



22 April 2022

Subject: Need for Strategy on supply-side measures to complement the EU Regulation on deforestation-free products

Dear Ministers,

We are writing to you with regards to the proposed European Union (EU) Regulation on deforestation-free products, which you are currently discussing in the European Council. We warmly welcome this Regulation, and we are broadly supportive of the proposal put forward by the European Commission.

We would, however, like to raise our concerns about the EU's lack of an accompanying strategy on supply-side measures to support producer countries to implement the Regulation. Unfortunately, the European Commission has not presented a comprehensive plan for such measures, despite having identified it as a priority in 2019. So far, only the demand-side aspect has been developed via the proposed Regulation.

Working in partnership with producer countries was identified as one of the five priority action areas by the 2019 Communication on Stepping up EU action to protect and restore the world's forests, from which the Regulation stems. We believe the Regulation can have a game-changing impact on global deforestation, provided it is accompanied by well-designed measures to work together with producer countries, using the Regulation as leverage to tackle local drivers of deforestation on the ground.

Producer country and European NGOs, companies and smallholders' organisations in the cocoa sector and the palm oil sector have repeatedly called for measures that go beyond individual supply chains, company projects or certification schemes and that have an impact on the "enabling environment" in producer countries.¹

¹ See, e.g.

"Indonesian CSOs' Joint Statement on the European Union Due Diligence Regulation Proposal" (signed by 35 Indonesian civil society groups, April 2022);

"Letter re: EU-Cote d'Ivoire-Ghana dialogue on sustainable cocoa production and trade" (signed by 17 Ghanaian, Ivorian & European NGOs & cocoa farmers' organisations, 10 September 2021);

"Collective position paper on EU action to protect and restore the world's forests: proposal for a 'smart mix' of measures" (signed by 40 companies & industry associations, July 2021);

"Joint position paper on the EU's policy and regulatory approach to cocoa: Partnership agreements" (signed by 6 major agribusiness companies & 4 civil society actors, June 2021);

Producer-side measures would provide a means to tackle underlying local drivers of deforestation—such as poor governance and poverty—in particular by encouraging more transparency and accountability, via increased space in producer country policy-making for government watchdogs like NGOs and community organisations. The EU Timber Regulation, which predated the deforestation-free regulation, was accompanied by a strategy to work with producer countries: a combination which, as was concluded in the 2020 Forest Law Enforcement, Governance and Trade (FLEGT) Fitness Check, led to improved governance and legal reform in producer countries. Accompanying the new Regulation with a strategy to work with producer countries would allow the EU to magnify the impact of the regulation, as it will allow influence beyond simply the supply chains headed to the EU.

It is also important to support producer countries and farmers to reach the standards set by the EU regulation, particularly where less-developed countries and smallholders are concerned. This would have the added benefit of facilitating acceptance of the regulation by third countries.

A strategy to work with producer countries would also signal the EU's attachment to multilateral collaboration. In the current global context where rules-based multilateralism is being very strongly challenged, the Commission's current one-sided approach risks undermining the EU's international reputation. It is very worrying to see the lack of vision on such an accompanying strategy from the Commission, who promised to be "geopolitical".² In this aspect, despite the considerable strengths of the regulatory proposal itself, the overall package represents a significant step backward compared to the EU Timber Regulation and FLEGT Action Plan, which encompassed both a demand-side regulation and a strategy to work with producer countries.

Finally, strong supply-side measures will help EU Member States implement the Regulation, as they can help generate more information, transparency, and independent monitoring from producer countries that will lighten the burden on EU competent authorities for monitoring and enforcement.

So far, the European Commission has only referred to DG International Partnerships' (DG INTPA) Forest Partnerships, as the key instrument to work in partnership with producing countries. However, these Forest Partnerships were not designed to support the implementation of the new Regulation. There have not been clear signals of any Forest Partnership being proposed in any of the major producer countries exporting Forest and Ecosystem Risk Commodities (FERCs) to the EU, nor any Forest Partnership to support compliance with the Regulation.

We are very concerned that this lack of comprehensive vision undermines the legislative process on the proposed Regulation, as current uncertainty on supply-side measures is used by some stakeholders to water down the ambition of the proposal. We ask you to call on the European Commission to come up with a standalone "Strategy on supply-side measures to support implementation of the EU Regulation on deforestation-free products". Such a strategy could operationalise Article 28 of the regulatory proposal, which includes text on cooperation and partnerships, but which needs significant further development in order to be implementable. It is key that such a Strategy is developed as soon as possible, whilst the Regulation is still providing momentum, to provide guarantees that the high level of ambition will be supported by commensurate supply side measures.

2. <https://www.politico.eu/article/meet-ursula-von-der-leyen-geopolitical-commission/>

The strategy should specify that complementary supply-side measures with producer countries are:

- Explored for countries that are large exporters of FERCs to the EU³ and are flagged as high-risk under the Regulation's risk benchmarking system.
- Linked to the objectives of the Regulation: they should start with a gap analysis between the standard set by the EU regulatory requirements and the situation on the ground in the country in question, and then agree on timebound actions to close those gaps, accompanied by adequate technical and financial support from the EU.
- Negotiated not only with producer governments, but also involving other local stakeholders—in particular local non-governmental organisations (NGOs), communities, Indigenous Peoples and small-scale farmers, including women - who are often left out of national policy-making, but are key rights-holders and actors in the protection of forests.
- Linked to trade or economic incentives, in order to create strong rewards for positive progress.
- Supported by appropriate finance.

Thank you for your attention to this important matter.

Best regards,

The undersigned NGOS

- *EcoCare Ghana*
- *Environmental Investigation Agency*
- *Fair Trade Advocacy Office*
- *Fern*
- *Rainforest Alliance*
- *Solidaridad*

3. As listed in the Impact Assessment to the European Commission's regulatory proposal on deforestation-free products