

# An EU legal framework to halt and reverse deforestation

## KEY FINDINGS

Though down from 1990s peaks, the global rate of deforestation for the last five years is estimated at 10 million hectares per year.

The main drivers of deforestation are palm oil and soybean cultures, cattle raising and wood production.

While forest loss should have been reduced to near-zero by 2020, current projections show that by 2050, a further 230 million hectares of prime forest will have disappeared.

The EU is responsible for approximately 10% of global consumption of 'forest risk commodities'.

There is as yet no coherent EU legal framework addressing the problem.

Of the various possible avenues, econometric modelling shows that mandatory due diligence and/or certification bring the largest benefit.

The EU should expand its regulation on food information and encourage better educating consumers about the ramifications of their food choices.

On Thursday, 10 September 2020, 14:00 - 16:00, the Policy Department for Economic, Scientific and Quality of Life Policies organised at the request of the ENVI committee a remote webinar on '*An EU legal framework to halt and reverse deforestation*'. The webinar was moderated by Policy Department, introduced by MEP Delara BURKHARDT, rapporteur of the EP own-initiative report [2020/2006 \(INL\) An EU legal framework to halt and reverse EU-driven global deforestation](#). The number of online participants oscillated between a maximum of 117 and a minimum of 95 during the entire meeting; due to a technical problem, no video recording of the event could be taken.

The event was structured around four experts' presentations: Ms Cristina Müller and Dr Helmut Gaugitsch from the Environment Agency Austria presented their experts' views on EU strategies halting and reversing global deforestation, and Dr Cornelia Suta and Dr Hector Pollitt from Cambridge Econometrics presented the quantitative assessment underpinning the EPRS added value assessment report [An EU legal framework to halt and reverse EU-driven global deforestation](#). The European Added Value Assessment report was introduced by the European Added Value Assessment Unit (EPRS - EAVA).



This briefing summarises the context of the INL report and the presentations of the invited experts. The full slide-deck of the presentations and the biographies of the speakers are available on the [dedicated](#) page of the ENVI committee's website.

## Context

The European Union (EU) imports and consumes between 7 to 10% of the global consumption of crops and livestock products associated with deforestation in the countries of origin and is among the major global importers of a number of 'forest risk commodities', i.e. palm oil (17%), soy (15%), rubber (25%), beef (41%), maize (30%), cocoa (80%) and coffee (60%). Despite having introduced some regulatory measures to tackle the problem of imported deforestation, **there is still no coherent EU legal framework directly addressing 'forest risk commodities'** food or feed products that impact global deforestation and a Union regulatory intervention is needed. On 23 July 2019, the Commission adopted an EU Communication on [Stepping up EU Action to Protect and Restore the World's Forests](#). The European Parliament has been regularly calling on the Commission to step up Union action against global deforestation and recently called on the Commission to propose **due diligence-based legislation for deforestation free products on the EU market**.

## C. Müller and Dr H.Gaugitsch, Environment Agency Austria

### 1. The scale of EU-driven global deforestation

**According to the Food and Agriculture Organisation, FAO (2020), forests cover 30,8% of the global land area; of those, 18% of forests lie within the International Union for Conservation of Nature (IUCN) protected area categories I – IV, the largest being located in South America.** Around 178 million hectares of primary forests were lost since 1990 as a result of forest conversion for production of commodities, and 61 countries pledged to restore 170 million hectares of degraded landscapes by 2030. Forests keep the planet cool also because of carbon sequestration and are custodians of the world's fresh water supplies. Primary forests hold about three-quarters of the planet's biodiversity, and are complete symbiotic systems. Forests are also a source of food, medicine fuel and livelihoods for more than a billion people, contributing to socio-economic development.

**The global rate of tree cover and forest loss since 2014.** The average annual humid tropical primary forest loss through conversion to other land uses has accelerated since 2014 by 44%. On the other hand, between 2015 and 2020, the rate of deforestation was estimated at **10 million hectares per year**, down from 16 million hectares per year in the 1990s, offset by reforestation and afforestation in some areas of the world. More than 100 million hectares of forests are adversely affected by forest fires, pests, diseases, invasive species drought and adverse weather events. Latin America continues to lose the most primary forests per year. West Africa recently experienced a sharp increase in the rate of loss.

The main drivers of deforestation are:

- **Palm oil:** key ingredient in sweets, baked goods, margarine, cereals, washing powders, cosmetics and pharmaceutical industry linked to vitamin A deficiency. Main deforestation driver in Asia;



- **Soybean:** mostly used for animal feed and biofuel. A legume, natural nitrogen fixation means it requires fewer inputs, decreasing production costs. Soya is the main driver of deforestation in South America;
- **Cattle industry:** is the second step in the deforestation chain after timber. Besides the multi-million € raw beef industry, cattle breeding is a key ingredient in the world leather industry; Wood products: first step in the chain, is responsible for 10% of global deforestation, and is a direct driver in Southeast Asia. Starts with predatory logging, which impoverishes the forest leading to clear-cutting for cattle and grain; and
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The projection of deforestation under current trends are:

- **By 2030, 11 places will account for 80% of embodied deforestation:** the Amazon, the Atlantic Forest and the Cerrado, the Gran Chaco, Choco-Darien, the Congo Basin, East Africa, Eastern Australia, Greater Mekong, Borneo, New Guinea, and Sumatra;
- **By 2050, climate change is projected to become the fastest growing driver of biodiversity loss,** followed by commercial forestry, and bioenergy crop lands; and
- **By 2050, 230 million hectares of primary forest will disappear.** Forest loss should have been reduced to near zero by 2020 - meaning the scenario and projections are in stark contrast to what EU should have achieved this year.

**The EU market absorbs about 10% of the embodied deforestation products from primary tropical forests;** i.e. one-sixth of the carbon footprint of the average diet in the EU can be directly linked to deforestation in tropical countries. Besides palm oil, the EU is also a major importer of soya, rubber, beef, maize, cocoa, and coffee. EU programmes such as [MARKUP](#) help producers to meet quality assurance and certification key for entering the EU market.

Europe's main trade agreement for forests [EU FLEGT](#) – Forest Law Enforcement, Governance and Trade and its Voluntary Partnership Agreement (VPA) have so far been signed with 7 countries. It is the international backdrop strategy for implementing the EU Timber Regulation (EUTR). In 2019, the EU also implemented seven Economic partnership agreements (EPAs), with 31 partners – 14 of them in Africa, with a strong focus on sustainable development. The EU Mercosur trade association agreement is an opportunity for the EU to set standards with regard to its own wishes as a consumer market. Dozens of Regional trade agreements (RTAs) are underway or have been negotiated in recent years. It is important to recall the WTO may also monitor environmental standards. This is possible if it can be determined that there is a breach of trade rules regarding 'exhaustible' resources: living species, which may be susceptible to depletion, such as forests. The only caveat is that any penalty must not be applied in a manner that would constitute '*a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail,*' and is not '*a disguised restriction on international trade*'.

## 2. Supply chain of products/raw materials originated from deforested areas

**Tracing and tracking embodied deforestation consumption requires a partnership between the public and private sectors.** EU legislation recognizes the risk of deforestation from products such as soybean, oil and timber, and requires due diligence on both ends of the trade cycle – origin and destination. Some sectors are faster than others in keeping track of the supply chain, with the EUTR leading the way. Information such as the Carbon Disclosure Programme (CDP), Transparency for sustainable economies

(TRASE) (not-for-profit) and FAIRR utilise state-of-the-art information to track and trace supply chains. Companies such as Global Traceability Solutions provide services to SMEs across Europe to ensure they comply with the EUTR. Institutional investors also increasingly recognise that deforestation creates material financial risks, including reputational and regulatory risks. **Companies must demonstrate to investors that they can hold their global suppliers accountable**, by disclosing and eliminating these risks. Groups of investors across the world are declaring their intention to monitor supply chains. Obstacles to achieving 'deforestation free' supply chains are:

- Aggressive and uncontrolled expansion of agribusiness, industrial plantations, extractive industries and trade in 'conversion' timber;
- Weak land tenure security for communities, top-down (often corrupt) concession and land allocation frameworks, contradictory global and national economic and development policies;
- Illegal resource use, land trafficking, corruption and organized crime;
- Faulty redress mechanisms;
- Flawed industry certification schemes;
- Limited transparency and weak accountability in global supply chains;
- Secretive international financial flows;
- Defects and gaps in multilateral, bilateral and national forest and climate schemes; and
- Narrow 'forest centric' approaches.

#### **Case study: Donausoya case, easing EU soya dependence**

The EU depends on soya imports: the soya is imported against the backdrop of a protein deficit in the EU's agricultural makeup. That means crop rotation is largely dominated by cereals and lacks high-protein legumes such as soya beans. Building up the value chain for soya suppliers is a priority. This is important in spot purchases which may or may not adhere to environmental regulations.

The EU regulations addressing illegal supply chains are:

- By now there is considerable practical experience with the application of EU regulations in several sectors addressing illegal activities, such as the **EU Timber Regulation** and **FLEGT**, the Illegal and unreported and unregulated (IUU) fishing Regulation and the Conflict minerals Regulation;
- Feedback from stakeholders on each of these is mixed. In common, countries hesitate to sign the **voluntary agreements**, because they are perceived as an attempt by the EU to whitewash the presence of EU companies or fleets, anxious to comply with legislation back home, but who pose an unfair advantage to national business development; and
- **EU-FLEGT** has seen some gains in **Southeast Asia and Central America**, where illegal logging is a significant driver of deforestation, in the case of South America this is considered less important – because the main driver is forest conversion for agricultural activities.

### 3. Efforts for halting and reversing global deforestation

**Recognising forests as an asset, a plethora of national, regional and international laws, policies and agreements have been undertaken in the history of forest nations to both manage and protect forests.** Some international commitments specifically address the issue of forests as it pertains to commerce and livelihoods. Besides the more commonly known Convention on Biological Diversity (CBD) and United

Nations Framework Convention on Climate Change (UNFCCC), the 2014 New York Declaration on Forests (NYDF) is endorsed by 200 national and subnational governments, multinational companies, indigenous communities, and non-governmental organizations. Similarly, the 2014 Global Plan of Action for the Conservation, Sustainable Use and Development of Forest Genetic Resources, identifies 27 strategic priorities for action. On the important issue of forest health, the 2011 International Plant Protection Convention (IPPC) aims at coordinated, effective action to prevent and control the introduction and spread of pests of plants and plant products.

The EU communication on [Stepping up EU Action to Protect and Restore the World's Forests](#) (July 2019) proposes to: (1) **reduce the footprint** of EU consumption on land and encourage the consumption of products from deforestation-free supply chains in the EU; (2) work in partnership with producer countries to **reduce pressures on forests** and to 'deforest-proof' EU development cooperation; (3) **strengthen international cooperation** to halt deforestation and forest degradation, and encourage forest restoration; (4) redirect finance to **support more sustainable land-use practices**; (5) support the availability and quality of information on forests and commodity supply chains, the access to that information, and support research and innovation.



The communication also: (1) encourages the **strengthening of standards and certification schemes** that help to identify and promote deforestation-free commodities; (2) assesses additional demand side regulatory and non-regulatory measures to ensure a level playing field and a **common understanding of deforestation-**

**free supply chains**, to increase **supply chain transparency** and minimise the risk of deforestation and forest degradation associated with commodity imports; (3) promotes **deforestation-free consumption**; (4) strengthens **cooperation** on policies and actions to halt deforestation, forest degradation and restore forests in key international fora, including relevant United Nations Funds and Programmes, G7/G20, the OECD and WTO, promoting best practice and a common understanding of sustainable supply chains, and advocating for the timely implementation of adopted commitments and provisions.

Recommendations on tackling embodied deforestation consumption:

- **Education** (business, consumers, operators);
- Expand **EU Ecolabel Regulation and Food Information to Consumers** – moving beyond 'Specific information on the **vegetable origin** of refined oils and fats' to 'Specific information on origin of meat and animal products, leather, wood, and grains';
- Encourage **consumers** to make informed dietary choices, e.g. how much protein does one person need;
- Due regard (preferential trade) to supply chains that respect **human rights** (fair trade); and
- **Invest** in and **expand access to technology** for ecosystem restoration, improved mining practices, improved crops with higher protein yields, i.e. use what **science** has to offer.

#### 4. The prospects for a future an EU regulatory framework

The option of replicating the provisions of EU regulations across sectors is largely dependent on the capacity of Member States to reconcile supply chain monitoring with consumer demands. Case in point is the rise in

demand – and consequent rise in incentives – for biofuel and biomass use. Albeit important, these should not cause further depletion of primary forests.

### **Case study: the EU Renewable Energy Directive (two-phase)**

Biofuels must comply with sustainability criteria: RED II interconnects the sustainability of biofuels to the creditability of biofuels to certain targets and incentives.

**Due diligence** refers to the measure or exercise of care enacted by a prudent, rational individual or entity under given circumstances. It is the last step in monitoring a combination of factors such as: adherence to national and international legislation throughout the value chain, including respect for human rights, compliance with endangered species treaties, legality of both operator and middle-man, and fiscal compliance.

But **due diligence really goes beyond mere compliance** – it is sometimes a loftier expectation. For example, performing due diligence might include assurance of proper management of natural resources, as being conditional to the welfare of humanity. This is the case with the protection of global forests, which are seen as a cross-boundary commodity, instrumental to the wellbeing of the Planet. Forests are custodians of valuable assets in biodiversity, climate and temperature, water resources, and ancient human knowledge.

- The number one lesson in mandatory due diligence is that it must be closely related to **governance** and **transparency** practices.
- In November 2019, for example, although operators in both North America and Europe performed due diligence on a shipment of timber from the Brazilian Amazon, in compliance with the EUTR and Lacey Act, rules were simply changed on the spot. In Indonesia the government recently – alarmed by the COVID-19 threat to international trade - advised operators they would suspend legislation linked to the FLEGT-VPA.

To one European operator interviewed for this presentation, it is very difficult to perform due diligence for EUTR compliance, because **governance varies** not only among worldwide suppliers, but also within the Member States.

- Adopting mixed measures, i.e. combining due diligence requirements with independently verified certification and licensing;
- There is a need to **adapt existing programmes**, making them **site-specific**. For example, encouraging countries to adopt forest management as part of their agricultural policies, not just for planted forests, but also for exploration of primary resources; but also ensure **programme coherence** and harmonization;
- Invest in **technical cooperation** that incorporates natural resource management and socio-economic development: biotechnology, improving sawmill performance, sustainable mining, agriculture, architecture, landscape restoration, and citizenship awareness;
- Increase **access to information** not just in the EU, but also within producer countries. Invest in media and communications, but also in education programmes, i.e. the EU should take a system-wide approach to information; and
- Explore concrete measures against deforestation in the planned **EU Forest Strategy**.

*The external research analysis of Cambridge Econometrics underpinning the European added value assessment (EAVA) [An EU legal framework to halt and reverse EU-driven global deforestation](#) were introduced by Lauro PANELLA, Head of European Added Value unit, European Parliamentary Research Service (EPRS) and Aleksandra HEFLICH, European Parliamentary Research Service (EPRS). The quantitative analysis served to estimate potential*

*economic and environmental impacts of the selected demand-side EU-level regulatory interventions aiming at eliminating global deforestation related to EU imports. The key results of the quantitative assessment show that: (1) the impacts of the policy options on the EU GDP and employment are negative but relatively small; and (2) all policy options reduce EU-driven global deforestation and associated CO<sub>2</sub> emissions but to a different extent. Policy options that include mandatory certification were most effective, followed by the policy option on mandatory due diligence and the policy option introducing mandatory labelling was least effective.*

## Dr Cornelia Suta and Dr Hector Pollitt from Cambridge Econometrics

Deforestation refers to changes in both natural and planted forest, as a result of human activities, including forestry practices such as timber harvesting, as well as natural causes such as disease, fire or storm damage (Global Forest Watch, 2020). Forests are defined as areas with a minimum threshold of 30% canopy cover (Global Forest Watch, 2020). The choice of commodities reflects the association of them with deforestation in the literature, the availability of data and of classifications within the modelling framework.

There are several different policy options that could be introduced to reduce the level of deforestation from EU food and biofuel consumption. Four scenarios are assessed in detail:

- Scenario 1: mandatory due diligence for forest-risk commodities' supply chains;
- Scenario 2: mandatory certification standards for forest-risk commodities;
- Scenario 3: a combination of the two above; and
- Scenario 4: mandatory labelling of products from forest-risk commodities' supply chains.

In 2021, it is assumed that the European Commission will present a proposal for an EU regulation. In 2023, policy measures will enter into force. The time horizon of the quantitative analysis is 2030. The policy options are translated into a model-based narrative and **four scenarios** were constructed to capture the quantitative effects of each option against a baseline, composed of the current regulatory framework.

**The econometric model is based upon GDP and employment, with food demand broken down by commodity and deforestation embodied in the EU imports and related CO<sub>2</sub> emissions.** The modelling approach combines an existing macroeconomic model with a method to translate the imported quantities of FRCs into land use and deforestation linked to land use. The economic impacts of all four policy options are negative but small in magnitude (GDP and employment impacts is less than 0.01%, compared to the baseline).

Overall, based on the cost assumptions that drive the price increase and other assumptions made in the analysis, **the mandatory due diligence and certification policy options bring the largest benefits** in terms of reductions in embodied deforestation (62-76%) and emissions linked to deforestation (62-77%) by 2030. These two policy options entail a similar economic cost.

For more information on the econometric model, its scenarios and assumptions, see the EPRS added value assessment report [An EU legal framework to halt and reverse EU-driven global deforestation](#).

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