or imported) or to export the relevant commodities and products unless all the following conditions are fulfilled: (a) they are deforestation-free, (b) they have been produced in accordance with the relevant legislation of the country of production; and (c) they are covered by a due diligence statement whereby companies assume responsibility for the product’s compliance indicating no more than a negligible risk of non-compliance.

To ensure the effectiveness of this prohibition, the EU Deforestation Regulation imposes certain due diligence obligations on:

- Operators, i.e. any natural or legal person who, in the course of a commercial activity, places the relevant products on the market or exports them; and)

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

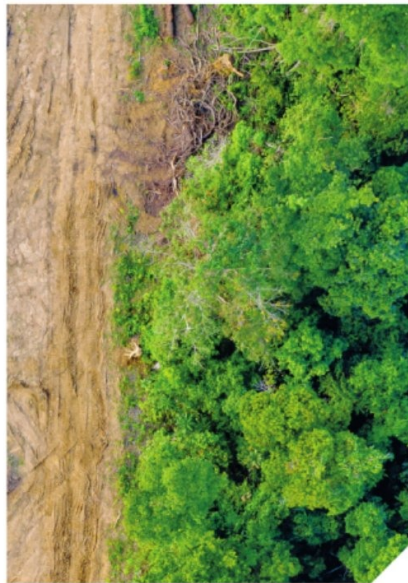
Both operators and traders will be required to meet certain heightened and expanded due diligence obligations prior to placing or making available relevant products in the EU, including:

- Collecting detailed information that demonstrates the products' compliance;
- Carrying-out a risk assessment in relation to each product to ascertain the risk of non-compliance; and
- Mitigating risks by carrying out independent audits, gathering additional documentation, or working with suppliers through capacity building and investments.

4 Enforcement by national authorities in the EU empowered to conduct checks and to impose corrective actions

The EU Deforestation Regulation will be enforced by the competent national authorities of EU Member States, which are empowered to carry out checks to establish whether operators and traders established in the EU comply with their obligations, and whether the relevant products comply with the EU Deforestation Regulation.

In addition, the EU Deforestation Regulation empowers these national authorities to take immediate interim measures, including the seizure of the relevant commodities or products,



or the suspension of their placing or making available on the market or their export, when a potential non-compliance has been detected e.g. via the checks mentioned above or on the basis of information provided by national authorities in other EU Member States.

In case of non-compliance, a competent authority shall without delay require the operator or trader to take appropriate and proportionate corrective action to bring the non-compliance to an end within a specified and reasonable period of time, including: (i) rectifying any formal non-compliance, (ii) preventing the relevant product from being placed or made available on the market or exported, (iii) withdrawing or recalling the relevant product immediately, or (iv) donating the relevant product to charitable or public interest purposes or, if that is not possible, disposing of it.

Natural or legal persons can submit substantiated concerns to operators and to competent authorities when they consider that operators or traders are not compliant with the EU Deforestation Regulation.

5 Penalties for non-compliance: from fines of up to 4% to confiscation or exclusion from public procurement and contracts

Penalties for non-compliance will be determined by each EU Member State, but the EU Deforestation Regulation requires that such penalties, to be adopted at national level, be effective, proportionate and dissuasive, and include:

- Fines proportionate to the environmental damage and the value of the relevant commodities or relevant products concerned, gradually increasing for repeated infringements, up to at least 4 % of the operator's or trader's total annual EU-wide turnover in the preceding financial year (for companies);
- Confiscation of the relevant products concerned from the operator and/or trader as well as confiscation of revenues gained by the operator and/or trader from a transaction with the relevant products concerned;
- Temporary exclusion from public procurement processes and public funding for a maximum period of 12 months, as determined by the legislation to be adopted at EU Member State level; and
- For serious or repeated infringements, in addition to the above: temporary prohibition from dealing those items in the EU, or a prohibition from using the simplified due diligence process available for relevant products from "low-risk countries" where there is sufficient assurance that non-compliance is exceptional. ●

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