

Your guide to

# The EU Regulation on Deforestation- Free Products

# The Journey So Far

## Where did it come from?

There's a new day rising for companies trading on the EU market, and those who are used to the usual order of business may get lost among the EU's new requirements.

For us at Satelligence, there's nothing more important than seeing our clients comply and flourish sustainably.

So we're here to walk you through the EU's latest anti-deforestation Regulation, what it means for your business, and how to navigate the road to compliance.

The principal aim of the Regulation on Deforestation-Free Products is to "minimise consumption of products coming from supply chains

associated with deforestation or forest degradation".

In light of events like COP26, numerous NGO criticisms of traditional compliance schemes, and the fact EU consumption of key commodities is responsible for 10% of global deforestation, the EU has decided that it's time to dam the flood of deforestation linked commodities that make their way onto the EU market.

The EU is the world's second largest driver of tropical deforestation.

So, 1.2 million EU citizens called on the EU to do more to restrict entry of products related to deforestation.

"To succeed in the global fight against the climate and biodiversity crises we must take responsibility at home as well as abroad... Our deforestation regulation answers citizens' calls to minimise the European contribution to deforestation."



Frans Timmermans  
European Commission  
Vice-President

# How will it be implemented?

The law will concern deforestation associated with the conversion of land for agricultural use for soft commodities listed below and their derived products: leather, chocolate and furniture, charcoal, printed paper, and palm oil derivatives.



Coffee



Palm Oil



Cocoa



Soy



Leather  
& Beef



Sugar  
Cane



Rubber



Pulp &  
Paper



Coconut



Forrest

1.

The law requires traders of FERCs on the EU market to ensure these commodities comply fully with **local laws in the countries** of origin of those commodities. Traders and operators will be required to identify the exact geo-coordinates of where commodities are produced. EU officials will use satellite data to check those coordinates in the European Information System.

2.

**High, standard and low-risk benchmarks** will be applied to countries (and/or sub-national regions) based on producer countries' anti-deforestation laws and their efforts to tackle illegal land-use. The level of scrutiny will vary according to the designated risk benchmark.

3.

Companies dealing in commodities that fall under standard or high-risk designations need to **conduct a risk assessment**. They must prove that their products were not produced, grown or raised on land that had been deforested or degraded after 31 Dec 2020.

4.

Companies that can't prove the risk of placing non-compliant products onto the EU market is "negligible," are obliged to take **mitigating measures** until the risk is deemed so. If they can't do that, they can't trade those products in the EU.

# Looking Ahead

The Commission hopes that the proposal will be ratified in 2023 by the EU parliament and the EU heads of state.

Following that, large companies will be given an 18-month grace period to prepare for compliance, with smaller ones receiving a longer period of adaptation, and some targeted exemptions.

The scope of the law will be reviewed one year after its ratification, when the Commission will assess whether to include “other wooded lands” that aren't currently covered, such as savannahs.

Satelligence’s work on deforestation in Gran Chaco proves that not including a broad scope of land types could undermine the EU’s attempts to reduce deforestation. In two years, the Commission will consider whether ecosystems with high biodiversity or carbon storage potential might also be included in the text.

Debates around the inclusion of peatland and savannahs, or commodities like biodiesel and maize, as well as the eventual inclusion of financial services within the scope, are sure to rage on as the law is revised and improved.

Companies looking to trade in the EU will be subject to a nexus of public, political and institutional pressure to clean up their supply chains and show the world they’re ready to step up and help the EU with its commitment to halt global deforestation by 2030.

# The Road to Compliance



# The Road to Compliance

Here's where we dive into the nitty-gritty of compliance. There'll be forms to fill, geo-coordinates to verify, declarations to complete, labels to affix, authorities to answer to, licences to issue and risks to assess.

Countries and sub-national regions will be rated as either **low**, **standard** or **high-risk**.

We'll cover all of the above and more as we walk, diligently, along the road to compliance.

## 1. Due diligence checks

**Low - Standard - High Risk:** Information-gathering stage. Compile all the relevant documents, data and geo-coordinates to demonstrate that your commodity is compliant.

## 2. Risk assessment

**Standard - High Risk:** Using the information gathered in Step 1, demonstrate that the risk of deforestation-associated, non-compliant products being placed on the EU market is "negligible", ie. the threat of the environmental harm is as close to non-existent as possible.

## 3. Mitigation measures

**Standard - High Risk:** Should the risk of non-compliant products be considered "non-negligible". carry out and demonstrate mitigation measures to reduce the likelihood of the non-compliant products being placed on the EU market.

## 4. Customs declaration

**Low - Standard - High Risk:** Fill in a Custom Declaration that links back to the relevant due diligence statement.

## 5. Congrats

If you comply, you will receive a "deforestation-free" label! If the risk cannot be negated, then the product may not be traded on the EU market.

# Key Takeaways

## 1. Stakeholder Categories

The Regulation categorises stakeholders into four groups:



How the regulation applies to you depends on which stakeholder category you're in.

The definitions for competent traders and authorities are set in stone, but the definition of an SME remains foggy.

It's going to be a significant distinction. While the risk assessments, due diligence criteria and mitigation obligations will apply to operators, there are exemptions for SMEs.

Given their perceived ability to influence the supply chain with their trading power, large traders will be treated the same as operators.

## 2. Risk Ratings

Countries and sub-national regions will be rated as either **low**, **standard** or **high-risk**.

Products imported from low-risk areas won't be scrutinised as intensely as the standard or high-risk ones.

How are risk ratings determined?

An independent Implementing Regulation will allocate risk rating.

Criteria include:

- Overall **rates of deforestation**;
- The strength of **legal frameworks** in the area;
- The inclusion of agricultural emissions in the country's contribution to the Paris Climate Agreement;
- Equivalence with EU deforestation laws.

## 3. Who's Responsible for Checks?

The responsibility to carry out checks on imports lies with government agencies in each member state.

There will be up to **27 different national authorities involved**, which may lead to different interpretations of the rules.

Crucially, the Operators and Traders will also be responsible for ensuring compliance.

Member states need to carry out compliance checks covering 9% of companies exporting from countries with a high risk of deforestation, 3% from standard-risk countries and 1% for low-risk countries.

What's the penalty for failing to comply?

Significant fines (max 4% of company annual turnover), confiscations, suspensions of economic activity and potential exclusion from public contracts. Compliance will soon be the cost of doing business.

# Key Takeaways

## 4. Risk Assessment

The risk assessment criteria uses the **EU Timber Regulation (EUTR)** as a boilerplate.

The most important ones being:

- The **presence of forests** in the country and area of production of the relevant commodity or product;
- The **prevalence of deforestation or forest degradation** in the country, region and area of production of the relevant commodity or product.

This stage will only apply to countries that are benchmarked as standard or high-risk.

For companies used to working with the EU Timber Regulation and FLEGT, **Client Earth** has a handy guide on what changes are expected, and how to fulfil them.

## 5. Traceability

As part of their due diligence statement, companies will need to provide the exact geo-coordinates of their commodity's origin.

They will also need to know:

- The **commodity**
- The **quantity**
- The **supplier**
- The **country of production** of the goods they sell

Gathering this information is going to require a deep dive into long-tail supply chains.

It sounds like an insurmountable task, but it'll bring companies closer to their stakeholders and the business opportunities therein.

Companies will be expected to use modern tools, such as satellite monitoring, to go deeper into their supply chains, and step up engagement with their suppliers to fill the information gap.

## 6. Certification isn't Enough

Though certifications can form part of a given company's risk assessment or due diligence information gathering, they're now considered redundant in the face of full supply-chain traceability.

This does not come as a surprise given that certification schemes have been mired in controversy.

**Real-time, targeted, scientific and satellite based deforestation monitoring services are now commonplace in the market.**

It's implied in the regulation that satellite-based monitoring through services that utilise data from the EU's Copernicus and EGNOS/Galileo programmes will likely be part of the process of checking compliance at the EU level.



# Key Takeaways

## 7. Commitments and Compliance

### What's the Difference?

Companies that use voluntary reporting tools such as the NDPE IRF (No Deforestation, No Expansion on Peat and No Exploitation Implementation Reporting Framework), are already tracking their progress towards zero deforestation across their supply base.

Part of this process involves collecting longitude and latitude coordinates of mill parent companies.

Many producers and traders in the palm oil sector are also investing in verified deforestation free supply chains, **utilising satellite data to monitor deforestation across their sourcing landscapes**. For these companies the EU regulation is one step further, tracing FFBs (Fresh Fruit Bunches) down to the plantation or smallholder farm.

For companies in the beef, soy, timber, cocoa, and coffee sectors, less progress has been made than that of the palm oil sector.

With more than 20 years of combined experience in tropical forest management and satellite monitoring across all major agricultural commodities, Satelligence is well positioned to provide the required services to enable them to meet EU regulatory requirements.

## Comply and flourish

As the EU Commission sees it, the argument for compliance is clear:

“[the legislation] will go hand in hand with creating incentives for a transition toward more sustainable use of the natural resources, contributing to preserving more intact forests, boosting market opportunities for sustainable products, and eliminating unfair competition from unsustainable producers exporting to the EU market.”

It's all in there, responsible stewardship of our planet, keeping the lungs of the world healthy, ensuring fair treatment of indigenous populations and giving sustainable products a fair chance in European markets.

Do Better, Be Better:

# The Why of Compliance

In an open letter to the EC, key players in the rubber industry called for the commodities inclusion in the proposal. In the end, rubber was included in the final agreement.

The letter demonstrates a desire for industry-wide co operation and proves that the private sector is willing to participate and lead in this area, with or without legislation, to improve trust, transparency, data quality and prosperity.



# The Why of Compliance

## Stand Out in the Portfolio

For savvy investors, consideration of the law is a no-brainer because of the ESG-flaunting, market-stimulating opportunities it presents.

Despite the financial sector not being included within the proposal, there are other key pieces of legislation, such as the EU's Corporate Sustainability Reporting Directive, and the Corporate Sustainability Due Diligence Directive, that provide regulatory incentives for investors to build sustainability into their investments.

With the financial clout of the investment industry behind the proposal, the private sector is primed to move quickly. Indications show that commodity sectors are welcoming the

Regulation, as long as it doesn't deter imports, or reduce stakeholder engagement, but rather builds a level playing field.

## Be Decisive

Tarrying until the legislation comes into force is not a good idea. 18 months is not a long time to prepare given the potential amount of new data inputs companies will need, and new value chain policies and processes.

## Learning Lessons

The Regulation uses the EUTR as a template, but that groundbreaking law was hurt by scandals that prompted severe NGO scrutiny of its reliance on flawed certification schemes.

Focusing on policies of association makes certification somewhat arbitrary, as it doesn't hold companies accountable for indirect supply-chain deforestation risks.

From a legal and business perspective, this means that companies relying on certification can never be sure that their value-chain is free from environmental risk.

It means that they don't have all of the necessary information to make optimal supplier decisions, and that they aren't fully safeguarded from reputational risks.

Compliance isn't just a legal requirement, it's an opportunity to do better for the environment, improve business decision making, governance, and stakeholder engagement.



# Codification brings Clarity

## The Future of Value Chains

The new regulations will address the EUTR's toothless enforcement clauses by encouraging more cooperation between EU and customs officials, emphasising implementation and imposing fines and penalties for non-compliance.

Satellites help pinpoint the exact origins of a product and verify the location and amount of actual deforestation in **near-real time**.

This is something that certification schemes cannot do and will form a key component of identifying deforestation risks under the Regulation's criteria.

## Build Stakeholder Relationships

Long-tail supply chains are wide as they are long. They are culturally diverse and notoriously difficult to manage, which means deforestation risks are easy to overlook.

Under the new legislation, companies won't be excused for ignorance of deforestation risk, so proactive engagement with suppliers and stakeholders will be expected. Building a trusted value chain deforestation risk monitoring and alerting system into your business processes means that when companies engage with stakeholders about best practices or risks, they can do so with confidence.

## Verified Deforestation Free

To qualify as Verified Deforestation Free (VDF), companies will need to get closer than ever to the growers, traders and suppliers that make up their value-chain, unearthing new business opportunities as they do so.

Satellite monitoring technology makes it easier than ever to manage risks, and verify your supply-chain as deforestation-free.

In summary

# Five Simple Steps to Compliance

1.

Traders of commodities that fall under the law need to **ensure production is compliant** with the laws of the countries their commodities were produced in.

Satelligence is a satellite remote sensing company that enables producers, traders, FMCG companies, and financial institutions to monitor tropical forest landscapes for deforestation, world wide.

Not all deforestation is equal. Unlike some providers, Satelligence adjusts its definition of deforestation in accordance with the local definition in each country or region that is monitored. We tailor our service in-line with country specific reporting requirements.

2.

Traders & operators will need to **identify the exact geo-coordinates** (longitude and latitude) of where commodities are produced.

To be able to trace the origin of their product down to the farm or plantation where it was produced, traders and operators first need to identify who their suppliers are. This means fostering an atmosphere of transparency and traceability among stakeholders.

Satelligence understands the importance of data privacy and security. Suppliers can be assured that when they work with Satelligence, their traceability data is always shared in confidence, and will never be made available to others.

3.

Entities will need to provide their **company information**.

Traders and operators must provide their name, address, Economic Operators Registration and Identification (EORI) number. For each of their commodities, they'll need the Harmonised System Code, a free text description and the quantity they're trading (in kg of net mass) for the Due Diligence statement.

In summary

# Five Simple Steps to Compliance

4.

Companies dealing in commodities that are sourced from medium, or high-risk countries, need to **conduct a risk assessment** proving products were not produced, grown, or raised on land that had been deforested or degraded after 31 December 2020.

At Satelligence, we use Landsat data from NASA, that goes back to 1984 to develop a forest cover baseline that will show whether a commodity has been produced, grown or raised on land that was deforested or degraded after 31 December 2020. Satelligence can determine how much remaining forest is at risk of being deforested. This can be calculated for a single farm, combination of farms, or an entire sourcing area.

IWe can use the geo-coordinates of a companies smallholder farms and plantations and the percentage volume being sourced from these areas to verify the proportion of a supply chain that is deforestation-free. This allows our clients to monitor their targets towards zero-deforestation, as well as meet EU and other trade compliance requirements.

5.

If companies cannot prove that the production commodities meet the above requirements, they will be expected to **take mitigation measures** to ensure that risk is removed from the associated commodity before they can trade on the EU market.

Traders and operators need to build trust and dialogue with their suppliers. If risks have been identified, they need to understand the root cause of the problem and determine whether an action plan can be developed by the supplier to mitigate the identified risks. Progress should then be monitored over time. If risks persist, further action should be considered, for example, by removing suppliers.

Satelligence is already helping major producers, traders, and FMCG companies to proactively monitor their supply chains in near real-time for environmental risks, and ensuring that they meet both their reporting and trade compliance requirements.

# Trusted & Assured

## Scientific partners



## Assurance certified by

We are the first remote sensing company to have its deforestation monitoring services assured by a big four accounting firm.



## Approved provider for



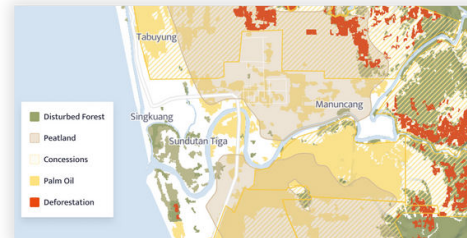
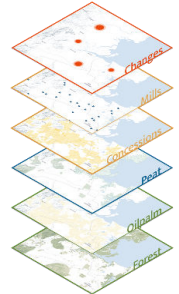
## Technology

### Satellite data

Optical and radar from ESA, NASA and Planet from 1984 to now.

### Supply chain linkage data

Database of millions of farms, concessions, mills, factories, ownership, TPP, supplier linkages.



# About us

60+

clients &  
partners

20+

years of  
experience

7

global  
offices

2016

we  
started

Powered by satellites, simplified by AI, in real-time.

Satelligence is a geospatial sustainability company. Our curated and E&Y verified insights on deforestation, supply chains, land degradation, and downstream scope 3 emissions make product journeys and investment portfolios sustainable, from tree to shelf. We're trusted by Cargill, Unilever, Mondelez, Bunge, AAK, Rabobank, IKEA, Tony's Chocolonely, and more.



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