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## Regulation: EU Adopts Legislation to Tackle Deforestation

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Regulation



**By Sara Bussiere**  
Associate | Global Litigation

Earlier this month, the European Commission **announced** a provisional agreement between the European Parliament and the Council of the European Union on regulation pertaining to deforestation-free supply chains. In a questions and answers **document** published last year alongside a draft regulation, the EU stated that “by promoting the consumption of ‘deforestation-free’ products and reducing the EU’s impact on global deforestation and forest degradation, the new rules are expected to bring down greenhouse gas emissions and biodiversity loss.” If the regulation is implemented, all companies subject to the rules would be required to carry out “strict due diligence” if they sell on or export from the EU market any of the following products: palm oil, cattle, soy, coffee, cocoa, timber, and rubber. Derived products, such as beef, furniture, or chocolate, will also be subject to such strict due diligence. The EU describes its selection of these products as having been chosen “on the basis of a thorough impact assessment identifying [the listed products] as the main driver of deforestation due to agricultural expansion.” The list will be subject to regular review and could be expanded in the future.

Companies selling in, or exporting out, of the EU market will be required to prove that their products are both deforestation-free (*i.e.*, produced on land that was not subject to deforestation after December 31, 2020) and compliant with all relevant and applicable laws in the country of production. Companies also will be required to collect geographical information on the land where the commodities were produced so that checks can be made to ensure compliance. According to the press release, the European Commission will establish a “benchmarking system that will assess countries or parts thereof and their level of risk of deforestation and forest degradation.” Before the regulation can enter into force, the European Parliament and Council of the European Union have to formally adopt the proposed regulation. Market participants will then have 18 months to implement the rules, with micro and small enterprises having additional time to make the required changes.

**Taking The Temperature: Although the regulation is expected to have an 18-month implementation period, companies should not be complacent. Affected companies should start taking steps to fully consider the implications of the rule changes and take sufficient time to thoroughly review and investigate their supply chains. Companies should ensure that their policies, procedures, and procurement practices provide sufficient transparency and comply with the requirements of the regulation. Some other jurisdictions have begun to implement similar requirements on companies operating within their borders. In the UK, the Environment Act 2021 will impose a duty on companies to implement a due diligence procedure and also to report, on an annual basis, on “forest risk commodities.” The interplay between this regulation and the goals outlined at COP15, briefly summarized above, remains to be seen.**