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## ICIJ Challenges Environmental Audits as Overlooking Deforestation

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The International Consortium of Investigative Journalists (ICIJ) recently **issued a report** raising concerns that certain auditing firms had certified client companies' practices and products as sustainable while ignoring that these same companies were engaged in deforestation activities. The ICIJ analyzed the inspection records, environmental violation data and court filings of companies in 50 jurisdictions and found many were accused of environmental crimes or other wrongdoing by local communities and government agencies despite their products and practices being certified as "sustainable."

Certification organizations, such as the Forest Stewardship Council and the Roundtable on Sustainable Palm Oil, are private bodies that set standards and guidelines for how forests should be managed responsibly given their importance to the environment and that deforestation and forest degradation account for 8-10% of greenhouse gas emissions. Much attention has been focused on tropical forests of the Amazon as well as on Indonesia and Malaysia, where there is significant logging to produce palm oil. In Indonesia alone, the ICIJ claims that at least 160 organizations have disregarded environmental regulations over the past decade, including operating under false permits, and logging leading to the destruction of the habitats of endangered animals.

According to ICIJ, auditing firms that were engaged to carry out environmental audits of these organizations failed to flag these allegations of violations, thereby facilitating the ability of those companies to continue delivering commodities originating from potentially illegal deforestation practices. In one instance, a group of Canadian logging companies used what was labelled as a “sustainable” forest management plan to deforest indigenous land. The “sustainable” forest management plan was certified by a local auditor. In another example, a Brazilian wood products company that claimed to have been “certified with flying colors” had been fined 37 times since 1998 for environmental law violations.

Effective 2024, an [EU Regulation](#) on deforestation-free supply chains will require companies to show that the products they are selling within the territory do not come from forest destruction. In order to sell their products in the EU, companies will have to show their geographical origination, which in practice means providing the relevant GPS coordinates to prove the area has not been deforested. Enforcement authorities in the relevant Member State will then carry out inspections on a percentage of operators and traders and check cargo originating from deforestation hot spots on a regular basis.

The provisions are similar to the Biden Administration’s [FOREST Act](#), which also prohibits the importation of designated products containing commodities sourced from land that was illegally deforested.

**Taking the Temperature: Environmental auditing is increasingly being employed by companies to increase investor confidence but unlike traditional auditing, it is not highly regulated and for the most part, is taken up on a voluntary basis. While engaging an environmental audit ensures that a company has systems in place to collect data to be used in the audit, the lack of regulation implies that the specific data collected and/or the assessment of that data may differ among different firms or in different industries or jurisdictions. The ICIJ report suggests that attempts by Western governments to encourage green forestry by, among other tactics, imposing sanctions on companies logging in conflict zones, have not been effective. In the consultation period leading up to the agreement of the EU Regulation on deforestation-free supply chains, a number of Member States amended the original proposal to lower the number of inspections that will need to be conducted by enforcement authorities on cargo originating from deforestation hot spots, thereby minimizing the impact of the legislation.**

**The ICIJ investigation is another example of NGOs and investor groups increasingly scrutinizing supply chains and otherwise challenging companies on their sustainability targets and progress. We have [previously commented](#) on this increasing trend, including situations where NGOs have filed challenges with respect to issuer disclosure with the U.S. Securities and Exchange Commission or [sued companies](#) under sustainability focused laws (such as the Corporate Duty of Vigilance law in France) for conducting business in ways alleged to be inconsistent with sustainability goals and pledges. We also have [commented](#) on how regulators around the world are taking an aggressive approach to alleged greenwashing.**