



FSC'S POSITION AND 10 SUGGESTIONS ON THE NEW PROPOSED EU RULES FOR DEFORESTATION-FREE PRODUCTS

The Forest Stewardship Council (FSC) welcomes and supports the [EU Commission's proposal aiming to minimise the EU's contribution to deforestation and degradation worldwide](#) whilst increasing the demand for legal and 'deforestation-free' products in the EU market. While the proposal is [off to a good start](#), there is a potential to further strengthen it. Below you can find FSC's suggestions:

1. Supporting the fight against deforestation and degradation

FSC supports the EU Commission goal of fighting deforestation and degradation. FSC sustainable forest management (SFM) standards [do not allow for deforestation to take place in certified forests](#) and provide strict requirements ensuring that certified forest managers maintain or enhance the structure, function, biodiversity, and productivity of their forests, thus also tackling degradation. FSC is an effective implementing tool for robust SFM practices, which are [proven to be a solution against deforestation and degradation](#). Moreover, FSC's standards also put an emphasis on the social dimension of the problem by ensuring that the [rights of workers](#) and [Indigenous communities](#) are respected.

2. Specifying the proposed definitions

FSC calls EU policymakers to further specify the proposed definitions of deforestation and degradation by aligning them with the [Accountability Framework](#).

In particular, the definition of "deforestation" should include the conversion of a forest to a tree plantation.

3. Expanding the list of commodities to all wood products and rubber

The proposal covers six commodities: palm oil, soy, cattle, cocoa, coffee, wood, and some derivative products. FSC calls EU policymakers to expand the list of commodities and in particular to include all wood products. The current list of wood products, which closely follows the EU Timber Regulation (EUTR) list, does not include charcoal, tableware/kitchenware, bamboo-based and recovered products, wooden furniture, wooden prefabricated buildings, and wood seating.

Furthermore, FSC favours the inclusion of rubber. [The EU is the second biggest global importer of rubber, and the increasing demand for rubber is driving the conversion of forests to rubber plantations with harmful impacts on tropical forests](#). In addition, rubber is listed in the list of commodities in the proposed U.S. bill. Where possible, the EU should coordinate with other legislative initiatives aiming to stop deforestation globally. This will create a level playing field for companies operating across different markets. For all these reasons, [rubber should be kept in the proposed Regulation](#).

4. Broadening the scope of the Regulation

In addition to forests, FSC favours the inclusion of other natural ecosystems, such as savannahs, grasslands and peatlands, within the scope of the Regulation. This will prevent agricultural conversion to other ecosystems, which are often interlinked at a landscape level, and need to be protected to fulfill the objectives of the Regulation as laid out in Article 1. Moreover, FSC strongly supports the inclusion of High Conservation Values (HCV) among the ecosystem to be protected. These are areas of biological, ecological, social, or cultural values of outstanding significance which must be identified, managed, and protected preferably by involving Indigenous Peoples and Local Communities.

5. Reinforcing due diligence

FSC, with its 10 years of experience with the EUTR, has strongly favoured a due diligence-based approach to mitigate the risks that products linked to deforestation and degradation are placed in the EU Market. To strengthen the proposed due diligence FSC would like to suggest two points:

I) The current proposal foresees a simplified due diligence in case companies source commodities from a country classified as “low risk”. In the simplified due diligence, operators would only need to comply with the information gathering step and can skip the risk assessment and risk mitigation phases (Art 12). FSC does not favour this approach. The due diligence process is inherently risk-based: we therefore recommend reintroducing the risk assessment and risk mitigation phases for low-risk areas too. In cases of low risk, requiring risk assessment and mitigation will not be an additional burden, but rather a sound good practice in applying the due diligence concept. Furthermore, the simplified due diligence may trigger a leakage effect by disengaging companies from sourcing from high and standard risk/countries and regions.

II) Ensuring engagement with relevant stakeholders – with a specific focus to Indigenous Peoples, local communities, smallholders, women – across the supply chains is critical for effectiveness of due diligence obligations.

FSC recommends aligning the proposed due diligence with the Organisation for Economic Co-operation and Development (OECD) due diligence guidance for responsible business conduct. EU secondary legislation and guidance documents should further specify how engagement with specific stakeholders should be conducted throughout the supply chains.

6. Employing voluntary sustainability standards (VSS) meeting strict credibility criteria as part of the risk assessment and risk mitigation phase

FSC welcomes the inclusion of VSS as outlined in the proposal. As stressed in the study on forest certification schemes requested by the EU Commission and undertaken by Preferred by Nature, robust VSS meeting credibility criteria are an “important tool for Operators to assess and mitigate risks in their supply chain. This process has the potential for Operators to achieve a high level of confidence in their supply chain with minimal use of resources and effort. This is an optimal solution from a cost efficiency perspective.”

EU secondary legislation should further specify credibility criteria according to which schemes can be employed for the purpose of the Regulation with the final aim of discouraging a race to the bottom of sustainability schemes – as per the option already adopted under EUTR.

As for the credibility criteria for VSS, FSC recommends considering internationally recognised, good practices for credible certification schemes, such as those set out in the ISEAL’s Codes of Good Practice. This choice would also be in line with the French Strategy to Combat Imported Deforestation, which, in its goal 13, recommends to raise the ambition for VSS by ensuring that only VSS with robust environmental (HCVs) and social (FPIC) criteria can be employed. Robust VSS are much more than certification schemes: they can pioneer innovative technological solutions to ensure the traceability of products, engage stakeholders from the relevant groups along supply chains, and provide new nature-based solutions as part of the “smart mix” package to fight deforestation.

7. Enhancing protection of Indigenous Peoples

Indigenous Peoples and local communities are [nature's best protectors](#). Forests with Indigenous communities store more carbon and have [lower rates of deforestation and degradation compared to other areas](#). Including the protection of Indigenous Peoples' rights in due diligence obligations is thus pivotal to tackle deforestation and degradation from both an environmental and social perspective.

FSC recommends adding to the proposal that to be placed in the EU market commodities must comply with customary tenure rights and the Free, Prior and Informed Consent (FPIC). FSC can support certified companies respecting this obligation as [FSC-certified forest owners and managers are obliged to identify and uphold Indigenous Peoples' rights of land ownership, use of land, and access to resources the land may provide](#). With this action the EU proposal would also align with international obligations, such as the [United Nations Declaration on the Rights of Indigenous People](#), and the [International Labour Organization's Convention 169](#).

8. Supporting traceability requirements and empowering smallholders

FSC supports the inclusion of robust, inclusive, and actionable traceability requirements in the proposed Regulation. With specific regard to the wood sector, FSC can help companies meet precise [traceability requirements to the forest management unit \(FMU\) level](#), through the introduction and continuous development of technologies, such as [blockchain](#) and [woodID](#).

The new traceability obligation up to each plot of land via geo-localisation is an innovative and pivotal element of the proposal. At the same time, it poses fresh challenges with regard the implementation of the Regulation on the ground. The new requirement, as written in the proposed Article 9, could further economically marginalize smallholders, Indigenous peoples and local communities, all of whom are not sufficiently equipped to comply with the requirement and already face market barriers.

FSC recommends building the capacity of these groups by ensuring they will receive assistance (financial and non-financial) with establishing traceability systems and collecting geolocation data. EU Secondary legislation should detail how the geo-location requirement must be met by smallholders, Indigenous peoples and local communities considering the specificities of relevant sectors and existing best practices.

9. Boosting cooperation and partnerships with producer countries

The EU proposal clearly outlines demand-side measures to reduce deforestation, such as due diligence. At the same time, it is far less clear on how supply-side measures can enact priority 2 of the [communication on stepping up EU action to protect and restore the world's forest \(2019\)](#). The proposal does recognise the need to develop partnerships and cooperation with producer countries (Article 28), yet it does not clarify how this cooperation will unfold, how consumer markets can effectively engage with producers, and how the Regulation will interact with existing instruments such as Forest Law Enforcement, Governance and Trade (FLEGT) and its Voluntary Partnership Agreements (VPAs).

The experience with FLEGT VPAs has demonstrated that while [these mechanisms have been beneficial to improve forest governance](#), they also need time and investments to work. For this, FSC recommends the following:

- I) Empower smallholders, Indigenous Peoples, and local communities by giving them technical and financial support so that they can comply with the legal and sustainability requirement stemming from the Regulation.
- II) Develop bilateral agreements meeting the trade and development priorities on both sides. See for instance the [Forest Annex in the US-Peru Free Trade Agreement](#)
- III) Build on and [strengthen the FLEGT processes](#) to improve forest governance.

IV) Set up mechanisms to incentivise companies to source from high-risk areas—e.g., via facilitated access to public-private partnerships, co-finance mechanisms, and [employment of credible voluntary sustainability standards](#).

[FSC has a long-standing experience with FLEGT VPAs](#) and their framework which promote forest policy reform, establishment of effective enforcement institutions and stakeholder participation.

All these elements are preconditions for SFM. Robust schemes such as FSC and its SFM standards can boost engagement with producer countries and support implementation of both environmental and social requirements.

10. Including deforestation-free criteria in EU mandatory Green Public Procurement (GPP)

Article 11 TFEU explicitly requires environmental protection “[to be integrated into the definition and implementation of the Union policies and activities, in particular with a view to promoting sustainable development](#)”. GPP allows public authorities to achieve environmental targets and can therefore be instrumental in addressing environmental challenges, such as deforestation, by making mandatory the purchasing of wood and wood products from legally harvested and sustainably managed forests. Robust VSS meeting strict credibility criteria can be used by the EU Commission as a proxy to demonstrate compliance with mandatory GPP criteria, for instance the current revision of [EU GPP criteria for buildings](#).

Questions and queries

Matteo Mascolo, FSC’s EU Affairs & Engagement Manager, m.mascolo@fsc.org

About FSC

As the pioneer of forest certification, FSC has 25 years of experience in sustainable forest management and is widely regarded as the world’s most trusted forest certification system. FSC uses its expertise to promote the responsible management of the world’s forests, bringing together experts from the environmental, economic, and social spheres. FSC standards are based on ten core principles designed to prevent deforestation and degradation, and safeguard biodiversity, water quality, carbon storage, and Indigenous Peoples’ and workers’ rights, among other key environmental and social values. More [here](#).

