

European Commission proposal for a regulation on deforestation-free products

A comprehensive product scope

Introduction

The European Commission [proposal](#) on a regulation for deforestation-free products from 17 November 2021 aims to minimize the impact of deforestation and forest degradation on the European market. To that respect, it asks companies to carry out due diligence (collection of information, risk assessment and risk mitigation) on relevant commodities and products along the supply chain. The product scope in Annex 1 of the proposal currently covers cattle (including leather), soy, oil palm, coffee, cocoa and wood. The European Commission proposes a “progressive” scope concerning the inclusion of products, foreseeing a first review of the product scope two years after the law enters into force.

From a WWF perspective new legislation should at least cover, but not be limited to, the following commodities and products: palm oil, soy, rubber, beef and leather, maize, cocoa, coffee, poultry, pork, eggs, salmon and dairy. The product scope concerning timber should also be enlarged to close loopholes identified in the EU Timber Regulation such as for paper and charcoal.

Commodities and products covered under the law

Whilst for timber a larger number of further processed products is covered, there are still products missing. For other commodities such as soy, the number of processed products is fairly limited. Also, the legislative proposal does not include other livestock such as poultry, though chicken is often fed on soy.

The European Commission selected the commodities based on a cost-benefit analysis, comparing the embedded deforestation in hectares to the EU imports of commodities. [FOCALI](#) came to the conclusion that this assessment and the data used for the assessment has flaws.

FOCALI showed that the economic value of rubber and maize in the EU is underestimated as imports of further processed produces were not taken into consideration¹.

¹ Points from the FOCALI Brief: mismatch between the products included when estimating embodied deforestation and the associated economic value by using FOCALI data: We quantify deforestation embodied in EU imports using a trade model that excludes highly processed products; when it comes to rubber, for instance, the deforestation embodied in imports only accounts for trade in unprocessed natural rubber. In contrast, the EU Commission in its draft impact assessment calculates the value of rubber imports using a trade code, which encompasses a broad range of rubber products, not restricted to natural rubber, but also including reclaimed and synthetic rubber. In addition, because many of these products have gone through processing steps that add economic value, the value of EU rubber imports becomes very large compared to that of other assessed commodities. We also note another inconsistency, namely that the deforestation embodied in imports is based on data averaged over the period 2008–2017, whilst the value of imports is taken from the period 2015–2019. This is not a fair comparison, as there are temporal trends in the amount of deforestation attributed to different commodities, in the mix of regions from which the EU sources its imports, as well as in the total import volumes.

The current product scope hinders the full effectiveness of the legislation. The inclusion of a commodity into new legislation should be based on objective and scientific criteria, using existing credible facts and evidence in order to identify the commodities which risk being linked to deforestation, forest degradation, ecosystem conversion and ecosystem degradation, as well as those at risk to be linked to human rights violations at the global and/or EU level. The impact assessment of the European Commission did not take into account the human rights element in assessing the product scope.

The case of timber

As the new legislation would integrate the EU Timber Regulation (EUTR), we also strongly recommend to adapt the product scope to include all wood products. The European Commission, after evaluating the effectiveness and functioning of the EUTR during its first two years of application, came to the conclusion that the EUTR covers a significant number of timber products, but not all relevant products are included in its scope. The evaluation concluded that the European Commission may consider amending the product scope, subject to an impact assessment of options². A public consultation was carried out in 2018, and the results were clear: 72% of the participants concluded that the current product scope was inadequate and 68% supported to add additional products³. Until today, the products scope has not been amended and the product scope in the annex of the legislative proposal is matching the existing product scope of the EU Timber Regulation.

In a [position paper](#) from 2016, WWF lays out the shortcomings in the product scope:

371 relevant CN codes (52%) are out of scope, and 326 in scope.

- The value of out-of-scope imports rose from €43.1 billion (2013) to €46.6 billion (2014).
- By value, just 33% of products that may contain wood were covered by the EUTR, while 67% were out of scope.
- By volume, 86% of wood-related products are covered by the regulation.

It remains an important question why products such as paper are covered but not books, which are made out of paper. Also, whilst tables are covered, chairs are not. Charcoal is also not covered by the EUTR, though Europe imports about 750,000 tonnes of charcoal annually (as much as six million m³ of wood is needed to produce this amount). More than 50% of the imported charcoal originates from the tropics. The main sourcing countries are countries like Nigeria and Paraguay, or the Ukraine as one of the non-tropical countries. There is a very high probability that the wood is illegal.⁴

The new regulation provides the opportunity to cover all those products and to ensure that products on the EU market are not linked to deforestation, forest degradation, ecosystem conversion and degradation.

² https://ec.europa.eu/info/consultations/public-consultation-product-scope-eu-timber-regulation_en

³ <https://www.global-traceability.com/ec-consultation-results/>

⁴ https://wwfeu.awsassets.panda.org/downloads/wwf_lift_it_up_eutr_april_2021.pdf

What is needed

Legislation should at least cover, but not be limited to, the following commodities and products: palm oil, soy, rubber, beef and leather, maize, cocoa, coffee, poultry, pork, eggs, salmon and dairy.

These products should be listed in an annex to the legislation, which should be regularly updated. The annex should focus on listing commodities, as it is considered easier from an administrative point of view, if the companies identify products containing risk commodities and carry out the respective due diligence.

Based on objective and scientific criteria, the new legislation should cover commodities and products at risk of being linked to conversion or degradation of natural forests and ecosystems.

The assessment on whether a commodity is included in the new legislation should take into account existing credible facts and evidence in order to identify the commodities with the highest risks of deforestation, forest degradation, ecosystem conversion, ecosystem degradation but also related human rights violations at the global and/or EU level. A review of the product scope should take place at shorter intervals than every five years.