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DRAFT REPORT

with recommendations to the Commission on an EU legal framework to halt and reverse EU-driven global deforestation
(2020/2006(INL))

Committee on the Environment, Public Health and Food Safety

Rapporteur: Delara Burkhardt

(Initiative – Rule 47 of the Rules of Procedure)

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

with recommendations to the Commission on an EU legal framework to halt and reverse EU-driven global deforestation (2020/2006(INL))

The European Parliament,

- having regard to Article 225 of the Treaty on the Functioning of the European Union,
- having regard to Article 114(3) and Article 192(1) of the Treaty on the Functioning of the European Union,
- having regard to the Commission Communication on Forest Law Enforcement, Governance and Trade (FLEGT) — Proposal for an EU Action Plan of 21 May 2003 (COM(2003)0251),
- having regard to Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market ('the EU Timber Regulation')¹,
- having regard to the 2030 United Nations Sustainable Development Goals (SDGs), in particular SDG 15, to protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss,
- having regard to the Paris Agreement reached at the 21st Conference of Parties of the United Nations Framework Convention on Climate Change (COP21),
- having regard to the study on due diligence requirements through the supply chain commissioned by the Commission's Directorate General for Justice and Consumers (2020),
- having regard to the European Parliamentary Research Service (EPRS) "European Added Value Assessment on an EU legal framework to halt and reverse EU-driven global deforestation"²
- having regard to the conclusions of the Council and of the Governments of the Member States sitting in the Council on the Communication on Stepping Up EU Action to Protect and Restore the World's Forests of 16 December 2019,
- having regard to the Amsterdam Declaration "Towards Eliminating Deforestation from Agricultural Commodity Chains with European Countries" of December 2015,

¹ OJ L 295, 12.11.2010, p. 23-34,

² EPRS, "European Added Value Assessment on an EU legal framework to halt and reverse EU-driven global deforestation", upcoming

- having regard to the UN’s Programme on Reducing Emissions form Deforestation and Forest Degradation (REDD+) mechanism,
- having regard to the UN Strategic Plan for Forests 2017-2030 (UNSPF), which defines six Global Forest Goals and 26 associated targets to be achieved by 2030,
- having regard to the UN Convention to Combat Desertification, adopted on 17 June 1994,
- having regard to the National Sustainable Commodity Platforms developed by the United Nations Development Programme (UNDP),
- having regard to the International Covenant on Civil and Political Rights of 1966,
- having regard to the International Covenant on Economic, Social and Cultural Rights of 1966,
- having regard to the American Convention on Human Rights of 1969,
- having regard to the African Charter on Human and Peoples’ Rights of 1987,
- having regard to the International Labour Organisation (ILO) Convention No 169 on Indigenous and Tribal Peoples of 1989,
- having regard to the Indigenous and Tribal Peoples Convention of 1989,
- having regard to the UN Declaration on the Rights of Indigenous Peoples of 2007,
- having regard to OECD/FAO guidelines for responsible agricultural supply chains,
- having regard to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) of 1973,
- having regard to the Convention on Biological Diversity of 1992 and the associated Cartagena Protocol on Biosafety of 2000 and Nagoya Protocol and Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilisation of 2010,
- having regard to the United Nations’ Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services 2019 Global Assessment Report on Biodiversity and Ecosystem Services of 6 May 2019,
- having regard to the UN Principles for Responsible Investment of 2006,
- having regard to the Guiding Principles on Business and Human Rights, endorsed by the UN Human Rights Council in 2011, as well as to the OECD’s Guidelines on Multinational Enterprises, updated in 2011,
- having regard to the United Nations’ International Panel on Climate Change Special Report on Climate Change and Land of 8 August 2019,

- having regard to its resolution of 17 June 2010 on EU policies in favour of human rights defenders³,
- having regard to its resolution of 4 April 2017 on palm oil and deforestation of rainforests⁴,
- having regard to its resolution of 12 September 2017 on the impact of international trade and the EU’s trade policies on global value chains⁵,
- having regard to its resolution of 3 July 2018 on violation of the rights of indigenous peoples in the world, including land-grabbing⁶,
- having regard to its resolution of 11 September 2018 on transparent and accountable management of natural resources in developing countries: the case of forests⁷,
- having regard to its resolution of 15 January 2020 on the European Green Deal⁸,
- having regards to its resolution of 16 January 2020 on the 15th meeting of the Conference of Parties (COP15) to the Convention on Biological Diversity⁹,
- having regard to the Commission Communication entitled “Stepping up EU action to Protect and Restore the World’s Forests” of 23 July 2019 (COM(2019)0352),
- having regard to the Commission’s Communication on the European Green Deal of 11 December 2019 (COM(2019)0640),
- having regard to the Commission’s Communication on an EU Biodiversity Strategy for 2030 - Bringing nature back into our lives of 20 May 2020 (COM(2020)0380),
- having regard to the Commission’s Communication on a Farm to Fork Strategy for a fair, healthy and environmentally-friendly food system of 20 May 2020 (COM(2020)0381),
- having regard to Rules 47 and 54 of its Rules of Procedure,
- having regard to the opinions of the Committee on International Trade, the Committee on Development, the Committee on Industry, Research and Energy, and the Committee on Agriculture and Rural Development,
- having regard to the report of the Committee on the Environment, Public Health and Food Safety (A9-0000/2020),

A. Whereas biologically diverse forests being natural carbon sinks are indispensable in the

³ Texts adopted, P7_TA(2010)0226

⁴ Texts adopted, P8_TA(2017)0098

⁵ Texts adopted, P8_TA(2017)0330

⁶ Texts adopted, P8_TA(2018)0279

⁷ Texts adopted, P8_TA(2018)0333

⁸ Texts adopted, P9_TA(2020)0005

⁹ Texts adopted, P9_TA(2020)0015

fight against climate change in line with the Paris Agreement's goals to hold the increase in the global average temperature to well below 2°C above pre-industrial levels and pursue efforts to limit the temperature increase to 1, 5°C above pre-industrial levels, as well as for climate change adaptation and biodiversity conservation;

- B. Whereas Union consumption contributes to 10% of global deforestation;
1. Underlines that approximately 80% of global deforestation is caused by the expansion of land used for agriculture; stresses in this context that the Commission Communication on Stepping up EU Action to Protect and Restore the World's Forests of July 2019 recognises that Union demand for products such as palm oil, meat, soy, cocoa, maize, timber, rubber, including in the form of processed products or services, is a large driver of deforestation, ecosystem destruction and human rights violations across the globe;
 2. Welcomes business' growing awareness of the problem of global deforestation, the need for corporate action and corresponding commitments; emphasises, however, that companies' voluntary anti-deforestation commitments often only cover parts of their supply chains and were, as of yet, not sufficient to halt global deforestation;
 3. Points out that third-party certification schemes have played an important role in bringing together business and civil society to develop a common understanding of the problem of deforestation; observes, however, that voluntary third-party certification schemes alone, to date, are not effective in halting and reversing global deforestation; notes that voluntary third-party certification can be an auxiliary tool to assess and mitigate deforestation risks when designed and implemented well with regard to the sustainability criteria it is based on, the robustness of the certification and accreditation process, independent monitoring, possibilities to monitor the supply chain, requirements to protect primary forests and promote sustainable forest management;
 4. Criticises that third-party certification and labels alone unduly shift the responsibility to decide whether to purchase deforestation-free products to the consumers; therefore emphasises that third-party certification can only be complementary to, but cannot replace, thorough due diligence processes of companies;
 5. Welcomes, in this regard, the calls from a large number of companies to introduce Union rules for mandatory due diligence in forest risk commodities supply chains;
 6. Recalls its resolution of 15 January 2020 on the European Green Deal, and its demand to the Commission to present, without delay, a proposal for a European legal framework based on due diligence to ensure sustainable and deforestation-free supply chains for products placed on the Union market, with a particular focus on tackling the main drivers of imported deforestation and instead encouraging imports that do not create deforestation abroad;
 7. Welcomes the intention of the Commission to tackle global deforestation but asks for a more ambitious policy approach; calls on the Commission to present a proposal for an EU legal framework based on mandatory due diligence, reporting, disclosure and third-party participation requirements, as well as liability and penalties in case of breaches of obligations for all companies placing for the first time on the Union market

commodities with the highest forest and ecosystem risks and products derived from these commodities, and access to justice and remedy for victims of breaches of these obligations; traceability obligations should be placed on traders on the Union market, to ensure sustainable and deforestation-free value chains, as laid down in the Annex to this resolution; emphasises that the same legal framework should apply to Union-based financial institutions providing money to companies that harvest, extract, produce or process forest and ecosystem-risk commodities and derived products;

8. Points out that forest and ecosystem-risk commodities covered by this EU legal framework should be determined on the basis of objective and science-based considerations that such commodities pose high risks for the destruction and degradation of forests and high-carbon stock and biodiversity-rich ecosystems, as well as for the rights of indigenous people and human rights in general;
9. Emphasises that such an EU legal framework should not only guarantee the legality of harvesting, production, extraction and processing of forest and ecosystem-risk commodities and derived products in the country of origin, but also the sustainability of their harvesting, production, extraction and processing;
10. Stresses that local communities, indigenous peoples, land and environmental defenders often are on the frontline of the fights to preserve ecosystems; is concerned that the degradation and destruction of forests and other valuable ecosystems frequently goes along with human rights violations or follows from it; urges, therefore, to include the protection of human rights, in particular land tenure, land and labour rights, with a special view to the rights of indigenous peoples, within the future EU legal framework;
11. Notes that such an EU legal framework should also be extended to high-carbon stock and biodiversity-rich ecosystems other than forests so as to avoid pressure being shifted to these landscapes;
12. Believes that these obligations should apply to all companies placing forest and ecosystem-risk commodities (FERC) on the Union market, irrespective of their size or place of registration; believes that in a fragmented end-market, the inclusion of smaller and larger companies is key to ensure both large-scale impact and consumer trust; emphasises that the regulatory framework must not give rise to undue burdens on small and medium-sized producers or prevent their access to markets and international trade; recognises, therefore, that due diligence, reporting and disclosure requirements must be proportionate to the level of risks associated with the given commodities;
13. Is convinced that the EU Timber Regulation, especially its due diligence requirements, represents a good model to build upon for a future EU legal framework to halt and reverse EU-driven global deforestation, but that a lack of implementation and enforcement of the EU Timber Regulation means that it does not live up to its spirit and intent; is of the opinion, therefore, that lessons can be learnt from the EU Timber Regulation for improved implementation and enforcement rules for a future EU legal framework to halt and reverse EU-driven global deforestation;
14. Stresses that such a legal framework needs to, and can be, designed in a way so as to be in line with World Trade Organization requirements;

15. Underlines that the impact of the Union's consumption of forest and ecosystem-risk commodities needs to be adequately addressed in any follow-up, regulatory or non-regulatory, actions and measures to the EU Biodiversity Strategy for 2030 and Farm to Fork Strategy;
16. Requests that the Commission submit, on the basis of Article 114(3) and Article 191 of the Treaty on the Functioning of the European Union, a proposal for an EU legal framework to halt and reverse EU-driven global deforestation, following the recommendations set out in the Annex hereto;
17. Instructs its President to forward this resolution and the accompanying recommendations to the Commission and the Council.

ANNEX TO THE MOTION FOR A RESOLUTION:

RECOMMENDATIONS AS TO THE CONTENT OF THE PROPOSAL REQUESTED

1. Objective

The proposal for a Regulation ('the proposal') should provide the basis for the assurance of a high level of protection for exhaustible natural resources, such as natural forests and natural ecosystems, by ensuring that Union market and consumption patterns do not detrimentally affect natural forests and ecosystems, as well as on human rights affected by harvesting, extraction and production of products covered by the proposal.

It should provide transparency and certainty with regard to:

- a. commodities covered by the proposal and their derived products which are marketed on the Union internal market,
- b. the supply practices of all economic operators active on the Union internal market,
- c. production practices of economic operators harvesting, extracting, supplying, and processing forest and ecosystem-risk commodities (FERCs) or producing FERC-derived products in the Union internal market;

It should establish an obligation to fulfil international environmental and human rights commitments taken by the Union and its Member States, such as the Paris Agreement, the Sustainable Development Goals, and human rights obligations.

2. Scope

The proposal should apply to all economic operators, irrespective of their legal form, size or complexity of their value chains, i.e. any natural or legal person (excluding non-commercial consumers) that places commodities that are covered by the proposal and their derived products on the Union internal market for the first time. This should apply to both Union and non-Union-based operators. Operators that are not based in the Union should mandate an authorised representative to perform the tasks (in accordance with Regulation (EU) 2019/1020 of the European Parliament and of the Council¹).

All economic operators should be entitled to lawfully place FERCs and FERC-derived products on the Union market only when they are able to demonstrate that within their own activities and all types of business relationships that they have with business partners and entities along their entire value chain (i.e. suppliers, franchisees, licensees, joint ventures, investors, clients, contractors, customers, consultants, financial, legal and other advisers) that, at the very most, there is a negligible risk level, that the goods placed on the Union market:

¹ Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011 (OJ L 169, 25.6.2019, p. 1).

- do not originate from land obtained via the conversion of natural forests or other natural ecosystems,
- do not originate from natural forests and natural ecosystems undergoing degradation, and
- are not produced in, or are linked to, violation of human rights.

Economic operators should take appropriate measures to ensure that these standards are respected throughout their entire value chain.

The proposal should cover all commodities that are most frequently associated with deforestation, natural forest degradation, and natural ecosystem conversion and degradation. These commodities should be listed in an annex to the proposal and comprise at least palm oil, soy, meat, leather, cocoa, coffee, rubber, and maize and all intermediate or final products that are derived from these commodities, and products that contain these commodities. In the event that the derived products contain input from more than one commodity covered by the proposal, due diligence should be performed with respect to each of these commodities. Commodities covered by Regulation (EU) No 995/2010 of the European Parliament and of the Council² ('the EU Timber Regulation') should be integrated into the scope of the proposal within three years from the date of entry into force of the proposal.

The Commission should adopt delegated acts to amend the list of commodities and their derived products that are covered by the proposal if evidence emerges concerning the detrimental impact of their harvesting, extraction or production on natural forests, natural ecosystems or human rights.

The proposal should equally apply to Union-based financial institutions providing money, insurance or other services to economic operators that harvest, extract, produce, process or sell forest and ecosystem-risk commodities and their derived products.

A trader, i.e. any natural or legal person that in the course of a commercial activity, sells or buys on the Union internal market any commodity covered by the proposal or a derived product that has been already placed on the Union internal market should, throughout the supply chain, identify:

- the economic operators or traders that supplied the commodities covered by the Regulation and their derived products; and
- where applicable, the traders to which they supplied the commodities covered by the proposal and their derived products.

3. General obligations

² Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market Text with EEA relevance (OJ L 295, 12.11.2010, p. 23).

3.1. Deforestation and conversion of natural ecosystems

Commodities covered by the proposal and their derived products that are placed on the Union market should not result in, or derive from, deforestation or the conversion of natural ecosystems.

For that purpose, FERCs placed on the Union market, in raw form or as products derived from or containing such commodities, should not be harvested, extracted or produced from land that had on 1 January 2008 the status of natural forest or natural ecosystem, in accordance with the definition laid down in Section 3.3 “Definitions”, but had since lost that status as a result of deforestation or conversion.

3.2. Degradation of natural forests and natural ecosystems

Commodities covered by the proposal and their derived products placed on the Union market should not result in, or derive from, the degradation of natural forests or natural ecosystems.

For that purpose, FERCs placed on the Union market, in raw form or as products derived from or containing such commodities, should not be harvested, extracted or produced from land that had the status on 1 January 2008 of natural forest or natural ecosystem, in accordance with the definition laid down in Section 3.3 “Definitions”, , and still has that status, but where the land has been subject to changes amounting to degradation. It should only be legally possible to place on the Union market a commodity that has been harvested, extracted or produced in compliance with conservation objectives and it did not lead to the loss or degradation of ecosystem functions on or adjacent to the land from which it was harvested, extracted or produced.

3.3. Definitions

In accordance with the Terms and Definitions document of the Accountability Framework³, the following definitions should apply for the purpose of the proposal:

Forest means land spanning more than 0.5 hectares with trees higher than 5 metres and a canopy cover of more than 10 percent, or trees able to reach these thresholds *in situ*. It does not include land that is predominantly under agricultural or other land use. Forest includes natural forests and forests plantations.

A **natural forest** means a forest that is a natural ecosystem. Natural forests possess many or most of the characteristics of a forest native to the given site, including species composition, structure, and ecological function. Natural forests include:

- a. Primary forests that have not been subject to major human impacts in recent history;
- b. Regenerated (second-growth) forests that were subject to major impacts in the past (for instance by agriculture, livestock raising, tree plantations or intensive logging), but where the main causes of impact have ceased or greatly diminished and the ecosystem has

³ See <https://accountability-framework.org/wp-content/uploads/2020/03/Definitions-Mar2020.pdf>.

attained much of its original species composition, structure and ecological function, or has a status comparable to other contemporary natural ecosystems;

- c. Managed natural forests where much of the ecosystem's composition, structure, and ecological function exist in the presence of activities such as: i) Harvesting of timber or other forest products, including management to promote high-value species; ii) Low intensity, small-scale cultivation within the forest, such as less-intensive forms of swidden agriculture (shifting cultivation) in a forest mosaic;
- d. Forests that have been partially degraded by anthropogenic or natural causes (e.g., harvesting, fire, climate change, invasive species, or others) but where the land has not been converted to another use and where degradation does not result in the sustained reduction of tree cover below the thresholds that define a forest or sustained loss of other main elements of ecosystem composition, structure, and function.

Deforestation means the loss of natural forest as a result of (i) conversion to agriculture or other non-forest land use; (ii) conversion to plantation forest; (iii) severe and sustained degradation.

Natural ecosystem means as an ecosystem that substantially resembles - in terms of species composition, structure, and ecological function - one that is or would be found in a given area in the absence of major human impacts. This includes human-managed ecosystems where much of the natural species composition, structure, and ecological function are present.

Natural ecosystems include:

- a. Largely "pristine" natural ecosystems that have not been subject to major human impacts in recent history;
- b. Regenerated natural ecosystems that were subject to major impacts in the past (for instance by agriculture, livestock raising, tree plantations, or intensive logging) but where the main causes of impact have ceased or greatly diminished and the ecosystem has attained species composition, structure, and ecological function similar to other contemporary natural ecosystems;
- c. Managed natural ecosystems (including many ecosystems that could be referred to as "semi-natural") where much of the ecosystem's composition, structure, and ecological function are present; this includes managed natural forests as well as native grasslands or rangelands that are, or have historically been, grazed by livestock;
- d. Natural ecosystems that have been partially degraded by anthropogenic or natural causes (e.g., harvesting, fire, climate change or invasive species) but where the land has not been converted to another use and where much of the ecosystem's composition, structure, and ecological function remain present or are expected to regenerate naturally or by management for ecological restoration.

Of these natural ecosystems, land with high biodiversity value ecosystems and land with high-carbon stock as referred to in points (c) and (d) of Article 29(3) and point (a) of Article 29(4)

of Directive 2018/2001 of the European Parliament and of the Council⁴ should fall under the scope of the proposal.

Forest and ecosystem degradation is defined as an ensemble of changes within a forest or a natural ecosystem that significantly and negatively affect its species composition, structure, or function and reduce the ecosystem's capacity to supply products, support biodiversity, or deliver ecosystem services.

Ecosystem conversion is defined as a change of a natural ecosystem to another land cover or profound change in the natural ecosystem's species composition, structure or function.

The Commission should adopt delegated acts to establish and regularly update a non-exhaustive list of areas that are covered by the proposal.

3.4. Human rights violations

FERCs placed on the Union market, in raw form or as products derived from or containing such commodities, should not be harvested, extracted or produced from land obtained or used in violation of human rights embedded into national laws, nor those rights expressed, as a minimum, in international agreements, such as tenure rights, rights of indigenous people, free prior and informed consent as set out by the UN Permanent Forum on Indigenous Issues, the right to water, labour rights as enshrined in ILO fundamental conventions and other internationally recognised human rights related to land use, access or ownership.

At all stages, harvesting, extracting or producing covered commodities should respect local communities' and indigenous peoples' community and land tenure rights in all forms, whether they are public, private, communal, collective, indigenous, women's or customary rights. Indigenous peoples' and local communities' formal and customary rights to lands, territories and resources should be identified and respected. Those rights include the rights to own, occupy, use and administer these lands, territories and resources.

Commodities covered by the proposal should not be obtained from land whose acquisition and use affects community and land tenure rights. In particular, commodities placed on the Union market should not be harvested, extracted or produced from areas under local communities' and indigenous peoples' land and tenure rights in all forms and that have lost that status, unless this occurred in the presence of free, prior and informed consent of the local communities and indigenous peoples concerned.

4. Duty to identify, prevent and mitigate harm in value chains

4.1. Duty of due diligence

Economic operators should take all necessary measures to respect and ensure respect for the environment and human rights throughout their entire value chain. This should include all types of business relationships of the undertaking with business partners and entities along its entire

⁴ Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ L 328, 21.12.2018, p. 82).

value chain (suppliers, franchisees, licensees, joint ventures, investors, clients, contractors, customers, consultants, financial, and legal and other advisers), and any other non-State or state entity directly linked to its business operations, products or services.

In doing so, economic operators should take a risk-based approach to due diligence, where the nature and extent of due diligence corresponds to the type and level of risk of adverse impacts. Higher risk areas should be subject to enhanced due diligence.

The following measures should be adequately and effectively included:

a. Mapping the entire value chain

Economic operators should have a complete overview of all actors at all levels of their value chains, be it suppliers, franchisees, licensees, joint ventures, investors, clients, contractors, customers, consultants, financial, and legal and other advisers.

b. Identify and assess real and potential forest and ecosystem risks in the value chains, on the basis of the criteria laid down in the proposal

Where an economic operator sets up new operations or engages new business partners, it should identify the actors involved in the new supply chain, and assess their policies and practices, as well as their harvesting, production, extraction and processing sites. For existing operations, ongoing adverse impacts and harms as well as potential risks should be identified and assessed. Risks analysis should be done with regard to the risks occurring from the economic operator's activities to, or impact on, the environment, individuals or communities affected, rather than material risk to corporate shareholders.

When economic operators have large numbers of suppliers, they should identify general areas where the risk of adverse impacts is most significant and, based on this risk assessment, prioritise suppliers for due diligence.

c. Preventing risks and mitigating risks to a negligible level

Mitigation and preventive measures may require an economic operator to undertake a series of actions such as changing its purchasing practices to change the types of forest products purchased, amending contracts with suppliers, providing support to suppliers to change their practices, etc. Mitigation actions should first seek to improve practices throughout the supply chain. Where improvements do not sufficiently reduce the risks, the change of purchasing and investment decisions should be considered.

d. Ceasing environmental and human rights abuses

Economic operators should cease all operations that cause, contribute to or potentially cause or contribute to adverse impacts that cannot be prevented.

e. Monitoring the implementation and effectiveness of the adopted measures and continuously improve the effectiveness of their due diligence

Economic operators should periodically check to see if their actions are actually reducing harm and if not, adjust them or develop other actions. This system should be based on qualitative and quantitative indicators and internal and external feedback.

f. Integrating third-party certification schemes

Third-party certification schemes can complement and inform the risk assessment and mitigation components of due diligence systems, provided that these schemes are adequate in terms of scope and strength of sustainability criteria and meet adequate levels of transparency,

impartiality and reliability. Third-party certification schemes should also meet specific governance criteria consisting of independence from the industry, inclusion of social and environmental interests in standard-setting, independent third-party auditing, public disclosure of auditing reports, transparency at all stages, and openness. It is only after the economic operator has performed such an assessment of the scope and strength of sustainability and of the governance criteria that it may decide to take into account third-party schemes where necessary and relevant. However, third-party certification should not impair the principle of the economic operator's liability.

g. Role of Voluntary Partnership Agreements

The Union may negotiate Voluntary Partnership Agreements with FERC-producing countries (partner countries), which create a legally binding obligation for the parties to implement a licensing scheme and to regulate trade in FERCs in accordance with the national law of the FERC-producing country and the environmental and human rights criteria laid out in the proposal. FERCs which originate in partner countries with Voluntary Partnership Agreements should be considered to be of negligible risk for the purpose of the proposal.

4.2. Duty of consultation

Economic operators should:

- a) adequately, timely and directly consult impacted and potentially impacted stakeholders;
- b) properly take into account stakeholders' perspectives in the definition and implementation of the due diligence measures;
- c) ensure that representative trade unions and workers' representatives are involved in the definition and implementation of the due diligence measures;
- d) establish an early-warning mechanism that give an opportunity to workers and interested parties with substantiated concerns to inform the economic operator about any risk of harm throughout the entire value chain. The economic operator should take this information into account in its due diligence processes.

4.3. Duty of transparency and reporting

Economic operators should routinely report on their due diligence and consultation processes, the risks identified, their procedures for risk analysis, risk mitigation and remediation, and their implementation and outcomes to the competent authority and in a public, accessible and appropriate manner.

The Commission should adopt delegated acts to set out the format, the frequency and the elements of the reports. In particular, economic operators should, inter alia, report on the identified risks and impacts; the actions taken to cease and remedy existing abuses and to prevent and mitigate risks of abuse, as well as their outcomes; the measures and results of monitoring the implementation and effectiveness of such actions, warnings received through the early-warning mechanism and how the economic operator took them into account in their due diligence processes, and a list of all subsidiaries, subcontractors and suppliers, products and their quantity and origin. A failure to publish complete and timely reports should be penalised.

4.4. Duty of documentation

Economic operators should maintain a written record of all due diligence actions and their results, and make them available to the competent authorities upon request.

4.5. Commission guidelines

The Commission should develop voluntary guidance to supplement legal obligations contained in the proposal, in particular to clarify the due diligence expectations for specific contexts, sectors, or in relation to certain types of economic operators, and guidance how to integrate existing environmental management systems, such as the international environmental management standard ISO 14001 or the Eco-Management and Audit Scheme (EMAS), into an economic operator's due diligence processes.

To support economic operators in conducting their due diligence obligations, the Commission should publish regional hotspot analyses with regard to FERCs.

5. Control, monitoring, enforcement, sanctions and access to justice

5.1. Public enforcement

Member States should ensure, in accordance with their national law and practice, the enforcement of the above duties by:

a. Providing for proportionate, effective and dissuasive penalties and sanctions for non-compliance with any of the above-mentioned obligations and where non-compliance with any of the above-mentioned obligations causes, contributes to, is linked to, or aggravates, abuses or the risk of environmental damage or human rights abuse. These could include:

- i. monetary penalties proportionate to the environmental or human rights damage, the value of the commodities and derived products at hand, and the tax losses and economic detriment resulting from the infringement;
- ii. permanent seizure of covered commodities and derived products concerned;
- iii. immediate suspension of authorisation to trade;
- iv. exclusion from public procurement processes;
- v. criminal penalties to individuals and, where allowed, for legal entities in the case of the most serious offenses.

b. Designating competent national investigating and enforcement authorities ('competent authorities'). The competent authorities should monitor that economic operators effectively fulfil the obligations laid down in the proposal. For that purpose, the competent authorities should carry out official checks, in accordance with a plan as appropriate, which may include checks on the premises of economic operators and field audits, and should be able to require economic operators to take remedial actions where necessary. The competent authorities should endeavour to carry out checks when in possession of relevant information, including substantiated concerns from third parties.

c. Ensuring that members of the public have the right to challenge non-compliance before the judicial or administrative authorities. This should include any individuals or groups whose rights and obligations or interests are affected, directly or indirectly, by the undertaking's total or partial failure to perform its duties, including employees, customers, consumers and end-users, trade unions, transnational trade union federations, local communities, national or local governments or institutions, journalists, NGOs and local civil society organisations.

The Commission should adopt delegated acts to lay down legally binding standards and guidelines applicable to national competent authorities to ensure effective and uniform implementation and enforcement of the proposal across the Union, in particular with regard to:

- listing economic operators falling under the remit of the proposal in a public register;
- setting standards for the quality and quantity of compliance checks conducted by national competent authorities;
- further guidance on how to conduct compliance checks, such as guidance for national competent authorities that specifies criteria for checks to better analyse and evaluate the risk level of products and sufficient documentation of due diligence systems in use;
- guidance on third-party concerns to establish Union-wide criteria to assess whether a concern is substantial and reliable enough to be accepted, and develop clear timelines for responses by the national competent authorities towards third-party concerns;
- Union-level criteria to help specify when an operator should be given a notice of remedial action, a penalty or when other penalties should apply;
- obligations on competent authorities to report publicly about control and enforcement activities, infringements detected and responses to substantial concerns.

5.2. Civil liability and access to remedies

a. Civil liability

Economic operators should be:

- i) jointly and severally liable for harm arising out of human rights or environmental abuses, as set out in the proposal, caused, aggravated, contributed by or linked to controlled or economically dependent entities;
- ii) liable for harm arising out of human rights or environmental abuses directly linked to their products, services or operations through a business relationship, unless they can prove they acted with due care and took all reasonable measures given the circumstances that could have prevented the harm. Economic operators may therefore discharge their liability if they can prove that they took all due care to identify and avoid the damage.

b. Disclosure of evidence

Where a plaintiff has presented reasonably available facts and evidence sufficient to support their action, the defendant should bear the burden of proving:

- i) the nature of its relationship with the entities involved in the harm;

- ii) whether it acted with due care and took all reasonable measures to prevent the harm from occurring.

c. Access to remedies

Where an economic operator causes, aggravates, or is linked to or contributes to an adverse impact on individuals or organisations, that it has not envisaged or been able to prevent, it should provide for a remedy, through non-judicial or judicial remediation mechanisms.

6. Final provisions

6.1. Non-regression

The implementation of the proposal should in no way constitute grounds for justifying a reduction in the general level of protection of human rights or the environment. In particular, it should not affect other existing subcontracting or supply chain liability frameworks.

6.2. More favourable provisions

Member States may introduce or maintain provisions that go beyond the provisions set out in the proposal as regards the protection of human rights and the environmental standards along the FERCs supply chain.

EXPLANATORY STATEMENT

Background and context

A total of 13 million hectares are deforested¹ each year and almost all of it is happening in tropical forests (96 %). The main driver (80 %) of deforestation is expansion of agricultural land². Three commodities: soy, beef and palm oil are responsible for nearly 80 % of global deforestation³. Other commodities, such as cocoa, or coffee, have relatively small forest footprints globally. However, as their production is highly concentrated in few countries, their footprint and negative impacts are very high in those areas.⁴ The Union imports and consumes between 7 to 10 % of the global consumption of crops and livestock products associated with deforestation in the countries of origin⁵. The Union is also 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%)⁶.

To mention climate change impacts, global deforestation is responsible for about 12 % of global greenhouse gases (GHG) emissions⁷. Deforestation also means lost biodiversity, which cannot be reconstructed by planting a new forest. When it comes to economic and social consequences of deforestation, it needs to be noted that 1,6 billion people depend on forest resources⁸. In countries where the rule of law is weak, land tenure rights are often not respected and indigenous population lose access to forest resources, which are key for the local economy.

Through the Sustainable Development Goals, the Paris Agreement and the 7th Environmental Action Plan, the Union has committed at different levels to protect both European and global forests and to contribute to sustainable land use, land use change and forestry.

The Union has already introduced some regulatory measures to tackle the problem of imported deforestation. This concerns inter alia the 2003 Forest Law Enforcement Governance and Trade (FLEGT) Action Plan, the 2005 Council Regulation (EC) No 2173/2005⁹, Regulation (EU)

¹ European Commission, [EU Science Hub, Forestry](#), website.

² [FAO 2016](#).

³ Idem.

⁴ <https://resourcetrade.earth/stories/cocoa-trade-climate-change-and-deforestation#section-183>

⁵ European Commission, [Environment, Studies on EU action to combat deforestation and palm oil](#), website.

⁶ Idem.

⁷ Smith, P. et al. (2014): Agriculture, Forestry and Other Land Use (AFOLU). In: Climate Change 2014: Mitigation of Climate Change. Contribution of Working Group III to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change [Edenhofer, O. et al. (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA.

⁸ [FAO](#)

⁹ Council Regulation (EC) No 2173/2005 of 20 December 2005 on the establishment of a FLEGT licensing scheme for imports of timber into the European Community (*OJ L 347, 30.12.2005, p. 1*).

No 995/2010¹⁰ (‘the EU Timber Regulation’) Directive (EU) 2018/2001¹¹, together with Directive (EU) 2015/1513¹² and Directive (EU) 2015/1513. However, different evaluations assessed their efficiency and scope and concluded that they are not sufficient to halt and reverse global deforestation^{13 14}.

However, there is no coherent EU legal framework directly addressing ‘forest risk commodities’ food or feed products - that impact global deforestation. The Union did not achieve the 7th EAP goal of reducing gross tropical deforestation by 2020. Against that background, considering recent results of studies and consultations launched by the Commission, and in view of academic findings on the issue, 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 Forests¹⁵. The new Commission has clearly confirmed that it is planning to take legislative action at Union level against global deforestation. It was confirmed in the Commissioners’-designates hearings in the European Parliament¹⁶.

The European Parliament has been regularly calling on the Commission to step up Union action against global deforestation.^{17 18} More specifically, in its resolution of 16 January 2020 on the COP15 to the Convention on Biological Diversity, the European Parliament called on the Commission to propose due diligence-based legislation for deforestation free products on the EU market.¹⁹

The rapporteur is recommending that the Commission presents, for the first time, a legislative proposal for mandatory due diligence for forest and ecosystem-risk commodities being placed on the Union market.

The rapporteur believes that the EU Timber Regulation can be a good model to build upon, while improving some of its aspects. Those improvements should concern requirements for commodities being put on the Union market that go beyond the legality of the sourcing of the

¹⁰ Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market Text with EEA relevance (*OJ L 295, 12.11.2010, p. 23*).

¹¹ Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (*OJ L 328, 21.12.2018, p. 82*).

¹² Directive (EU) 2015/1513 of the European Parliament and of the Council of 9 September 2015 amending Directive 98/70/EC relating to the quality of petrol and diesel fuels and amending Directive 2009/28/EC on the promotion of the use of energy from renewable sources (*OJ L 239, 15.9.2015, p. 1*).

¹³ European Commission, [Feasibility study on options to step up EU actions against deforestation](#), COWI A/S, 2018, Part I.

¹⁴ European Commission, EU Communication on Stepping up EU Action to Protect and Restore the World’s Forests, [COM/2019/352 final](#).

¹⁵ Idem.

¹⁶ European Parliament, Policy Departments Economic Governance Support Unit, [Commitments made at the hearings of the Commissioners-designate Von der Leyen Commission 2019 - 2024](#), PE 629.837 - November 2019.

¹⁷ European Parliament resolution of 11 September 2018 on transparent and accountable management of natural resources in developing countries: the case of forests ([2018/2003\(INI\)](#)).

¹⁸ European Parliament resolution of 4 April 2017 on palm oil and deforestation of rainforests ([2016/2222\(INI\)](#)).

¹⁹ European Parliament resolution of 16 January 2020 on the COP15 to the Convention on Biological Diversity ([2019/2824\(INI\)](#))

commodities in the country of origin to include sustainability criteria and human rights protection. Furthermore, lessons should be learnt from the flawed implementation and enforcement of the EU Timber Regulation. The rapporteur therefore proposes the inclusion of an improved implementation and enforcement mechanism in the legislative proposal for a future forest-risk commodity regulation.

The rapporteur believes that due diligence obligations for economic operators putting forest and ecosystem-risk commodities and derived products on the Union market is necessary, as efforts and voluntary commitments by economic actors aimed at curbing the impact of forest and ecosystem-risk commodities on deforestation and enacting voluntary supply-chain measures have been so far rather limited and overall unsatisfactory²⁰. Studies have indicated an urgent need for stepping up public intervention²¹.

Companies and business associations shared this view in numerous meetings with the rapporteur. They expressed their preference for a Union due diligence Regulation for forest-risk commodities also for business reasons.

These calls are echoed by a study commissioned by the Commission's DG Just on due diligence requirements through the supply chain²², according to which a majority of business and other stakeholders (68%) responded that the current regimes of voluntary measures have failed to significantly change the way companies manage their social, environmental and governance impacts, or to provide remedies to victims.

The study envisages that mandatory due diligence would allow “for significant preventative benefits”, “opportunities for protection” as well as “enhanced access to justice in case of adverse environmental impacts” for rights-holders²³ that reporting requirements would not cover.

According to the study, mandatory due diligence would have the most positive social, human rights and environmental impacts, while voluntary guidelines and reporting requirements are considered not likely to produce significant positive impact on people or the planet.

Objective

Thus, based on those reasons, the rapporteur aims with the proposal to ensure a high level of protection for natural forests and natural ecosystems and the protection of human rights potentially affected by the harvesting, extraction and production of commodities that most often are related to deforestation, ecosystem destruction, forest and ecosystem degradation and human rights violations.

²⁰ <https://climatefocus.com/sites/default/files/20171106%20ISU%20Background%20Paper.pdf>

²¹ Lambin, E.F., et al. (2018): The role of supply-chain initiatives in reducing deforestation. *Nature Climate Change* 8, 109-116.

²² British Institute of International and Comparative Law et al. (2020): Study on due diligence requirements through the supply chain. Final report.

²³ Under the Universal Declaration of Human Rights, rights-holders are all human beings or social groups with specific entitlements towards duty-bearers (States and other private actors) which have the responsibility to protect and/or respect their rights and can be held accountable for violating them (<https://www.ohchr.org/Documents/Publications/FAQen.pdf>).

The rapporteur believes it is necessary to also cover natural ecosystems by the proposal, as otherwise pressure would shift to these areas to be turned into agricultural land, with equally devastating effects for the climate and biodiversity. In addition, human rights need to be covered by the proposal, as human rights violations are a driver and a consequence of forest and ecosystem destruction. Securing the tenure rights of forest-dependent peoples directly benefits forests and ecosystems.

Scope

The rapporteur is of the opinion that the proposal should cover economic operators of all sizes, as otherwise the creation of regulatory loopholes would jeopardize the objectives of the regulation. The same reasoning applies to covering economic operators' complete value chains. Making the regulation applicable to all economic operators would be in line with the United Nations Guiding Principles on Business and Human Rights, which highlights that all businesses have responsibility to respect human rights. The rapporteur wants to underline that this responsibility is equally applicable as regards the protection of the environment.

Additionally, the regulation should cover all financial institutions. A recent study by Global Witness shows that, between 2013 and 2019, Union-based financial institutions were one of the main sources of funds and had backed six agribusiness companies linked to forest destruction in the climate critical forests of the Amazon, Congo Basin and Papua New Guinea to the tune of 7 billion Euro.²⁴

The rapporteur agrees with the findings of the study commissioned by DG Just that a broad scope of businesses should be included in an Union-wide due diligence framework, including SMEs and financial institutions..²⁵

It also seems logical that traceability obligations for commodities and products covered by the proposal should also apply to traders. Traceability allows at any given moment, for the identification of the relevant economic operator(s) placing goods covered by the regulation on the market and therefore responsible for performing due diligence.

In its communication “Stepping up EU action to protect and restore the world’s forests” of 2019, the Commission concluded that when looking at deforestation embodied in total final consumption, Union consumption represents around 10% of the global share. This is mostly due to Union imports of products such as palm oil, meat, soy, cocoa, maize, timber, rubber, including in the form of processed products or services. Therefore, these commodities should be covered by the regulation. The proposed measures should also apply to any product containing raw or processed commodities, either as a sole input or in combination with other inputs, to avoid the effect of incentivising the demand for such products and the risk of bypassing the due diligence obligation. The rapporteur notes that scientific knowledge about the exact impact of the import of certain commodities on the situation of forests, ecosystems and human rights is still evolving. The rapporteur therefore suggests that further commodities could be added to the regulation’s scope by way of a delegated act.

²⁴ Global Witness (2020): Why EU action to tackle deforestation should not let finance off the hook.

²⁵ British Institute of International and Comparative Law et al. (2020): Study on due diligence requirements through the supply chain. Final report.

General obligations

The rapporteur proposes that the commodities covered by the proposal should not have originated from areas that can be classified as natural forests or natural ecosystems before 1 January 2008 but have lost that status after this cut-off date or have suffered degradation since then.

Taking 1 January 2008 as the cut-off date would align the proposal with the sustainability provisions laid down in Directive (EU) 2018/2001.

To define natural forests, natural ecosystems, deforestation and forest and ecosystem degradation, the rapporteur suggests to use the definitions of the Accountability Framework and the approach of Directive (EU) 2018/2001 to land with high biodiversity value ecosystems and high carbon stock. The rapporteur believes that these are recognised concepts with already existing guidance making them easily operational. Moreover, the Accountability Framework definition clearly distinguishes natural forests from tree plantations, and it addresses explicitly both conversion to plantation and severe, ongoing degradation.

In view of facilitating implementation, the Commission should regularly adopt, by way of delegated act, a non-exhaustive list of areas that are covered by the proposal.

As regards human rights, economic operators should guarantee that their products are not linked to human rights violations most frequently associated with deforestation, ecosystem destruction and forest and ecosystem degradation. Those are tenure rights, rights of indigenous people, free prior and informed consent as set out by the UN Permanent Forum on Indigenous Issues, the right to water, labour rights as enshrined in ILO fundamental conventions and other internationally recognised human rights related to land use, access or ownership.

Duty of due diligence

Building on the OECD guidelines for multinational enterprises and the OECD-FAO guidance for responsible agricultural supply chains, the rapporteur suggests to place a duty of due diligence, a duty of consultation, a duty of transparency and reporting and a duty of documentation upon economic operators.

The due diligence should follow a risk-based approach. The rapporteur emphasises that taking a risk-based approach should not prohibit economic operators from engaging in certain contexts or with certain business partners, but should assist them in effectively managing the risks of adverse impacts in high-risk contexts.

Employing due diligence does not rely on states of origin in order to ensure compliance, but casts the responsibility on economic actors which want to market commodities or derived products in the Union. The rapporteur stresses that, importantly, as opposed to tools such as labels and certifications, due diligence does not rely on consumer preferences and thereby offers potentially high levels of effectiveness in achieving regulatory objectives.

Under the proposed measures, lawfully placing on the Union market would be possible only when economic operators are able to demonstrate, as a result of their due diligence process, that

any identified risk has been mitigated so that it becomes negligible at most. In addition, and in view of facilitating enforcement, operators would be obliged to ensure the traceability and transparency of their supply chain and to report about their compliance with due diligence, in particular concerning risk assessment and risk mitigation.

The rapporteur suggests that the Commission develops guidelines to support economic operators in implementing these duties. To ensure Union-wide high quality and comparable standards of transparency and reporting, the Commission should adopt delegated acts on these matters.

Duty of due diligence: an obligation requiring economic operators to conduct due diligence throughout their entire supply chain in order to identify, prevent, and mitigate environmental, social and human rights risks and impacts in order to ensure compliance of goods placed on the Union market with a set of sustainability and legal criteria, should be put in place.

Similar to Regulation (EC) No 2173/2005, Voluntary Partnership Agreements could be negotiated between the Union and FERC-producing countries. The rapporteur wants to underline, though, that while the negotiation of Voluntary Partnership Agreements might take many years, a mandatory due diligence regulation for forest-risk commodities can enter into force more quickly and can also stand alone.

Economic operators should be able to use third-party certification schemes to inform the conduct of these duties. The rapporteur emphasises, though, that third party certification schemes cannot replace the economic operators' duty for due diligence and the economic operator's liability. In light of the considerable variety of third-party schemes and certification that is potentially relevant, operators should carry out a rigorous assessment against the forest and ecosystem risk criteria identified in the proposal before concluding that a scheme can in fact contribute to the objectives of the proposal. The rapporteur points out that there are large differences in quality between certification schemes, whose effectiveness depends on a range of factors, including its scope, its level of transparency and the strength of its criteria²⁶, as well as the required frequency of audits, as well as their quality and independence. This variation limits the extent to which they can be used consistently as a tool for preventing deforestation²⁷. In addition to forest and ecosystem risk criteria, the above assessment should also cover specific governance criteria, comprising independence from industry, inclusion of social and environmental interests in standard-setting, independent third-party auditing, public disclosure of auditing reports, transparency at all stages, and openness. Only after performing such an assessment may operators decide to take into account third-party schemes where necessary and relevant.

Duty of consultation: economic operators should consult affected stakeholders as regards the definition and implementation of their due diligence measures and should install an early-warning mechanism that allows third-parties to inform the economic operator about any risk of harm throughout the entire value chain. Third parties often have extensive expertise on the ground and can help economic operators to fulfil their duty to prevent harm.

Duty of transparency and reporting: economic operators should regularly and publicly report

²⁶ Voigt, M. (Ed.) (2019): Sustainability Certification Schemes in the Agricultural and Natural Resource Sectors, Outcomes for Society and the Environment, London and New York: Routledge.

²⁷ Smit, H., et al (2015): [Implementing Deforestation-Free Supply Chains - Certification and Beyond](#).

about their due diligence processes, activities and results. Format and elements of the reports should be defined by a delegated act so as to ensure uniformity and avoid cherry-picking in economic operators' reporting practices. Public reporting should enable third parties to scrutinise economic operators' activities.

Duty of documentation: economic operators should keep written records of all their due diligence actions to investigate potential infringements of the regulation when accusation come up at a later stage.

Control, monitoring, enforcement and access to justice

The due diligence exercise will constitute the basis on which an operator decides to place the goods covered by the regulation on the Union market. The consequence for placing such goods on the Union market, notwithstanding the failure to establish compliance with the sustainability and human rights criteria and duties described above, should be considered a legal liability of the economic operators concerned, in the form of exposure to both public and private enforcement, by the competent administrative and judiciary authorities and damaged private parties respectively.

Therefore, Member States should ensure that competent authorities monitor the fulfilment by economic operators of the obligations provided for in the regulation (due diligence, consultation, reporting, documentation).

Economic operators should be criminally liable for breaches of their duties. Member States should provide for proportionate, effective and dissuasive penalties for non-compliance with the duties for due diligence, consultation, reporting and documentation, and where non-compliance with the regulation's obligations caused environmental damage or human rights abuses.

Standards and guidelines should be developed at Union level for national competent authorities to ensure effective and uniform implementation and enforcement of the proposal across the Union. The rapporteur is of the opinion that for this, one can draw from the experience of the EU Timber Regulation.^{28 29}

Third parties should be able to challenge non-compliance of economic operators with the regulation's obligations before judicial or administrative authorities. Economic operators should bear the burden of proof where a plaintiff has presented reasonably available facts and evidence sufficient to support their action.

Economic operators should be jointly and severally liable for harm arising out of human rights and environmental abuses and should provide for remedy where harm was caused to individuals or organisations.

That mandatory due diligence rules must include some form of liability is also supported by the DG Just study on due diligence requirement, according to which 73% of stakeholder

²⁸ Germanwatch (2019): Lessons learnt aus der EU-Holzhandelsverordnung für die Umsetzung der EU-Konfliktmineralienverordnung.

²⁹ WWF (2019): WWF Enforcement Review of the EU Timber Regulation (ETUR).

respondents prefer mandatory due diligence requirements coupled with civil or criminal liability and/or fines to voluntary guidelines. The preferences of industry organisations are, however, in reverse order.

Financial implications

The measures contained in the proposal are mostly without immediate impact on EU operational expenditure. Additional costs for Member States to monitor and enforce the implementation of such a regulation will depend on national choices of implementation, but can be minimised insofar as these costs could fall within the structures of existing budgets, for example those of environmental or customs agencies, courts and judicial systems. Moreover, the rapporteur stresses that implications for public budgets should be weighed against the positive environmental and human rights impacts of the proposal.

For economic operators, preliminary findings of the study on due diligence requirements through the supply chain commissioned by the Commission's DG Just indicate that "the cost of mandatory due diligence compared to the revenue of companies appears to be relatively low. As concerns the additional recurrent company-level costs as percentages of companies' revenues, these costs on average amount to less than 0.14% for SMEs and 0.009% for large companies."³⁰

The findings of DG Just's study furthermore give a preliminary indication that the costs of due diligence obligations would be offset by a Union-wide regulation, thanks to planning-security, a level playing field for economic operators across the Union and increased leverage through a non-negotiable standard.³¹

While the findings of the DG Just study refer to the costs and benefits of a cross-sectorial human rights and environmental due diligence regulation, the rapporteur is of the opinion that similar costs and benefits can be assumed for a mandatory due diligence regulation for forest- and ecosystem-risk commodities.

The forthcoming European Added-Value assessment study will provide for further insight on this matter.

Final provisions

The rapporteur believes that the proposal should serve as a *de minimis* measure and Member States may implement stricter supply chain regulations.

³⁰ British Institute of International and Comparative Law et al. (2020), Study on due diligence requirements through the supply chain, PART I: SYNTHESIS REPORT, p. 66.

³¹ Ibid.