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INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the making available on the Union market as well as export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010 - Outcome of the European Parliament's first reading (Strasbourg, 17 to 20 April 2023)

I. INTRODUCTION

In accordance with the provisions of Article 294 of the TFEU and the Joint declaration on practical arrangements for the codecision procedure¹, a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this file at first reading.

¹ OJ C 145, 30.6.2007, p. 5.

In this context, the Chair of the Committee on the Environment, Public Health and Food Safety (ENVI), Pascal CANFIN (RE, FR), presented on behalf of ENVI a compromise amendment (amendment number 267) to the abovementioned proposal for a Regulation, for which Christophe HANSEN (EPP, LU) had prepared a draft report. This amendment had been agreed during the informal contacts referred to above. No other amendments were tabled.

II. VOTE

When it voted on 19 April 2023, the plenary adopted the compromise amendment (amendment number 267) to the abovementioned proposal for a Regulation. The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto².

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

² The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in ***bold and italics***. The symbol "■" indicates deleted text.

P9_TA(2023)0109

Deforestation Regulation

European Parliament legislative resolution of 19 April 2023 on the proposal for a regulation of the European Parliament and of the Council on making available on the Union market as well as export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010 (COM(2021)0706 – C9-0430/2021 – 2021/0366(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2021)0706),
- having regard to Article 294(2) and Article 192 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0430/2021),
- having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
- having regard to the reasoned opinion submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Swedish Parliament, asserting that the draft legislative act does not comply with the principle of subsidiarity,
- having regard to the opinion of the European Economic and Social Committee of 23 February 2022¹,
- after consulting the Committee of the Regions,
- having regard to the provisional agreement approved by the committee responsible under Rule 74(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 21 December 2022 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
- having regard to Rule 59 of its Rules of Procedure,
- having regard to the opinions of the Committee on International Trade, the Committee on Internal Market and Consumer Protection, the Committee on Development and the Committee on Agriculture and Rural Development,
- having regard to the report of the Committee on the Environment, Public Health and Food Safety (A9-0219/2022),

1. Adopts its position at first reading hereinafter set out¹;

¹ OJ C 275, 18.7.2022, p. 88.

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ This position replaces the amendments adopted on 13 September 2022 (OJ C 125, 5.4.2023, p. 180).

Position of the European Parliament adopted at first reading on 19 April 2023 with a view to the adoption of Regulation (EU) 2023/... of the European Parliament and of the Council on the making available on the Union market and the export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure²,

¹ OJ C 275, 18.7.2022, p. 88.

² Position of the European Parliament of 19 April 2023.

Whereas:

- (1) Forests provide a broad variety of environmental, economic and social benefits, including timber and non-wood forest products and environmental services essential for humankind, as they harbour most of the Earth's terrestrial biodiversity. They maintain ecosystem functions, help protect the climate system, provide clean air and play a vital role for the purification of waters and soils as well as for water retention **and recharge. Large forest areas act as a moisture source and help prevent desertification of continental regions.** In addition, forests provide subsistence and income to approximately one third of the world's population and the destruction of forests has serious consequences for the livelihoods of the most vulnerable people, including indigenous peoples and local communities who depend heavily on forest ecosystems. Furthermore, deforestation and forest degradation reduce essential carbon sinks. **Deforestation and forest degradation also** increase the likelihood of **contact between wild animals, farmed animals and humans, thereby increasing** the risk of spreading new diseases **and the risks of new epidemics and pandemics.**

- (2) Deforestation and forest degradation are taking place at an alarming rate. The Food and Agriculture Organization of the United Nations (FAO) estimates that 420 million hectares of forest – about 10 % of the world’s remaining forests, equaling an area larger than the European Union – have been lost worldwide between 1990 and 2020. Deforestation and forest degradation are, in turn, important drivers of global warming and biodiversity loss — the two most important environmental challenges of our time. Yet, every year the world continues to lose 10 million hectares of forest. ***Forests are also heavily impacted by climate change and many challenges will need to be addressed to ensure the adaptability and resilience of forests in the coming decades.***
- (3) Deforestation and forest degradation contribute to the global climate crisis in multiple ways. Most importantly, they increase greenhouse gas emissions through associated forest fires, permanently removing carbon sink capacities, decreasing the climate change resilience of the affected area and substantially reducing its biodiversity ***and resilience to diseases and pests***. Deforestation alone accounts for 11 % of greenhouse gas emissions as stated in the Intergovernmental Panel on Climate Change (IPCC) special report on climate change and land of 2019.

- (4) Climate breakdown induces the loss of biodiversity globally and biodiversity loss aggravates climate change, they are thus inextricably linked, as recent studies have confirmed. Biodiversity ***and healthy ecosystems are fundamental to climate-resilient development***. Insects, birds and mammals act as pollinators and seed dispersers and can help store carbon more efficiently, directly or indirectly. Forests also ensure the continuous replenishment of water resources and the prevention of droughts and their deleterious effects on local communities, including indigenous peoples. Drastically reducing deforestation and forest degradation and systemically restoring forests and other ecosystems is ■ the single largest nature-based opportunity for climate mitigation.
- (5) Biodiversity is essential for the resilience of ecosystems and their services both at local and at global level. Over half of the global gross domestic product depends on nature and the services it provides. Three major economic sectors – construction, agriculture, and food and drink – all highly depend on nature. Biodiversity loss threatens sustainable water cycles and food systems, putting food security and nutrition at risk. More than 75% of global food crop types rely on animal pollination. Furthermore, several industrial sectors rely on genetic diversity and ecosystem services as critical inputs for production, in particular for medicines, ***including antimicrobials***.

- (6) Climate change, biodiversity loss and deforestation are concerns of the highest global importance, affecting the survival of humanity and sustained living conditions on Earth. The acceleration of climate change, biodiversity loss and environmental degradation, paired with tangible examples of their devastating effects on nature, human living conditions and local economies, have led to the recognition of the green transition as the defining objective of our time and a matter of **gender equality and of** intergenerational equity.
- (7) *Environmental human rights defenders, who strive to protect and promote human rights relating to the environment, including access to clean water, air, and land are often the target of persecution and lethal attacks. Those attacks disproportionately affect indigenous peoples. According to 2020 reports, more than two thirds of victims of those attacks were working to defend the world's forests from deforestation and industrial development.*
- (8) Union consumption is a considerable driver of deforestation and forest degradation on a global scale. The impact assessment of this Regulation estimated that without appropriate regulatory intervention, the Union's consumption and production of six commodities ■ (cattle, cocoa, coffee, oil palm, soya and wood) **alone** would rise to approximately 248 000 hectares of deforestation annually by 2030.

- (9) As regards the situation of forests within the Union, the State of Europe's Forests 2020 report states that, between 1990 and 2020, the area of forests in Europe has increased by 9 %, carbon stored in the biomass has grown by 50 % and wood supply has risen by 40 %.
- Primary and naturally regenerating forests are at risk inter alia, from intensive management, and their unique biodiversity and structural features are in danger. Furthermore, the European Environment Agency has noted that less than 5 % of European forest areas are now considered to be undisturbed or natural, whereas 10 % of European forest areas have been classified as intensively managed. Forest ecosystems have to cope with multiple pressures caused by climate change, ranging from extreme weather patterns to pests, and with human-related activities that negatively affect ecosystems and habitats. In particular, intensively managed even-aged forests through clear-cutting and deadwood removal can have a severe impact on whole habitats.***

- (10) In 2019, the Commission adopted several initiatives to address the global environmental crises, including specific actions on deforestation. In its communication of 23 July 2019 on Stepping up EU Action to Protect and Restore the World's Forests ('Communication on Stepping up EU Action to Protect and Restore the World's Forests'), the Commission identified as a priority the reduction of the Union consumption footprint on land and encouraged the consumption of products from deforestation-free supply chains in the Union. In its communication of 11 December 2019 on the European Green Deal, the Commission set out a new growth strategy that aims to transform the Union into a fair and prosperous society, with a modern, resource-efficient and competitive economy ***built on sustainable and rule-based free trade***, where there are no net emissions of greenhouse gases in 2050, where economic growth is decoupled from resource use and no person or place is left behind. It aims to protect, conserve and enhance the Union's natural capital, and protect the health and well-being of citizens and future generations from environment-related risks and impacts. Furthermore, the European Green Deal aims to provide citizens and future generations with, inter alia, fresh air, clean water, healthy soil and biodiversity.

To that end, the communication of the Commission of 20 May 2020 on a EU Biodiversity Strategy for 2030: Bringing nature back into our lives (*the ‘EU Biodiversity Strategy for 2030’*) the communication of the Commission of 20 May 2020 on a Farm to Fork Strategy for a fair, healthy and environmentally-friendly food system (*the ‘Farm to Fork’ strategy*), the communication of the Commission of 16 July 2021 on a new EU Forest Strategy for 2030, the communication of the Commission of 12 May 2021 on the Pathway to a Healthy Planet for All, EU Action Plan: 'Towards Zero Pollution for Air, Water and Soil' and other relevant strategies, such as the communication of the Commission of 30 June 2021 on a long-term Vision for the EU's Rural Areas - Towards stronger, connected, resilient and prosperous rural areas by 2040, developed under the European Green Deal, further highlight the importance of action on forest protection and resilience. In particular, the EU Biodiversity Strategy for 2030 aims to protect nature and reverse the degradation of ecosystems. Finally, the communication of the Commission of 11 October 2018 on a sustainable Bioeconomy for Europe: Strengthening the connection between economy, society and the environment enhances the protection of the environment and ecosystems while addressing the growing demand for food, feed, energy, materials and products by seeking new ways to produce and consume.

- (11) Member States have repeatedly expressed their concern about persistent deforestation and forest degradation. They have emphasised that since current policies and action at global level on conservation, restoration and sustainable management of forests do not suffice to halt deforestation, forest degradation **and biodiversity loss**, enhanced Union action is needed in order to contribute more effectively to the achievement of the Sustainable Development Goals (SDGs) under the 2030 Agenda for Sustainable Development, which was adopted by all United Nations (UN) Member States in 2015. The Council has specifically supported the Commission announcement in its communication on Stepping up EU Action to Protect and Restore the World's Forests that it would assess additional regulatory and non-regulatory measures and that it would present proposals for both types of measures. ***The Union and Member States have also endorsed the UN Decade of Action for the SDGs, the UN Decade on Ecosystem Restoration and the UN Decade of Family Farming.***

- (12) The European Parliament has highlighted that ongoing destruction, *degradation and conversion* of the world's forests *and natural ecosystems, as well as human rights violations, are* linked, to a large extent, to the expansion of agricultural production — in particular by converting forests to agricultural land dedicated to producing a number of high-demand commodities and products. On 22 October 2020, the European Parliament adopted a resolution, in accordance with Article 225 of the Treaty on the Functioning of the European Union (TFEU), requesting the Commission to submit, on the basis of Article 192(1) TFEU, a proposal for an 'EU legal framework to halt and reverse EU-driven global deforestation' *based on mandatory due diligence*.
- (13) Combating deforestation and forest degradation constitutes an important part of the package of measures needed to reduce greenhouse gas emissions and to comply with the Union's commitments under the European Green Deal as well as with the Paris Agreement adopted under the United Nations Framework Convention on Climate Change¹ (the 'Paris Agreement'), and *the Eighth Environment Action Programme adopted by Decision (EU) 2022/591 of the European Parliament and of the Council², and* with the legally binding commitment under Regulation (EU) 2021/1119 of the European Parliament and of the Council³ to reach climate neutrality *at the latest* by 2050 and reduce greenhouse gas emissions by at least 55 % compared to 1990 levels by 2030.

¹ OJ L 282, 19.10.2016, p. 4.

² *Decision (EU) 2022/591 of the European Parliament and of the Council of 6 April 2022 on a General Union Environment Action Programme to 2030 (OJ L 114, 12.4.2022, p. 22).*

³ Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law') (OJ L 243, 9.7.2021, p.1).

- (14) *Combating deforestation and forest degradation constitutes also an important part of the package of measures needed to combat biodiversity loss and to comply with the Union's commitments under the UN Convention on Biological Diversity (CBD)¹, the European Green Deal, the EU Biodiversity Strategy for 2030 and the accompanying Union nature restoration objectives.*
- (15) *Primary forests are unique and irreplaceable. Plantation forests and planted forests have a different biodiversity composition and provide different ecosystem services compared to primary and naturally regenerating forests.*
- (16) Agricultural expansion drives almost 90 % of global deforestation, with more than half of forest loss being due to conversion of forest into cropland, whereas livestock grazing is responsible for almost 40 % of forest loss.
- (17) *Production of feed for livestock can contribute to deforestation and forest degradation. Promoting alternative, sustainable agricultural practices can address environmental and climate challenges, and prevent deforestation and forest degradation worldwide. Incentives to adopt more balanced, healthier and more nutritious diets and a more sustainable lifestyle can decrease the pressure on land and resources.*

¹ Council Decision 93/626/EEC of 25 October 1993 concerning the conclusion of the Convention on Biological Diversity (OJ L 309, 13.12.1993, p. 1).

- (18) The Union imported and consumed one third of the globally traded agricultural products associated with deforestation between 1990 and 2008. Over that period, Union consumption was responsible for 10 % of worldwide deforestation associated with the production of goods or the provision of services. Even if the relative share of Union consumption is decreasing, Union consumption is a disproportionately large driver of deforestation. The Union should therefore take action to minimise global deforestation and forest degradation driven by its consumption of certain commodities and products and thereby seek to reduce its contribution to greenhouse gas emissions and global biodiversity loss as well as promote sustainable production and consumption patterns in the Union and globally. To have the greatest impact, Union policy should aim at influencing the global market, not only supply chains to the Union. Partnerships and efficient international cooperation, *including free trade agreements*, with producer and consumer countries are fundamental in that respect.

- (19) *The Union is committed to promoting and implementing ambitious environment and climate policies across the world, in accordance with the Charter of Fundamental Rights of the European Union, in particular Article 37 thereof which provides that a high level of environmental protection and the improvement of the quality of the environment is to be integrated into the policies of the Union and ensured in accordance with the principle of sustainable development. As part of the external dimension of the European Green Deal, action under this Regulation should take into account the importance of existing global agreements, commitments and frameworks contributing to the reduction of deforestation and forest degradation such as the UN Strategic Plan for Forests 2017-2030 and its Global Forest Goals, the UN Framework Convention on Climate Change (UNFCCC) and the Paris Agreement, the CBD and its Post-2020 Global Biodiversity Framework, the global Strategic Plan for Biodiversity 2011-2020 and its Aichi Biodiversity Targets, and the UN Convention to Combat Desertification, as well as the multilateral framework in support of tackling the root causes of deforestation and forest degradation, such as the SDGs and the UN Declaration on the Rights of Indigenous Peoples.*

- (20) Halting deforestation and *restoring degraded forests* is an essential part of the SDGs. This Regulation should contribute in particular to meeting the goals regarding life on land (SDG 15), climate action (SDG 13), responsible consumption and production (SDG 12), zero hunger (SDG 2) and good health and well-being (SDG 3). The relevant target 15.2 to halt deforestation by 2020 has not been met, underlining the urgency of ambitious and effective action.
- (21) This Regulation should also respond to the New York Declaration on Forests, a non-legally binding political declaration that endorses a global timeline to cut natural forest loss in half by 2020 and to strive to end it by 2030. The Declaration was endorsed by dozens of governments, many of the world's biggest companies, and influential civil society and indigenous peoples' organisations. It also called on the private sector to meet the goal of eliminating deforestation from the production of agricultural commodities such as palm oil, soy, paper and beef products by no later than 2020, a goal that was not achieved. In addition, this Regulation should contribute to the UN Strategic Plan for Forests 2017-2030 whose Global Forest Goal 1 is to reverse the loss of forest cover worldwide through sustainable forest management, including protection, restoration, afforestation and reforestation, and increase efforts to prevent forest degradation and contribute to the global effort of addressing climate change.

- (22) This Regulation should also respond to the Glasgow Leaders' Declaration on Forests and Land Use issued at the November 2021 UN Climate Change Conference, which recognises that 'to meet our land use, climate, biodiversity and Sustainable Development Goals, both globally and nationally, will require transformative further action in the interconnected areas of sustainable production and consumption; infrastructure development; trade, finance and investment; and support for smallholders, *indigenous peoples*, and local communities'. The signatories *committed to working collectively to halt and reverse forest loss and land degradation by 2030 and* stressed ■ that they would strengthen their shared efforts to facilitate trade and development policies, internationally and domestically, that promote sustainable development and sustainable commodity production and consumption, and that work to countries' mutual benefit ■ .

- (23) As a member of World Trade Organization (WTO), the Union is committed to promoting a universal, rule-based, open, transparent, predictable, inclusive, non-discriminatory and equitable multilateral trading system under the WTO, as well as an open, sustainable, and assertive trade policy. The scope of this Regulation should therefore include commodities and products produced within the Union as well as commodities and products imported to the Union.
- (24) *The challenges the world is facing in climate change and biodiversity loss can only be dealt with by global action. The Union should be a strong global actor, leading both by example as well as by taking the lead in international cooperation to create an open and fair multilateral system where sustainable trade acts as a key enabler of the green transition to fight climate change and reverse biodiversity loss.*

- (25) This Regulation also follows the *communications of the Commission of 22 June 2022 on the power of trade partnerships: together for green and just economic growth and of 18 February 2021* on Trade Policy Review - An Open, Sustainable and Assertive Trade Policy, which stated that with new internal and external challenges and more particularly a new, more sustainable growth model as defined by the European Green Deal and the European Digital Strategy, contained in the communication of the Commission of 19 February 2020 on Shaping Europe's digital future, the Union needs a new trade policy strategy – one that will support achieving its domestic and external policy objectives and promote greater sustainability in line with its commitment to fully implement the SDGs. Trade policy needs to play a full role in the Union’s recovery from the COVID-19 pandemic and in the green and digital transformations of the economy and towards building a more resilient Union in the world.
- (26) *In line with its communication of 22 June 2022 on the power of trade partnerships: together for green and just economic growth, the Commission is stepping up engagement with trade partners to foster compliance with international labour and environmental standards. The communication envisages robust chapters on sustainable development, containing clauses on deforestation and forest degradation. Ensuring enforcement of current and the conclusion of new trade agreements with such chapters will complement the objectives of this Regulation.*

- (27) This Regulation should be complementary to other measures proposed in the communication on Stepping up EU Action to Protect and Restore the World's Forests, in particular working in partnership with producer countries, to support them in addressing root causes of deforestation, such as weak governance, ineffective law enforcement and corruption, and strengthening international cooperation with major consumer countries **by, *inter alia, encouraging trade in deforestation-free products and*** the adoption of similar measures, to avoid products coming from supply chains associated with deforestation and forest degradation being placed on their markets.
- (28) ***This Regulation should take into account the principle of policy coherence for development and serve to promote and facilitate cooperation with developing countries, particularly with the least developed countries (LDCs), inter alia through the provision of technical and financial assistance, where possible and relevant.***

(29) ***In coordination with Member States, the*** Commission should continue to work in partnership with producer countries, and more generally in cooperation with international organisations and bodies ***as well as with relevant stakeholders active on the ground through multi-stakeholder dialogues. The Commission*** should reinforce its support and incentives with regard to protecting forests and the transition to deforestation-free production, acknowledging ***and strengthening*** the role ***and rights*** of indigenous ***peoples, local communities, smallholders and micro, small and medium-sized enterprises (SMEs)***, improving governance and land tenure, increasing law enforcement and promoting sustainable forest management, ***with an emphasis on closer-to-nature forestry practices, based on science-based indicators and thresholds, ecotourism,*** climate-resilient agriculture, **■** diversification, agro-ecology and agroforestry. In doing so, the Commission should ***fully recognise*** the role ***and rights*** of indigenous ***peoples and local communities*** in protecting forests, ***taking into account the principle of free, prior and informed consent (FPIC)***. Building upon the experience and lessons learned in the context of existing initiatives, the Union and the Member States should work ***towards partnerships*** with producer countries, at their request, **■** and address global challenges while meeting local needs and paying attention to the challenges faced by smallholders, in line with the communication on Stepping up EU Action to Protect and Restore the World's Forests. The partnership approach should help producer countries ***and parts thereof*** in protecting, restoring and sustainably using forest, hence contributing to the objective of this Regulation to reduce deforestation and forest degradation, ***including through the use of digital technologies, geospatial information and capacity building.***

(30) Operators and traders should be bound by the obligations under this Regulation regardless of whether the making available on the market takes place through traditional or online means. This Regulation should therefore ensure that in every supply chain there is an operator within the meaning of this Regulation who is established in the Union and can be held accountable in the event of non-fulfilment of the obligations under this Regulation. The Commission and the Member States should monitor the implementation of this Regulation and identify whether digital and technological developments require further specifications or initiatives, as appropriate, in the future.

- (31) Another important action announced in the communication on Stepping up EU Action to Protect and Restore the World's Forests is the establishment of the EU Observatory on deforestation, forest degradation, changes in the world's forest cover and associated drivers ('EU Observatory') launched by the Commission in order to better monitor changes in the world's forest cover and related drivers. **Building** on existing monitoring tools, including Copernicus products *and other publicly or privately available sources*, the EU Observatory **should** facilitate access to information on supply chains for public entities, consumers and business, providing easy-to-understand data and information linking deforestation, forest degradation and changes in the world's forest cover to Union demand for, and trade in, commodities and products. The EU Observatory **should** thus support the implementation of this Regulation by providing scientific evidence with regard to global deforestation and forest degradation and related trade. The EU Observatory **should provide for land cover maps, including with time series since the cut-off date defined in this Regulation, and a range of classes allowing to examine landscape composition. The EU Observatory should participate in the development of an early warning system combining research and monitoring capacity. As regards this Regulation, when technically feasible, the objective of the early warning system should be to be part of a platform that can assist the competent authorities, operators, traders and other relevant stakeholders and that can provide continuous monitoring and early notification of possible deforestation or forest degradation activities. That platform should be operational as soon as possible. The EU Observatory should cooperate with the competent authorities, relevant international organisations and bodies, research institutes, non-governmental organisations, operators, traders, third countries and other relevant stakeholders.**

- (32) The existing Union legal framework focuses on tackling illegal logging and associated trade and does not address deforestation directly. It consists of Regulation (EU) No 995/2010 of the European Parliament and of the Council¹ and Council Regulation (EC) No 2173/2005². Both Regulations were evaluated in a Fitness Check which determined that, while the legislation has had a positive impact on forest governance, the objectives of the two Regulations – namely to curb illegal logging and related trade, and to reduce the consumption of illegally harvested timber in the Union – have not been met and it was concluded that focusing solely on the legality of timber was not sufficient to meet the set objectives.
- (33) Available reports confirm that a sizeable part of ongoing deforestation is legal in accordance with the laws of the country of production. A report by the Forest Policy Trade and Finance Initiative published in May 2021 estimates that between 2013 and 2019, around 30 % of deforestation destined to commercial agriculture in tropical countries was legal. Available data tend to focus on countries with weak governance — the global share of deforestation that is illegal might be lower, but already provide clear data **signalling** that leaving out deforestation that is legal in the country of production undermines the effectiveness of policy measures.

¹ 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 (**OJ L 295, 12.11.2010, p. 23**).

² 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**).

- (34) The impact assessment of possible policy measures to address Union-driven deforestation and forest degradation, the Council conclusions of 16 December 2019 and the resolution of the European Parliament of 22 October 2020 clearly identify the need to establish deforestation and forest degradation as the guiding criteria for future Union measures. ***A focus only on legality could potentially entail a risk of lowered environmental standards with a view to obtaining market access.*** Therefore, the new Union legal framework should address both legality and whether the production of relevant commodities and relevant products is deforestation-free.
- (35) The definition of “deforestation-free” should be sufficiently broad to cover ■ deforestation and forest degradation, should provide legal clarity, and should be measurable based on quantitative, objective and internationally recognised data.
- (36) ***For the purposes of this Regulation, agricultural use should be defined as the use of land for the purpose of agriculture. In this regard, the Commission should develop guidelines in order to clarify the interpretation of this definition, in particular in relation to the conversion of forest to land the purpose of which is not agricultural use.***

- (37) *In line with FAO definitions, agroforestry systems, including where crops are grown under tree cover, as well as agrisilvicultural, silvopastoral and agrosilvopastoral systems, should not be considered forests, but as constituting agricultural use.*
- (38) This Regulation should cover commodities the Union consumption of which is the most relevant in terms of driving global deforestation and forest degradation and for which a Union policy intervention could bring the highest benefits per unit value of trade. An extensive review of relevant scientific literature, namely of primary sources estimating the impact of Union consumption on global deforestation and linking that *environmental* footprint to specific commodities, was carried out as a part of the study supporting the impact assessment for this Regulation and cross-checked by means of extensive consultation with stakeholders. That process delivered a first list of eight commodities. Wood was directly included in the scope as it was already covered by Regulation (EU) No 995/2010. *According to* a recent research paper¹ used for the efficiency analysis, *seven* commodities represent the largest share of Union-driven deforestation of the eight commodities analysed in that research paper: oil palm (34,0 %), soya (32,8 %), wood (8,6 %), cocoa (7,5 %), coffee (7,0 %), cattle (5,0 %) *and rubber (3,4 %).*

¹ Pendrill F., Persson U. M., Kastner, T. 2020. Deforestation risk embodied in production and consumption of agricultural and forestry commodities 2005-2017 (Version 1.0). Zenodo.

- (39) *To ensure that this Regulation achieves its objectives, it is important to ensure that feed used for livestock falling within the scope of this Regulation does not lead to deforestation. Therefore, operators placing on the market or exporting relevant products that contain or have been made using cattle which have been fed with relevant products that contain or have been made using other relevant commodities or relevant products, should ensure, as part of their due diligence system, that the feed is deforestation-free. In that case, geolocation requirements under this Regulation should be limited to referring to the geographical location of each of the establishments where the cattle were raised, and no geolocation information should be required for the feed itself. If the competent authority obtains or is made aware of relevant information, including information based on substantiated concerns submitted by third parties, that there is a risk of the feed not being in compliance with this Regulation, the competent authority should immediately request detailed information on such feed. If the feed has already been subject to due diligence in a previous step of the supply chain, operators should use as evidence the relevant invoices, reference numbers of relevant due diligence statements or any other relevant documentation indicating that the feed is deforestation-free and they could be required to make that evidence available to competent authorities upon request. The evidence should cover the lifetime of the animals, up to a maximum of five years.*

- (40) Bearing in mind that the use of recycled relevant commodities and relevant products should be encouraged, and that including such commodities and products in the scope of this Regulation would place a disproportionate burden on operators, used commodities and products that have completed their lifecycle, and would otherwise be disposed of as waste, as defined in Article 3, point (1), of Directive 2008/98/EC of the European Parliament and of the Council¹ should be excluded from the scope of this Regulation. However, this should not apply to certain by-products of the manufacturing process.
- (41) *This Regulation should lay down obligations concerning relevant commodities and relevant products in order to effectively combat deforestation and forest degradation, and to promote deforestation-free supply chains, while taking into account the protection of human rights and the rights of indigenous peoples and local communities, both in the Union and in third countries.*

³⁷ Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).

- (42) *When assessing the risk of non-compliance of* relevant commodities and relevant products *intended to be placed on the market or exported, violations of human rights that are associated with* deforestation *or* forest degradation, *including rights of indigenous peoples, local communities and customary tenure rights holders, should be taken into account.*
- (43) Many international organisations and bodies, such as the FAO, the IPCC, the UN Environment Programme, and the International Union for the Conservation of Nature, have been active, and international agreements, such as the Paris Agreement and the CBD, have been concluded in the field of deforestation and forest degradation, and the definitions in this Regulation build on that work.

- (44) *It is essential that this Regulation also address the issue of forest degradation. The definition of forest degradation should be based on internationally agreed concepts and ensure that the associated obligations can be easily fulfilled by operators and competent authorities. Those obligations should be operationally measurable and verifiable, as well as clear and unambiguous, to provide legal certainty. In that context, this Regulation should focus on key elements of forest degradation that are measurable and verifiable, and that are particularly relevant to avoid environmental impacts, based on the most up-to-date scientific data. For that purpose, the definition of forest degradation should build on internationally agreed concepts that are defined by the FAO. The definition of forest degradation should be reviewed, in accordance with this Regulation, to assess whether it should be extended to cover a broader scope of forest degradation drivers and of forest ecosystems worldwide to further support the environmental objectives of this Regulation, taking into account progress made in international discussions on the matter, as well as the diversity of forest ecosystems and practices around the world. The review should be conducted on the basis of an in-depth analysis, in close cooperation with the Member States, and in consultation with relevant stakeholders, international organisations and bodies and the scientific community.*

- (45) *This Regulation should ensure a proper balance between the protection of the legitimate expectations of operators and traders placing relevant commodities and relevant products on the market or exporting them, while minimising sudden disruption to supply chains, and the fundamental right to protection of the environment as established in Article 37 of the Charter of Fundamental Rights of the European Union. To that end, a cut-off date should be set to provide a basis for the evaluation of whether land concerned has been subject to deforestation or forest degradation, so that no commodities and products **falling within** the scope of this Regulation can be **placed on** the market or **exported**, if they were produced on land subject to deforestation or forest degradation after that date.*

(46) *The cut-off date should ■ correspond to existing international commitments set out in the SDGs and the New York Declaration on Forests, which pursue the ambitions of halting deforestation, restoring degraded forests and substantially increasing afforestation and reforestation globally by 2020, and thus should be set on 31 December 2020. That date is also consistent with the Commission's announcement of its intention to combat deforestation in the communication on Stepping up EU Action to Protect and Restore the World's Forests, the European Green Deal, the EU Biodiversity Strategy for 2030 as well as in the Farm to Fork strategy. In line with the precautionary principle, the cut-off date indicated in the Commission proposal for this Regulation precedes the date of entry into force of this Regulation. The cut-off date was chosen in order to prevent an anticipated acceleration of activities leading to deforestation and forest degradation ■ between the announcement in the Commission proposal and the date of entry into force of this Regulation. This Regulation should acknowledge the environmental objective pursued and confirm the proposed cut-off date to ensure that the producers and operators which have caused deforestation and forest degradation during the period of negotiation of this Regulation are not allowed to place the relevant commodities and relevant products concerned on the market or to export them.*

- (47) *The limitations on the exercise of the fundamental rights and the protection of the legitimate expectations of operators and traders resulting from the choice of the cut-off date should be proportionate to, and strictly necessary for, pursuing the general interest objective of environmental protection. To contribute to that objective, this Regulation should not apply to relevant commodities and relevant products produced before the date of entry into force of this Regulation. The deferred application of provisions of this Regulation governing obligations for operators and traders who intend to place relevant commodities and relevant products on the market or to export them also provides them a reasonable period of time to adapt to the new requirements of this Regulation.*
- (48) To strengthen the Union's contribution to halting deforestation and forest degradation, and to ensure that **relevant** products from supply chains related to deforestation and forest degradation are not placed on the market *or exported*, relevant **■** products should not be placed or made available on the market or exported unless they are deforestation-free and have been produced in accordance with the relevant legislation of the country of production. To confirm that this is the case, they should always be accompanied by a due diligence statement.

- (49) On the basis of a systemic approach, operators should take the appropriate steps in order to ensure that the relevant ■ products that they intend to place on the market comply with the deforestation-free and legality requirements of this Regulation. To that end, operators should establish and implement due diligence systems. Those due diligence systems should include three elements, namely information requirements, risk assessment and risk mitigation measures, *complemented by reporting obligations*. The due diligence systems should be designed to provide access to information about the sources and suppliers of the commodities and products being placed on the market, including information demonstrating that the absence of deforestation and forest degradation and legality requirements are fulfilled, inter alia, by identifying the country ■ of production *or parts thereof* and including the geolocation coordinates of relevant plots of land. Those geolocation coordinates that rely on timing, positioning and/or Earth observation could make use of space data and services delivered under the Union's Space programme (EGNOS/Galileo and Copernicus). On the basis of that information, operators should carry out a risk assessment. Where a risk is identified, operators should mitigate that risk to achieve no or only a negligible risk. The operator should only be allowed to place relevant ■ products on the market or export them if the operator concludes, after exercising due diligence, that there is no or only a negligible risk that the relevant ■ products do not comply with this Regulation.

- (50) *When sourcing products, reasonable efforts should be undertaken to ensure that a fair price is paid to producers, in particular smallholders, so as to enable a living income and effectively address poverty as a root cause of deforestation.*
- (51) Operators should formally take responsibility for the compliance of the relevant **■** products that they intend to place on the market or export by making available due diligence statements. This Regulation should provide a template for such statements. Such due diligence statements are expected to facilitate enforcement of this Regulation by the competent authorities and courts as well as increase compliance by operators.
- (52) In order to recognise good practice, certification or other third-party verified schemes could be used in the risk assessment procedure. They should not, however, substitute the operator's responsibility as regards due diligence.

- (53) Traders should be responsible for collecting and keeping information to ensure the transparency of the supply chain of relevant **■** products which they make available on the market. Non-SME traders have a significant influence on supply chains and play an important role in ensuring that *supply chains* are deforestation-free. *They* should therefore have the same obligations as operators, ***take responsibility for the compliance of the relevant products with this Regulation and ensure, prior to making the relevant products available on the market, that they have exercised due diligence in accordance with this Regulation and have concluded that there is no or only a negligible risk that the relevant products do not comply with this Regulation.***
- (54) In order to foster transparency and facilitate enforcement, operators which ***do not fall under the categories of SMEs, including microenterprises, or natural persons*** should, on an annual basis, publicly report on their due diligence system, including on the steps taken to fulfil their obligations.
- (55) ***Operators should be able to receive substantiated concerns from interested parties, including by electronic means, and should thoroughly investigate all substantiated concerns received.***

- (56) Other Union legal acts that provide for due diligence requirements in the value chain with regard to adverse impacts on human rights or on the environment should apply in so far as there are no specific provisions with the same objective, nature and effect in this Regulation which can be adapted in the light of future amendments to Union legal acts. The existence of this Regulation should not exclude the application of other Union legal acts that lay down requirements regarding value chain due diligence. Where such other Union legal acts provide for more specific provisions or add requirements to the provisions laid down in this Regulation, such provisions should be applied in conjunction with this Regulation. Furthermore, where this Regulation contains more specific provisions, they should not be interpreted in a way that undermines the effective application of other Union legal acts on due diligence or the achievement of their general aim. It should be possible for the *Commission to issue clear and easy to understand guidelines for the compliance of operators and traders, in particular SMEs, with this Regulation.*

- (57) *Respecting the rights of indigenous peoples with regard to forests and the principle of FPIC, including as set out in the UN Declaration on the rights of indigenous peoples, contributes towards protecting biodiversity, mitigating climate change and addressing the related public interest concerns. Indigenous peoples possess traditional knowledge of ecological and medical value, and very often offer a model of sustainable use of forest resources. This can contribute to in-situ conservation, in line with the CBD. Furthermore, studies suggest that forest-dwelling indigenous peoples play a dual role in combating climate change: first, they normally resist the occupation and deforestation of the lands they have inhabited for generations; and second, some indigenous communities consider it their responsibility to protect the forests in order to mitigate climate change.*

- (58) *The principles set out in the 1992 Rio Declaration on Environment and Development of the UN, in particular, Principle 10 concerning the importance of public awareness and participation in environmental issues and Principle 22 concerning the vital role of indigenous people in environmental management and development, are important in the context of securing sustainable forest management.*
- (59) *The concept of FPIC of indigenous peoples has been developed over the years following the approval of the International Labour Organisation Indigenous and Tribal Peoples Convention, 1989 (No 169), and it is reflected in the UN Declaration on the Protection of the Rights of Indigenous Peoples. It aims to be a safeguard to ensure that potential impacts on indigenous peoples will be considered in the decision-making process of projects affecting them.*
- (60) Operators falling within the scope of other Union legal acts that set out due diligence requirements in the value chain with regard to adverse impacts on human rights or on the environment should be in a position to fulfil the reporting obligations under this Regulation by including the required information when reporting under the other Union legal acts.

- (61) The responsibility for enforcing this Regulation should lie with the Member States, and the competent authorities of the Member States should ensure full compliance with this Regulation. A uniform enforcement of this Regulation as regards relevant **■** products entering or leaving the market can only be achieved through systematic exchange of information and cooperation amongst competent authorities, customs authorities and the Commission.
- (62) The effective and efficient implementation and enforcement of this Regulation are essential to achieving its goals. To that end, the Commission should set up and manage an information system to support the operators and the competent authorities in presenting and accessing the necessary information on relevant **■** products placed on the market. The operators should submit the due diligence statements through the information system. The information system should be accessible to competent authorities and customs authorities to facilitate the fulfillment of their obligations under this Regulation ***and should facilitate the transfer of information between Member States, competent authorities and customs authorities. The non-commercially sensitive data*** should also be accessible to a wider public, subject to the ***data being*** anonymised, ***apart from information concerning the list of final judgments against legal persons for infringements of this Regulation and the penalties imposed on them, and should be*** provided in an open and machine-readable format in line with the Union's Open Data Policy as set out in Directive (EU) 2019/1024 of the European Parliament and of the Council¹.

¹ Directive (EU) 2019/1024 of the European Parliament and of the Council of 20 June 2019 on open data and the re-use of public sector (OJ L 172, 26.6.2019, p. 56).

- (63) For the relevant **products** entering or leaving the market, competent authorities should be tasked with checking compliance of relevant **products** with this Regulation ***based, inter alia, on the due diligence statements submitted by the operators***. The role of customs authorities should be to ensure that a reference to the due diligence statement is made available to them where applicable. In addition, as from the moment the electronic interface is in place to exchange information between customs authorities and competent authorities, customs authorities should examine the status of the due diligence statement after an initial risk analysis has been carried out by competent authorities in the information system. Customs authorities should take appropriate action, such as to suspend or refuse a relevant commodity or relevant product if requested to do so on the basis of the status of the due diligence statement in the information system. That specific organisation of controls renders Chapter VII of Regulation (EU) 2019/1020 of the European Parliament and of the Council¹ inapplicable in so far as the application and enforcement of this Regulation is concerned.

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).

- (64) Member States should ensure that adequate financial resources are always available for the appropriate staffing and equipping of the competent authorities. A high level of resources is needed in order to carry out checks efficiently and stable resources should be provided at a level appropriate to the enforcement needs at any given moment. Member States should have the possibility to supplement public financing by recovering from the relevant economic operators the costs incurred when carrying out checks in relation to relevant commodities and relevant products that were found to be non-compliant.
- (65) This Regulation is without prejudice to other Union legal acts on goods and products entering or leaving the market, in particular Regulation (EU) No 952/2013 of the European Parliament and of the Council¹ as regards the powers of customs authorities and customs controls. Importers should be reminded that Articles 220, 254, 256, 257 and 258 of that Regulation provide that products entering the market that require further processing are to be placed under the appropriate customs procedure allowing such processing. Generally, the release for free circulation or export should not be deemed to be proof of compliance with Union law, since such a release or export does not necessarily include a complete control of compliance.

¹ Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269 10.10.2013, p. 1).

- (66) In order to optimise the control process, including by minimising the administrative burden, for relevant ■ products entering or leaving the market, it is necessary to set up an *interoperable* electronic interface that enables the automatic transfer of data between customs systems and the information systems of competent authorities. The European Union Single Window Environment for Customs is the natural candidate to enable such data transfer. The interface should be highly automated and easy-to-use, and should *facilitate processes* for customs authorities *and operators*. Moreover, in view of the limited differences between the data that is to be made available to customs authorities and that is to be included in the due diligence statement, it is appropriate to propose also a ‘business-to-government’ approach whereby traders and economic operators make available the due diligence statement of a relevant ■ product through the national single window environment for customs and that statement is automatically transmitted to the information system under this Regulation used by competent authorities. Customs authorities and competent authorities should contribute to the determination of the data to be transmitted and any other technical requirement.

- (67) The risk of non-compliant ■ products being placed on the market or exported varies depending on the commodity and product as well as on its country of origin and production *or parts thereof*. Operators sourcing commodities and products from countries or parts thereof that present a low risk of growing, harvesting or producing relevant commodities in violation of this Regulation should be subject to fewer obligations, thereby reducing compliance costs and administrative burden, *unless the operator knows or has reason to believe that there is a risk of non-compliance with this Regulation. Where a competent authority becomes aware of a risk that this Regulation is being circumvented, for example where a relevant commodity or relevant product produced in a high-risk country is subsequently processed in a low risk country or parts thereof from where it is placed on or enters or leaves the market and the due diligence statement or the customs declaration indicates that the relevant commodity or relevant product was produced in a low-risk country, the competent authority should verify by means of further checks whether there is any non-compliance and, if necessary, take appropriate action, such as the seizure of the relevant commodity or relevant product and the suspension of the placing on the market or of the export of the relevant commodity or relevant product, as well as carry out further checks*. The competent authorities should be required to apply enhanced scrutiny to relevant commodities and relevant products from high-risk countries or parts thereof.

- (68) Furthermore, the Commission should assess the deforestation and forest degradation risk at the level of a country or parts thereof based on a range of criteria that reflect quantitative, objective and internationally recognised data, and indications that the countries are actively engaged in fighting deforestation and forest degradation. Such benchmarking information should make it easier for operators in the Union to exercise due diligence and for competent authorities to monitor and enforce compliance, while also providing an incentive for producer countries to increase the sustainability of their agricultural production systems and reduce their deforestation impact. This should help to make supply chains more transparent and sustainable. The benchmarking system should be based on a three-tier system for classification of countries as low, standard or high risk. In order to ensure appropriate transparency and clarity, the Commission should in particular make publicly available the data being used for benchmarking, the reasons for the proposed change of classification and the reply of the country concerned. For relevant **■** products from low-risk countries or parts thereof operators should be allowed to exercise simplified due diligence. For relevant products from high-risk countries or parts thereof competent authorities should be required to apply enhanced scrutiny. The Commission should be empowered to adopt implementing acts to establish the list of countries or parts thereof that present a low or high risk.
- (69) *The Commission should cooperate with countries which are classified or could be classified as high risk, and with relevant stakeholders in those countries, in order to work towards reducing the level of risk.*

- (70) Competent authorities should carry out checks at regular intervals on operators and traders to verify that they effectively fulfil the obligations laid down in this Regulation. Moreover, competent authorities should carry out checks on the basis of relevant information in their possession, including substantiated concerns submitted by third parties. ***Competent authorities should use a risk-based approach to identify the checks to be carried out.*** In respect of relevant products ***from countries or parts thereof classified as high risk***, the respective operators and traders and the volumes of their share of relevant commodities and relevant products, a twofold approach that provides comprehensive coverage should apply. Competent authorities should thus be required to check on a certain percentage of operators and traders, whilst also covering a specific percentage of relevant products. ***In respect of relevant products from countries or parts thereof classified as low or standard risk, competent authorities should be required to check at least a certain percentage of operators and traders. The level of checks*** should be higher for relevant products from high-risk countries or parts thereof ***whereas it could be lower for standard or low-risk countries or parts thereof. In its review of this Regulation, the Commission should evaluate and identify quantified objectives for the annual checks to be carried out by competent authorities that are appropriate to ensure the enforcement of this Regulation and a harmonised approach across the Union.***

- (71) The checks carried out on operators and traders by competent authorities should cover the due diligence systems and the compliance of the relevant **■** products with this Regulation. The checks should be based on a risk-based plan which contains risk criteria to enable competent authorities to carry out a risk analysis of the due diligence statements submitted by operators and traders. The risk criteria should take into account the risk of deforestation associated to relevant commodities **■** in the country of production, the history of **non-**compliance of operators and traders with the obligations of this Regulation and any other relevant information available to competent authorities. The risk analysis of due diligence statements should enable the competent authorities to identify those operators, traders and relevant **■** products that need to be checked. That risk analysis should be carried out using electronic data processing techniques in the information system through which the due diligence statements are submitted. *Where necessary and technically possible, competent authorities, after consultation and in close cooperation with authorities of third countries, should also be able to carry out checks in situ.*

- (72) In cases where the risk analysis of the due diligence statements reveals a high risk of non-compliance of specific relevant **■** products, the competent authorities should be able to take immediate interim measures to prevent the placing or making available on the market *or the export of those products*. In cases where such relevant **■** products were entering or leaving the market, the competent authorities should request from the customs authorities the suspension of the release for free circulation or of export, to enable competent authorities to carry out the necessary checks. Such requests should be communicated by means of the interface system between customs authorities and competent authorities. The suspension of the placing or making available on the market, of the release for free circulation or of export should be limited to three working days, *or 72 hours in the case of perishable relevant products*, except where the competent authorities require additional time to assess the compliance of the relevant commodities and relevant products with this Regulation. In such cases, the competent authorities should take additional interim measures to extend the suspension period or, in the case of relevant **■** products entering or leaving the market, request an extension from the customs authorities.
- (73) The competent authorities should regularly update their plans of checks on the basis of the results of implementing those checks. Those operators showing a consistent track record of compliance *could* be subject to less frequent checks.

(74) In order to ensure implementation and effective enforcement of this Regulation, Member States should have the power to withdraw and recall non-compliant **■** products and take appropriate corrective actions. They should also ensure that infringements of this Regulation by operators and traders are subject to effective, proportionate and dissuasive penalties.

(75) *In order to increase the accountability of operators and traders, the Commission should publish on its website the list of final judgments against legal persons for infringements of this Regulation and the penalties imposed on them. That information could help competent authorities, other operators and traders carry out their risk assessments and increase the awareness of consumers and civil society as regards operators and traders who infringe this Regulation.*

- (76) *The implementation of this Regulation will require sufficient resources and capacity. In that context, in addition to national resources, Member States should, as much as possible, use the opportunities and possibilities for support that are available at Union level and other means, including cohesion funds and capacity-building instruments, in particular in the context of the Technical Support Instrument, established by Regulation (EU) 2021/240 of the European Parliament and of the Council¹.*
- (77) Taking into account the international character of deforestation and forest degradation and related trade, competent authorities should cooperate with each other, with customs authorities of the Member States, with the Commission and with the administrative authorities of third countries. Competent authorities should also cooperate with the competent authorities for the supervision and enforcement of other Union legal acts that set out due diligence requirements in the value chain with regard to adverse impacts on human rights or on the environment.

¹ Regulation (EU) 2021/240 of the European Parliament and of the Council of 10 February 2021 establishing a Technical Support Instrument (OJ L 57, 18.2.2021, p. 1).

(78) *According to settled case law of the Court of Justice of the European Union, it is for the courts of the Member States to ensure judicial protection of a person's rights under Union law. Furthermore, Article 19(1) of the Treaty on European Union (TEU) requires Member States to provide remedies that are sufficient to ensure effective judicial protection in the fields covered by Union law. In this respect, Member States should ensure that the public, including natural or legal persons submitting substantiated concerns in accordance with this Regulation, has access to justice in line with the obligations that Member States have agreed to as parties to the UN Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters of 25 June 1998 (the 'Aarhus Convention').*

(79) In order to ensure that ■ this Regulation *remain* relevant and in line with *trade*, scientific and technological developments, the power to adopt acts in accordance with Article 290 of the TFEU should be delegated to the Commission in respect of ■ the list of *CN codes of relevant products set out* in Annex I to this Regulation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making¹. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

¹ OJ L 123, 12.5.2016, p. 1.

- (80) Regulation (EU) No 995/2010 prohibits the placing of illegally harvested timber and timber products on the Union market. It lays down obligations for operators placing timber on the market for the first time to exercise due diligence and for traders to keep a traceable record of their suppliers and customers. This Regulation should maintain the obligation to ensure the legality of relevant **■** products, including wood and wood products, placed on the market and should complement that obligation with a requirement on sustainability. Regulation (EU) No 995/2010 and the related Commission Implementing Regulation (EU) No 607/2012¹ are therefore rendered redundant by this Regulation and should be repealed.
- Timber and timber products as defined in Article 2, point (a), of Regulation (EU) No 995/2010 are the equivalent of wood and wood products that are listed in Annex I to this Regulation and that contain or have been made using wood.***

¹ Commission Implementing Regulation (EU) No 607/2012 of 6 July 2012 on the detailed rules concerning the due diligence system and the frequency and nature of the checks on monitoring organisations as provided for in Regulation (EU) No 995/2010 of the European Parliament and of the Council laying down the obligations of operators who place timber and timber products on the market (OJ L 177, 7.7.2012, p. 16).

- (81) Regulation (EC) No 2173/2005 *establishes a Forest Law Enforcement, Governance and Trade (FLEGT) licensing scheme for imports of timber into the Union. The* licensing scheme *is implemented* through ■ voluntary partnership agreements (VPAs) ■ with timber ■ producing countries, *intended to halt illegal logging and to enhance forest governance and related trade. This Regulation should build upon the positive results achieved under FLEGT, especially in terms of enhanced stakeholders' participation and improved forest governance. In specific cases, VPAs could complement this Regulation with regard to the legality of timber products.* To respect *ongoing* bilateral commitments ■ and to preserve the progress achieved with partner countries that have an operating system in place (FLEGT licensing stage) *and work, where relevant and agreed, with current VPA partners towards them reaching that stage,* this Regulation should include a provision declaring that wood and wood products that are covered by a valid FLEGT license are deemed to comply with the legality requirement *of* Regulation (EC) No 2173/2005.

- (82) While this Regulation addresses deforestation and forest degradation, as envisaged in the communication on Stepping up EU Action to Protect and Restore the World's Forests, protecting forests should not lead to the conversion or degradation of other natural ecosystems. Ecosystems, ***including managed ecosystems***, such as wetlands, savannahs and peatlands are highly significant to global efforts to combat climate change ***and the biodiversity crisis***, as well as other SDGs and their conversion or degradation require particular urgent ***action and need to be prevented***. ***In light of the Union's footprint on non-forest natural ecosystems, the Commission should evaluate and, where appropriate, present a legislative proposal on extending the scope of this Regulation to other wooded land at the latest one year after the date of entry into force of this Regulation. Moreover, no later than two years after that date of entry into force, the Commission should evaluate and, where appropriate, present a legislative proposal on, extending the scope of this Regulation to other natural ecosystems, including other land with high carbon stocks and with a high biodiversity value such as grasslands, peatlands and wetlands. Ecosystems are also increasingly under pressure from conversion and degradation due to commodity production for the Union market. The Commission should also assess the need and*** ***feasibility of extending the scope to further commodities at the latest two years after the date of entry into force of this Regulation. At the same time, the Commission should also undertake a review of the list of CN codes of relevant products set out in Annex I to this Regulation.***

- (83) *Taking into account the request made by the European Parliament in its resolution ‘An EU legal framework to halt and reverse EU-driven global deforestation’ of 22 October 2020 and that made by the vast majority of the almost 1,2 million participants in the Commission’s public consultation, the Commission should focus its evaluation and any future legislative proposal on an extension of the scope of this Regulation to non-forest ecosystems and their conversion and degradation.*
- (84) Where, for the purposes of this Regulation, it is necessary to process personal data, those data are to be handled in accordance with Union law on the protection of personal data. Any processing of personal data under this Regulation is subject to Regulation (EU) 2016/679 of the European Parliament and of the Council¹ and Regulation (EU) 2018/1725 of the European Parliament and of the Council², as applicable.

¹ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

² ***Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).***

- (85) Since the objective of this Regulation, fighting against deforestation and forest degradation by reducing the contribution of consumption in the Union, cannot be sufficiently achieved by the Member States but can rather, by reason of its scale, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the TEU. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.
- (86) Operators, traders and competent authorities should be given a reasonable period in order to prepare themselves to meet the requirements of this Regulation,

HAVE ADOPTED THIS REGULATION:

CHAPTER 1

GENERAL PROVISIONS

Article 1

Subject matter and scope

- 1.** This Regulation lays down rules regarding the placing and making available on the Union market as well as the export from the Union ■ of ■ relevant products, as listed in Annex I, that contain, have been fed with or have been made using relevant commodities, ***namely cattle, cocoa, coffee, oil palm, rubber, soya and wood***, with a view to:

 - (a) minimising the Union's contribution to deforestation ***and*** forest degradation worldwide, ***and thereby contributing to a reduction in global deforestation;***
 - (b) reducing the Union's contribution to greenhouse gas emissions and global biodiversity loss.
- 2.** ***Except as provided for in Article 37(3), this*** Regulation does not apply to ■ relevant products ***listed in Annex I*** produced before the date indicated in Article 38(1).

Article 2

Definitions

For the purposes of this Regulation, the following definitions apply:

- (1) ***‘relevant commodities’ means cattle, cocoa, coffee, oil palm, rubber, soya and wood;***
- (2) ***‘relevant products’ means products listed in Annex I that contain, have been fed with or have been made using relevant commodities;***
- (3) ‘deforestation’ means the conversion of forest to agricultural use, whether human-induced or not;
- (4) ‘forest’ means land spanning more than 0,5 hectares with trees higher than 5 ***metres*** and a canopy cover of more than 10%, or trees able to reach those thresholds in situ, excluding ■ land that is predominantly under agricultural or urban land use;
- (5) ***‘agricultural use’ means the use of land for the purpose of agriculture, including for agricultural plantations and set-aside agricultural areas, and for rearing livestock;***
- (6) ‘agricultural plantation’ means land with tree stands in agricultural production systems, such as fruit tree plantations, oil palm plantations, olive orchards and agroforestry systems where crops are grown under tree cover; it includes all plantations of ***relevant*** commodities ■ other than wood; ***agricultural plantations are excluded from the definition of ‘forest’;***

- (7) *‘forest degradation’ means structural changes to forest cover, taking the form of the conversion of:*
- (a) *primary forests or naturally regenerating forests into plantation forests or into other wooded land; or*
 - (b) *primary forests into planted forests;*
- (8) *‘primary forest’ means naturally regenerated forest of native tree species, where there are no clearly visible indications of human activities and the ecological processes are not significantly disturbed;*
- (9) *‘naturally regenerating forest’ means forest predominantly composed of trees established through natural regeneration; it includes any of the following:*
- (a) *forests for which it is not possible to distinguish whether planted or naturally regenerated;*
 - (b) *forests with a mix of naturally regenerated native tree species and planted or seeded trees, and where the naturally regenerated trees are expected to constitute the major part of the growing stock at stand maturity;*
 - (c) *coppice from trees originally established through natural regeneration;*
 - (d) *naturally regenerated trees of introduced species;*

- (10) ‘planted forest’ means forest predominantly composed of trees established through planting and/or deliberate seeding, provided that the planted or seeded trees are expected to constitute more than 50 % of the growing stock at maturity; it includes coppice from trees that were originally planted or seeded;
- (11) ‘plantation forest’ means a planted forest that is intensively managed and meets, at planting and stand maturity, all the following criteria: one or two species, even age class, and regular spacing; it includes short rotation plantations for wood, fibre and energy, and excludes forests planted for protection or ecosystem restoration, as well as forests established through planting or seeding, which at stand maturity resemble or will resemble naturally regenerating forests;
- (12) ***‘other wooded land’ means land not classified as ‘forest’ spanning more than 0,5 hectares, with trees higher than 5 metres and a canopy cover of 5 to 10 %, or trees able to reach those thresholds in situ, or with a combined cover of shrubs, bushes and trees above 10 %, excluding land that is predominantly under agricultural or urban land use;***

- (13) 'deforestation-free' means:
- (a) that the relevant *products contain, have been fed with or have been made using, relevant commodities that* were produced on land that has not been subject to deforestation after 31 December, 2020; and
 - (b) *in the case of relevant products that contain or have been made using wood*, that the wood has been harvested from the forest without inducing forest degradation after 31 December, 2020;
- (14) 'produced' means grown, harvested, █ obtained from or raised on relevant *plots* of land *or, as regards cattle, on establishments*;

- (15) ‘operator’ means any natural or legal person who, in the course of a commercial activity, places relevant ■ products on the market or exports them;
- (16) ‘placing on the market’ means the first making available of a relevant commodity or relevant product on the Union market;
- (17) ‘trader’ means any ■ person in the supply chain other than the operator who, in the course of a commercial activity, makes relevant ■ products available on the market;
- (18) ‘making available on the market’ means any supply of a relevant ■ product for distribution, consumption or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge;
- (19) *‘in the course of a commercial activity’ means for the purpose of processing, for distribution to commercial or non-commercial consumers, or for use in the business of the operator or trader itself;*

(20) *‘person’ means a natural person, a legal person or any association of persons which is not a legal person, but which is recognised under Union or national law as having the capacity to perform legal acts;*

(21) *‘person established in the Union’ means:*

(a) *in the case of a natural person, any person whose place of residence is in the Union;*

(b) *in the case of a legal person or an association of persons, any person whose registered office, central headquarters or a permanent business establishment is in the Union;*

- (22) ‘authorised representative’ means any natural or legal person established *in* the Union who, *in accordance with Article 6*, has received a written mandate from an operator *or from a trader* to act on its behalf in relation to specified tasks with regard to the operator's *or the trader's* obligations under this Regulation;
- (23) ‘country of origin’ means a country or territory as referred to in Article 60 of Regulation (EU) No 952/2013;
- (24) ‘country of production’ means the country or territory where the relevant commodity or the relevant commodity used in the production of, or contained in, a relevant product was produced;

- (25) ‘non-compliant products’ means relevant **■** products that *do not comply with Article 3*;
- (26) ‘negligible risk’ means *the level of risk that applies to relevant commodities and relevant products, where, on the basis of* a full assessment of product-specific and general information, *and, where necessary, of the application of the appropriate mitigation measures, those commodities or products show no cause for concern as being not in compliance with Article 3, point (a) or (b)*;

- (27) 'plot of land' means land within a single real-estate property, as recognised by the law of the country of production, which enjoys sufficiently homogeneous conditions to allow an evaluation of the aggregate level of risk of deforestation and forest degradation associated with relevant commodities produced on that land;
- (28) *'geolocation' means the geographical location of a plot of land described by means of latitude and longitude coordinates corresponding to at least one latitude and one longitude point and using at least six decimal digits; for plots of land of more than four hectares used for the production of the relevant commodities other than cattle, this shall be provided using polygons with sufficient latitude and longitude points to describe the perimeter of each plot of land;*
- (29) *'establishment' means any premises, structure, or, in the case of open-air farming, any environment or place, where livestock are kept, on a temporary or permanent basis;*

- (30) ‘micro, small and medium-sized enterprises’ or ‘SMEs’ means micro, small and medium-sized undertakings as defined in Article 3 of Directive 2013/34/EU of the European Parliament and of the Council¹;
- (31) ‘substantiated concern’ means *a duly reasoned* claim based on objective and verifiable information regarding non-compliance with this Regulation and which could require the intervention of competent authorities;
- (32) ‘competent authorities’ means the authorities designated under Article 14(1);
- (33) ‘customs authorities’ means customs authorities as defined in Article 5, point (1), of Regulation (EU) No 952/2013;
- (34) ‘*customs territory*’ means *territory as defined in Article 4 of Regulation (EU) No 952/2013*;
- (35) ‘*third country*’ means *a country or territory outside the customs territory of the Union*;

¹ *Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).*

- (36) ‘release for free circulation’ means the procedure laid down in Article 201 of Regulation (EU) No 952/2013;
- (37) ‘export’ means the procedure laid down in Article 269 of Regulation (EU) No 952/2013;
- (38) ‘relevant ■ products entering the market’ means relevant ■ products from third countries placed under the customs procedure ‘release for free circulation’ *that are* intended to be placed on the Union market *and are not* intended for *private* use or consumption ■ within the customs territory of the Union;
- (39) ‘relevant ■ products leaving the market’ means relevant ■ products placed under the customs procedure ‘export’;

- (40) ‘relevant legislation of the country of production’ means the **laws** applicable in the country of production concerning the legal status of the area of production in terms of:
- (a) land use rights;
 - (b) environmental protection;
 - (c) ***forest-related rules, including forest management and biodiversity conservation, where directly related to wood harvesting;***
 - (d) third parties’ rights;
 - (e) ***labour rights;***
 - (f) ***human rights protected under international law;***
 - (g) ***the principle of free, prior and informed consent (FPIC), including as set out in the UN Declaration on the Rights of Indigenous Peoples;***
 - (h) ***tax, anti-corruption, trade and customs regulations*** ■ .

Article 3

Prohibition

Relevant commodities and relevant products ***shall not*** be placed or made available on the market or exported, ***unless*** all the following conditions are fulfilled:

- (a) they are deforestation-free;
- (b) they have been produced in accordance with the relevant legislation of the country of production; and
- (c) they are covered by a due diligence statement ■ .

CHAPTER 2

OBLIGATIONS OF OPERATORS AND TRADERS

Article 4

Obligations of operators

1. Operators shall exercise due diligence ***in accordance with Article 8*** prior to placing relevant ■ products on the market or exporting them in order to prove that the relevant products comply with Article 3. ■

2. Operators ***shall not place relevant products on the market or export them without prior submission of a due diligence statement.*** Operators who, on the basis of the due diligence exercised in accordance with Article 8, conclude that the relevant █ products comply with Article 3 shall, before placing the relevant products on the market or exporting them, make available a due diligence statement to the competent authorities through the information system referred to in Article 33. ***Such electronically available and transmittable due diligence*** statement shall contain the information set out in Annex II for the relevant █ products and a declaration by the operator that the operator exercised due diligence and that no or only a negligible risk was found.
3. By making available the due diligence statement ***to competent authorities***, the operator shall assume responsibility for the compliance of the relevant █ product with Article 3. Operators shall keep a record of the due diligence statements for five years from the date ***the statement is submitted*** through the information system referred to in Article 33.
4. Operators shall not place relevant █ products on the market or export them where one or more of the following cases apply:
 - (a) the relevant █ products are non-compliant;

- (b) the exercise of due diligence has revealed a non-negligible risk that the relevant **■** products are non-compliant;
 - (c) the operator was unable to fulfil *the obligations referred to in* paragraphs 1 and 2.
5. Operators that *obtain or are made aware of relevant* new information, including substantiated concerns, *indicating* that a relevant **■** product that they have placed on the market is *at risk of* not *complying with* this Regulation shall immediately inform the competent authorities of the Member States in which they placed the relevant **■** product on the market, *as well as traders to whom they supplied the relevant product*. In the case of exports, the operators shall inform the competent authority of *the* Member State which is the country of production.
6. Operators shall offer all *necessary* assistance *to the* competent authorities to facilitate the carrying out of the checks under Article 18, including access to premises and the making available of documentation *and* records.

7. *Operators shall communicate to operators and to traders further down the supply chain of the relevant products they placed on the market or exported all information necessary to demonstrate that due diligence was exercised and that no or only a negligible risk was found, including the reference numbers of the due diligence statements associated to those products.*
8. *By way of derogation from paragraph 1 of this Article, operators that are SMEs ('SME operators') shall not be required to exercise due diligence for relevant products contained in or made from relevant products that have already been subject to due diligence in accordance with paragraph 1 of this Article and for which a due diligence statement has already been submitted in accordance with Article 33. In such cases, SME operators shall provide the competent authorities with the reference number of the due diligence statement upon request. For parts of relevant products that have not been subject to due diligence, the SME operators shall exercise due diligence in accordance with paragraph 1 of this Article.*

9. *Operators that are not SMEs ('non-SME operators') may refer to due diligence statements that have already been submitted in accordance with Article 33 only after having ascertained that the due diligence relating to the relevant products contained in or made from the relevant products was exercised in accordance with paragraph 1 of this Article. They shall include the reference numbers of such due diligence statements that have already been submitted in accordance with Article 33 in the due diligence statements that they submit under paragraph 2 of this Article . For parts of relevant products that have not been subject to due diligence, non-SME operators shall exercise due diligence in accordance with paragraph 1 of this Article.*
10. *Any operator referring to a due diligence statement that has already been submitted in accordance with Article 33 shall retain responsibility for the compliance of the relevant products with Article 3, including that no or only a negligible risk was found, prior to placing such relevant products on the market or exporting them.*

Article 5

Obligations of traders

1. *Traders that are not SMEs ('non-SME traders') shall be considered as non-SME operators and shall be subject to obligations and provisions in Articles 3, 4, 6, 8 to 13, Article 16(8) to (11) and Article 18 with regard to the relevant commodities and relevant products that they make available on the market.*

2. Traders that are SMEs ('SME traders') shall make available ***relevant products*** on the market only ■ if they are in possession of the information required under paragraph 3.
3. SME traders shall collect and keep the following information relating to the relevant ■ products they intend to make available on the market:
 - (a) the name, registered trade name or registered trade mark, the postal address, the email address and, if available, a web address of the operators or the traders who have supplied the ■ relevant products to them, ***as well as the reference numbers of the due diligence statements associated to those products***;
 - (b) the name, registered trade name or registered trade mark, the postal address, the email address and, if available, a web address of the operators or the traders to whom they have supplied the relevant ■ products.
4. SME traders shall keep the information referred to in paragraph 3 for at least five years ***from the date of the making available on the market*** and shall provide that information to the competent authorities upon request.

5. SME traders that ***obtain or are made aware of relevant*** new information, including substantiated concerns, ***indicating*** that a relevant product that they have made available on the market is ***at risk of not complying*** with this Regulation shall immediately inform the competent authorities of the Member States in which they made the relevant **■** product available on the market ***as well as traders to whom they supplied the relevant product***.
6. Traders, ***whether or not they are SMEs***, shall offer all ***necessary*** assistance **■** to ***the*** competent authorities to facilitate the carrying out of the checks under Articles ***18 and 19***, including access to premises and the making available of documentation ***and*** records.

Article 6

Authorised representatives

1. ***Operators or traders may mandate an authorised representative to submit the due diligence statement pursuant to Article 4(2) on their behalf. In such cases, the operator or trader shall retain responsibility for the compliance of the relevant product with Article 3.***
2. ***The authorised representative shall, upon request, provide a copy of the mandate in an official language of the Union to the competent authorities and a copy in an official language of the Member State in which the due diligence statement is handled or, where that is not possible, in English.***

3. *An operator that is a natural person or a microenterprise may mandate the next operator or trader further down the supply chain that is not a natural person or a microenterprise to act as an authorised representative. Such next operator or trader further down the supply chain shall not place or make available relevant products on the market or export them without submitting the due diligence statement pursuant to Article 4(2) on behalf of that operator. In such cases, the operator that is a natural person or a microenterprise shall retain responsibility for compliance of the relevant product with Article 3, and shall communicate to that next operator or trader further down the supply chain all information necessary to confirm that due diligence was exercised and that no or only a negligible risk was found.*

Article 7

Placing on the market by operators established in third countries

Where a natural or legal person established outside the Union places relevant **■** products on the market, the first natural or legal person established in the Union who ***makes*** such relevant **■** products ***available on the market*** shall be deemed to be an operator within the meaning of this Regulation.

Article 8

Due diligence

1. Prior to placing relevant ■ products on the market or exporting them, operators shall exercise due diligence with regard to all relevant ■ products supplied by each particular supplier.
2. The due diligence shall include:
 - (a) the collection of information, data and documents needed to fulfil the requirements set out in Article 9;
 - (b) risk assessment measures as referred to in Article 10;
 - (c) risk mitigation measures as referred to in Article 11.

Article 9

Information requirements

1. Operators shall collect information, documents and data which demonstrate that the relevant ■ products comply with Article 3. For this purpose, the operator shall collect, organise and keep for five years *from the date of the placing on the market or of the export of the relevant products* the following information, *accompanied by evidence*, relating to *each* relevant *product*:

- (a) a description, including the trade name and type of **the** relevant products as well as, *in the case of relevant products that contain or have been made using wood*, the common name of the species and *their* full scientific name; *the product description shall include the list of relevant commodities or relevant products contained therein or used to make those products*;
- (b) the quantity of the relevant products; for relevant products entering or leaving the market, the quantity is to be *expressed in kilograms of net mass and, where applicable, in the supplementary unit set out in Annex I to Council Regulation (EEC) No 2658/87¹ against the indicated Harmonised System code*, or, in all other cases, the quantity is to be expressed in net mass or, where applicable, volume or number of items; *a supplementary unit is applicable where it is defined consistently for all possible subheadings under the Harmonised System code referred to in the due diligence statement*;
- (c) the country of production *and, where relevant, parts thereof*;
- (d) the *geolocation* of all plots of land where the relevant commodities *that the relevant product contains, or has been made using*, were produced, as well as the date or time range of production; *where a relevant product contains or has been made with relevant commodities produced on different plots of land, the geolocation of all different plots of land shall be included; any deforestation or forest degradation on the given plots of land shall automatically disqualify all relevant commodities and relevant products from those plots of land from being placed or made available on the market or exported ; for relevant products that contain or have been made using cattle, and for such relevant products that have been fed with relevant products, the geolocation shall refer to all the establishments where the cattle were kept; for all other relevant products of Annex I, the geolocation shall refer to the plots of land*;
- (e) the name, postal address and email address of any business or person from whom they have been supplied with the relevant products;

¹ ***Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256 7.9.1987, p. 1).***

- (f) the name, postal address and email address of any business, operator or trader to whom the relevant **■** products have been supplied;
- (g) *adequately conclusive* and verifiable information that the relevant **■** products are deforestation-free;
- (h) *adequately conclusive* and verifiable information that the *relevant commodities* have been produced in accordance with *the* relevant legislation of the country of production, including any arrangement conferring the right to use the respective area for the purposes of the production of the relevant commodity.

2. The operator shall make available to the competent authorities upon request the information, documents and data collected under this Article.

■

Article 10
Risk assessment ■

1. Operators shall verify and analyse the information collected in accordance with Article 9 and any other relevant documentation. On the basis of that information and documentation, the operators shall carry out a risk assessment to establish whether there is a risk that the relevant ■ products intended to be placed on the market or exported are non-compliant. Operators shall not place the relevant ■ products on the market or export them, except where *the risk assessment reveals no or only a negligible risk that the relevant products are non-compliant*.
2. The risk assessment shall take into account, in particular, the following criteria:
 - (a) the assignment of risk to the relevant country *of production* or parts thereof in accordance with Article 29;
 - (b) the presence of forests in the country of production or parts thereof ■ ;
 - (c) *the presence of indigenous peoples in the country of production or parts thereof*;
 - (d) *the consultation and cooperation in good faith with indigenous peoples in the country of production or parts thereof*;

- (e) *the existence of duly reasoned claims by indigenous peoples based on objective and verifiable information regarding the use or ownership of the area used for the purpose of producing the relevant commodity;*
- (f) prevalence of deforestation or forest degradation in the country of production or parts thereof ;
- (g) the source, reliability, validity and links to other available documentation of the information referred to in Article 9(1);
- (h) concerns in relation to the country of production and origin or parts thereof, such as level of corruption, prevalence of document and data falsification, lack of law enforcement, *violations of international human rights*, armed conflict or presence of sanctions imposed by the UN Security Council or the Council of the European Union;
- (i) the complexity of the relevant supply chain *and the stage of processing of the relevant products*, in particular difficulties in connecting *relevant* products to the plot of land where *the relevant commodities* were produced;

- (j) the risk of *circumvention of this Regulation or of* mixing with *relevant* products of unknown origin or produced in areas where deforestation or forest degradation has occurred or is occurring;
- (k) **■** conclusions of the *meetings of the* Commission expert *groups supporting the implementation of this Regulation, as* published in the Commission's expert group register;
- (l) substantiated concerns submitted under Article 31, *and information on the history of non-compliance of operators or traders along the relevant supply chain with this Regulation*;
- (m) *any information that would point to a risk that the relevant products are non-compliant*;
- (n) complementary information on compliance with this Regulation, which may include information supplied by certification or other third-party verified schemes, including voluntary schemes recognised by the Commission under Article 30(5) of Directive (EU) 2018/2001 of the European Parliament and of the Council ¹**■**, provided that the information meets the requirements set out in Article 9 of this Regulation.

¹ 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).

3. Wood products which fall within the scope of Regulation (EC) No 2173/2005 that are covered by a valid FLEGT license from an operational licensing scheme shall be deemed to comply with Article 3, point (b), of this Regulation.
4. *The operators shall document and review the risk assessments at least on an annual basis and make them available to the competent authorities upon request. Operators shall be able to demonstrate how the information gathered was checked against the risk assessment criteria set out in paragraph 2 and how they determined the degree of risk.*

Article 11

Risk mitigation

1. Except where a **risk assessment** carried out in accordance with *Article 10 reveals* that there is no or only a negligible risk that the relevant **■** products are non-compliant, the operator shall, prior to placing the relevant **■** products on the market or exporting them, adopt risk mitigation procedures and measures that are adequate to achieve no or only a negligible risk. Such procedures and measures may include any of the following:
 - (a) requiring additional information, data or documents;
 - (b) carrying out independent surveys or audits;
 - (c) taking other measures pertaining to information requirements set out in Article 9.

Such procedures and measures may also include supporting compliance with this Regulation by that operator's suppliers, in particular smallholders, through capacity building and investments.

■

2. Operators shall have in place adequate and proportionate policies, controls and procedures to mitigate and manage effectively the risks of non-compliance of relevant **■** products identified. Those policies, controls and procedures shall include:
 - (a) model risk management practices, reporting, record-keeping, internal control and compliance management, including the appointment of a compliance officer at management level for non-SME operators;
 - (b) an independent audit function to check the internal policies, controls and procedures referred to in point (a) for all non-SME operators.
3. *The decisions on risk mitigation procedures and measures shall be documented, reviewed at least on an annual basis and made available by the operators to the competent authorities upon request. Operators shall be able to demonstrate how decisions on risk mitigation procedures and measures were taken.*

Article 12

Establishment and maintenance of due diligence systems, ***reporting*** and record keeping

1. In order to exercise due diligence in accordance with Article 8, operators shall establish and keep up to date a ***framework of procedures and measures*** to ensure that ***the relevant products*** they ***place on the market or export comply*** with Article 3 (***‘due diligence system’***).

2. Operators shall review the due diligence system at least once a year. Where operators become aware of new developments which could influence the due diligence system, they shall update the due diligence system to take account of those developments. Operators shall keep a record of such updates in their due diligence systems for five years ■
3. ***Operators*** who ***do not fall within the categories of SMEs, including microenterprises, or natural persons*** shall, on an annual basis, publicly report as widely as possible, including via the internet, on their due diligence system, including on the steps taken by them to fulfil their obligations as set out in Article 8. Operators who fall also within the scope of other Union legal acts that lay down requirements regarding value chain due diligence may fulfil their reporting obligations under this paragraph by including the required information when reporting in the context of those other Union legal acts.

4. *Without prejudice to Union data protection legislation, the reporting as referred to in paragraph 3 shall include the following information concerning relevant commodities and relevant products:*
- (a) *a summary of the information referred to in Article 9(1), points (a), (b) and (c);*
 - (b) *the conclusions of the risk assessment carried out pursuant to Article 10 and measures undertaken pursuant to Article 11 and a description of the information and evidence obtained and used to assess the risk;*
 - (c) *where applicable, a description of the process of consultation of indigenous peoples, local communities and other customary tenure rights holders or of the civil society organisations that are present in the area of production of the relevant commodities and relevant products.*
5. Operators shall keep for at least five years all documentation related to due diligence, such as all records, measures and procedures pursuant to Article 8. They shall make that documentation available to the competent authorities upon request.

Article 13
Simplified due diligence

1. When placing relevant products on the market or exporting them, operators shall not be required to fulfil the obligations under Articles 10 *and 11* where, *after having assessed the complexity of the relevant supply chain and the risk of circumvention of this Regulation or the risk of mixing with products of unknown origin or origin in high-risk or standard-risk countries or parts thereof*, they have ascertained that all relevant commodities and relevant products have been produced in countries or parts thereof that were classified as low risk in accordance with Article 29 . *In such cases, the operator shall make available to the competent authority upon request relevant documentation demonstrating that there is a negligible risk of circumvention of this Regulation or of mixing with products of unknown origin or origin in high-risk or standard-risk countries or parts thereof.*
2. Notwithstanding paragraph 1 of this Article, if the operator obtains or is made aware of any *relevant* information, *including as a result of the assessment carried out under paragraph 1 of this Article, and including substantiated concerns submitted under Article 31*, that would point to a risk that the relevant products do not comply with this Regulation *or that this Regulation is circumvented*, the operator shall fulfil all of the obligations under Articles 10 and 11 and *shall immediately communicate any relevant information to the competent authority.*

3. *Where a competent authority is made aware of any information that would point to a risk of circumvention of this Regulation, including in cases in which relevant commodities or relevant products produced in a standard-risk or high-risk country or a part thereof are subsequently processed in a low-risk country or a part thereof from where they are placed on or leave the market, the competent authority shall take immediate action in accordance with Article 17(1) and, where necessary, adopt interim measures in accordance with Article 23.*

CHAPTER 3

OBLIGATIONS OF MEMBER STATES AND THEIR COMPETENT AUTHORITIES

Article 14

Competent *authorities*

1. Member States shall designate one or more competent authorities responsible for fulfilling the obligations arising from this Regulation.
2. By ... [~~six~~ months after the date of entry into force of this Regulation] *at the latest*, Member States shall *inform* the Commission of the names, addresses and contact details of the competent authorities *referred to in* paragraph 1. Member States shall inform the Commission without undue delay of any changes to that information.

3. The Commission shall make the list of the competent authorities publicly available on its website ***without undue delay***. The Commission shall regularly update the list, based on updates received from Member States.
4. Member States shall ensure that the competent authorities have adequate powers, ***functional independence*** and the resources to fulfil the obligations set out in this Chapter.



Article 15


Technical assistance, guidance and exchange of information

1. Without prejudice to the operators' obligation to exercise due diligence as set out in Article 8, Member States may provide technical and other assistance and guidance to operators. ***The Commission, in collaboration with Member States, may also provide, where necessary, guidance to operators and competent authorities. Technical and other assistance and guidance shall take into account the situation of SMEs, including microenterprises, and natural persons, in order to facilitate compliance with this Regulation, including as regards the conversion of data from relevant systems to identify the geolocation in the information system as referred to in Article 33. It shall also take into account relevant current and future Union legal acts containing due diligence obligations.***

2. Member States ***shall*** facilitate the exchange and dissemination of relevant information, in particular with a view to assisting operators in risk assessment as set out in Article **10**, and on best practices regarding the implementation of this Regulation.
3. ***The competent authorities and the Commission shall continuously monitor and exchange information on any significant change in the pattern of trade of relevant products that can lead to the circumvention of this Regulation.***
4. Assistance shall be provided in a manner which does not compromise the independence, legal obligations or responsibilities of competent authorities in enforcing this Regulation.
5. ***The Commission may facilitate the harmonised implementation of this Regulation, by issuing relevant guidelines and by promoting adequate exchange of information, coordination and cooperation between competent authorities, between competent authorities and customs authorities, and between competent authorities and the Commission.***

Article 16

Obligation to carry out checks

1. The competent authorities shall carry out checks *within their territory* to establish whether operators and traders *established in the Union* comply with this Regulation. The competent authorities shall carry out checks *within their territory* to establish whether the relevant  products that the operator or trader has placed or intends to place on the market, has made available or intends to make available on the market or has exported or intends to export comply with this Regulation.
2. The checks referred to in paragraph 1 of this Article shall be carried out in accordance with Articles 18 and 19.

3. *The competent authorities shall use a risk-based approach to identify the checks to be carried out. Risk criteria shall be identified based on an analysis of risks of non-compliance with this Regulation, taking into account in particular the relevant commodities, the complexity and the length of supply chains, including whether mixing of relevant products is involved, and the stage of processing of the relevant product, whether the plots of land concerned are adjacent to forests, the assignment of risk to countries or parts thereof in accordance with Article 29, paying special attention to the situation of countries or parts thereof classified as high risk, the history of non-compliance of operators or traders with this Regulation, risks of circumvention, and any other relevant information. The analysis of risks shall build on the information referred to in Articles 9 and 10 and may build on the information contained in the information system referred to in Article 33, and may be supported by other relevant sources such as monitoring data, risk profiles from international organisations, substantiated concerns submitted under Article 31, or the conclusions of Commission expert group meetings.*
4. *The Commission shall, where appropriate, establish and regularly review and update indicative risk criteria at Union level, in accordance with paragraph 3, and communicate them to competent authorities.*

5. For the purposes of carrying out the checks referred to in paragraph 1, the competent authorities shall establish *annual plans containing* at least the following:

- (a) *national risk criteria, established in accordance with paragraph 3, for the purpose of determining the checks that are necessary, which build upon any indicative risk criteria at Union level established by the Commission in accordance with paragraph 4, and systematically include risk criteria in relation to countries or parts thereof classified as high risk;*
- (b) *the selection of operators and traders to be checked; that selection is to be based on the national risk criteria referred to in point (a), using, inter alia, information contained in the information system referred to in Article 33 and electronic data-processing techniques; for each operator or trader to be checked, competent authorities may identify specific due diligence statements to be checked.*

6. ***The annual review of the plans by the competent authorities shall systematically build upon the results of the checks and the experience on implementation of the plans referred to in paragraph 5 in order to improve their effectiveness.***
7. ***Competent authorities shall communicate their plans of checks, as well as updates thereto, to other competent authorities and the Commission.*** Competent authorities shall exchange information on and coordinate the development and application of the risk criteria referred to in paragraph 5 with competent authorities of other Member States and with the Commission, in order to improve the effectiveness of the enforcement of this Regulation.

8. Each Member State shall ensure that the annual checks carried out by its competent authorities *pursuant to paragraph 1 of this Article* cover at least 3% of the operators placing or making available on the market or exporting *relevant products that contain or have been made using* relevant commodities *produced in a country of production or parts thereof classified as standard risk in accordance with Article 29.*
9. *Each Member State shall ensure that the annual checks carried out by its competent authorities pursuant to paragraph 1 of this Article cover at least 9% of the operators placing or making available on the market or exporting relevant products that contain or have been made using relevant commodities as well as 9% of the quantity of each of the relevant products that contain or have been made using relevant commodities produced in a country or parts thereof classified as high risk in accordance with Article 29.*
10. *Each Member State shall ensure that the annual checks carried out by its competent authorities pursuant to paragraph 1 of this Article cover at least 1% of the operators placing or making available on the market or exporting relevant products that contain or have been made using* relevant commodities ■ *produced in a country or parts thereof classified as low risk in accordance with Article 29* ■ .
11. *The quantified objectives of checks to be carried out by competent authorities shall be met separately for each of the relevant commodities. The quantified objectives shall be calculated by reference to the total number of operators who placed or made available on the market or exported relevant products in the previous year, and to quantity, where applicable. Operators shall be considered as having been checked where the competent authority has checked the elements referred to in Article 18(1), points (a) and (b).*

12. Without prejudice to ■ checks *planned in advance pursuant to paragraph 5 of this Article*, competent authorities shall carry out checks referred to in paragraph 1 of this Article when they *obtain or are made aware of* relevant information, including based on substantiated concerns submitted by third parties under Article 31, concerning *a* potential case of non-compliance with this Regulation.
13. Checks shall be carried out without prior warning of the operator or trader, except where prior notification of the operator or trader is necessary in order to ensure the effectiveness of the checks.
14. The competent authorities shall keep records of the checks, indicating in particular their nature and results, as well as on the measures taken in the event of non-compliance. Records of all checks shall be kept for at least *ten* years.
15. *Records of checks carried out under this Regulation and reports of their results shall constitute environmental information for the purposes of Directive 2003/4/EC of the European Parliament and of the Council¹ and shall be made available upon request.*

¹ *Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC (OJ L 41, 14.2.2003, p. 26).*

Article 17

Relevant products requiring immediate action

- 1. Competent authorities shall identify situations where relevant products present such high risk of non-compliance with Article 3 that they require immediate action by competent authorities before those relevant products are placed or made available on the market or exported. Competent authorities shall register such identified situations in the information system referred to in Article 33.*
- 2. When competent authorities identify the situations referred to in paragraph 1 of this Article, including when a due diligence statement relating to the relevant products concerned is submitted by an operator, the information system referred to in Article 33 shall identify the high risk of non-compliance with Article 3 and inform competent authorities, which shall:*
 - (a) take immediate interim measures under Article 23 to suspend the placing or making available of those relevant products on the market; or*
 - (b) once the electronic interface referred to in Article 28(1) is in place, in the case of relevant products entering or leaving the market, require customs authorities to suspend the release for free circulation or export of those relevant products under Article 26(7).*

3. *The suspensions referred to in paragraph 2 of this Article shall end within three working days or within 72 hours in the case of perishable relevant products, starting from the moment when the high risk of non-compliance is identified in the information system referred to in Article 33. Where the competent authorities, based on the result of the checks carried out within that period, conclude that they require additional time in which to establish whether the relevant products comply with Article 3, they shall extend the period of suspension, by additional periods of three working days, by means of additional interim measures taken under Article 23 or, in the case of relevant products entering or leaving the market, by notifying the customs authorities of the need to maintain the suspension under Article 26(7).*

Article 18

Checks on operators *and non-SME traders*

1. The checks on operators and non-SME traders shall include:
- (a) examination of their due diligence system, including risk assessment and risk mitigation procedures, *and of documentation and records that demonstrate the proper functioning of the due diligence system*;
 - (b) examination of documentation and records that demonstrate that ■ a specific *relevant* product ■ that the operator has placed or intends to place on the market or intends to export or that the non-SME trader has made available or intends to make available on the market complies with this Regulation, *including, when applicable, through risk mitigation measures, as well as* examination of *the relevant* due diligence statements.

2. ***The checks on operators and non-SME traders may also include***, where appropriate, ***in particular where the examinations referred to in paragraph 1 have raised questions:***
- (a) on-the-ground examination of relevant commodities ***or of the relevant*** products with a view to ascertaining their correspondence with the documentation used for exercising due diligence;
 - (b) ***examination of corrective measures taken under Article 24;***
 - (c) any technical and scientific means adequate to determine ***the species or*** the exact place where the relevant commodity or relevant product was produced, including ***anatomical, chemical or DNA analysis;***
 - (d) any technical and scientific means adequate to determine whether the relevant ***products*** are deforestation-free, including Earth observation data such as from the Copernicus programme and tools ***or from other publicly or privately available relevant sources;*** and
 - (e) spot checks, including field audits, including where appropriate in third countries, ***provided that such third countries agree,*** through cooperation with the administrative authorities of ***those*** third countries.

Article 19

Checks on *SME* traders

1. The checks on SME traders shall include *the* examination of documentation and records that demonstrate compliance with Article 5(2), (3) *and* (4).
2. *The checks on SME traders may also include, where appropriate, in particular where the examinations referred to in paragraph 1 have raised questions*, spot checks, including field audits.

Article 20

Recovery of costs by competent authorities

1. Member States may authorise their competent authorities to reclaim from the operators or traders the totality of the costs of their activities with respect to instances of non-compliance.
2. The costs referred to in paragraph 1 may include the costs of carrying out testing, of storage and of activities relating to the relevant products that are found to be non-compliant products and are subject to corrective action prior to the release of those relevant products for free circulation, their placing on the market or their export.

Article 21

Cooperation and exchange of information

1. Competent authorities shall cooperate with each other, ***the customs authorities from their Member State, the competent authorities and customs*** authorities from other Member States, the Commission and if necessary, with the administrative authorities of third countries in order to ensure compliance with this Regulation, ***including as regards the implementation of field audits***.
2. ***Competent*** authorities shall establish administrative arrangements with the Commission concerning the transmission of information ***on investigations*** and the conduct of investigations.
3. Competent authorities shall exchange information necessary for the enforcement of this Regulation, ***including through the information system referred to in Article 33***. That shall include giving access to and exchanging information on operators and traders, including due diligence statements, ***and on the nature and results of the checks carried out***, with other Member States' competent authorities to facilitate the enforcement of this Regulation.

4. Competent authorities shall immediately alert competent authorities of other Member States and the Commission when they detect *any potential non-compliance* with this Regulation and serious shortcomings that could affect more than one Member State. Competent authorities shall, in particular, inform competent authorities of other Member States when they detect a relevant **■** product on the market that *they consider to be* a non-compliant product, to enable the withdrawal or recall of such **■** product from sales in all Member States.
5. At the request of a competent authority, Member States shall provide it with the **■** information *necessary* to ensure compliance with this Regulation.

Article 22

Reporting

1. By 30 April of each year, Member States shall make available to the public and to the Commission information on the application of this Regulation during the previous calendar year. That information shall include **■** :
 - (a) *the plans of checks and the risk criteria on which those plans were based;*

- (b) the number and the results of the **checks** carried out on operators, **non-SME traders and other traders in relation to the total number of operators, non-SME traders and other traders**, including the **types of non-compliance identified**;
- (c) the **quantity** of relevant **■** products checked in relation to the total quantity of relevant **■** products placed on the market **or exported and** the countries of **■** production; for relevant products entering or leaving the market, the quantity is to be expressed in kilograms of net mass and, where applicable, in the supplementary unit set out in Annex I to Regulation (EEC) No 2658/87 against the indicated Harmonised System code, or, in all other cases, the quantity is to be expressed in net mass or, where applicable, volume or number of items; a supplementary unit is applicable where it is defined consistently for all possible subheadings under the Harmonised System code referred to in the due diligence statement;
- (d) **in cases of non-compliance, the corrective action taken in accordance with Article 24 and penalties imposed in accordance with Article 25**;
- (e) **the percentage of checks carried out with prior warnings pursuant to Article 16(13), the use of which shall be justified by the competent authorities in their check reports.**

2. **By 30 October of each year**, the Commission services shall make publicly available a Union-wide overview of the application of this Regulation based on the data submitted by the Member States under paragraph 1.

Article 23
Interim measures

Member States shall provide for the possibility for their competent authorities to take immediate interim measures, including the seizure of the relevant commodities or relevant products, or the suspension of the placing or making available on the market or the export of the relevant commodities or relevant products, when potential non-compliance with this Regulation has been detected on the basis of any of the following:

- (a) the examination of evidence or other relevant information, including information exchanged under Article 21 or substantiated concerns submitted under Article 31;***
- (b) the checks referred to in Article 18 and 19;***
- (c) the identification of risks by the information system referred to in Article 33.***

Where necessary, Member States shall immediately inform the Commission and the competent authorities of other Member States about such measures.

Article 24

Corrective action in the event of non-compliance

1. Without prejudice to Article 25, where competent authorities establish that an operator or trader has not complied with this Regulation or that a relevant **■** product ***placed or made available on the market or exported*** is non-compliant, they shall without delay require the operator or trader to take appropriate and proportionate corrective action to bring the non-compliance to an end ***within a specified and reasonable period of time***.
2. For the purposes of paragraph 1, the corrective action required to be taken by the operator or trader shall include at least one of the following, ***as applicable***:
 - (a) rectifying any formal non-compliance, in particular with the requirements of Chapter 2;
 - (b) preventing the relevant **■** product from being placed or made available on the market or exported;
 - (c) withdrawing or recalling the relevant **■** product immediately;

(d) ***donating*** the relevant █ product █ to charitable or public interest purposes ***or, if that is not possible, disposing of it in accordance with Union law on waste management.***

3. ***Irrespective of the corrective action taken under paragraph 2, the operator or trader shall address any shortcomings in the due diligence system with a view to preventing the risk of further non-compliance with this Regulation.***

4. If the operator or trader fails to take corrective action as referred to in paragraph 2 ***within the period of time specified by the competent authority under paragraph 1***, or where non-compliance as referred to in paragraph 1 █ persists, ***after that period of time*** competent authorities shall ***secure application of the required corrective action referred to in paragraph 2 by all means available to them under the law of the Member State concerned.***

Article 25

Penalties

1. ***Without prejudice to the obligations of Member States under Directive 2008/99/EC of the European Parliament and of the Council¹***, Member States shall lay down rules on penalties applicable to infringements of this Regulation by operators and traders and shall take all measures necessary to ensure that they are implemented. Member States shall notify the Commission of those rules and of those measures and shall notify it, without delay, of any subsequent amendments affecting them.
2. The penalties provided for ***in paragraph 1*** shall be effective, proportionate and dissuasive. Those penalties shall include **■** :
 - (a) fines proportionate to the environmental damage and the value of the relevant commodities or relevant products concerned, calculating the level of such fines in such way as to ensure that they effectively deprive those responsible of the economic benefits derived from their infringements, and gradually increasing the level of such fines for repeated infringements; ***in the case of a legal person***, the maximum amount of such ***a fine*** shall be at least 4 % of the ***operator's*** or trader's ***total annual Union-wide turnover in the financial year preceding the fining decision, calculated in accordance with the calculation of aggregate turnover for undertakings laid down in Article 5(1) of Council Regulation (EC) 139/2004²***, and shall be increased, where necessary, to exceed the potential economic benefit gained;

¹ ***Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law (OJ L 328, 6.12.2008, p. 28).***

² ***Council Regulation (EC) 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation) (OJ L 24, 29.1.2004, p. 1).***

- (b) confiscation of the relevant ■ products concerned from the operator and/or trader;
- (c) confiscation of revenues gained by the operator and/or trader from a transaction with the relevant ■ products concerned;
- (d) temporary exclusion *for a maximum period of 12 months* from public procurement processes *and from access to public funding, including tendering procedures, grants and concessions*;
- (e) *temporary prohibition from placing or making available on the market or exporting relevant commodities and relevant products, in the event of a serious infringement or of repeated infringements*;
- (f) *prohibition from exercising the simplified due diligence set out in Article 13 in the event of a serious infringement or of repeated infringements*.

3. *Member States shall notify the Commission of final judgments against legal persons for infringements of this Regulation and the penalties imposed on them, within 30 days from the date on which the judgments become final, taking into account the relevant data protection rules. The Commission shall publish on its website a list of such judgments, which shall contain the following elements:*

- (a) *the name of the legal person;*

- (b) *the date of the final judgment;*
- (c) *a summary of the activities for which the legal person was found to have infringed this Regulation; and*
- (d) *the nature and, where financial, the amount of the penalty imposed.*

CHAPTER 4

PROCEDURES FOR RELEVANT ■ PRODUCTS ENTERING OR LEAVING THE MARKET

Article 26

Controls

1. Relevant ■ products placed under the customs procedure ‘release for free circulation’ or ‘export’ shall be subject to the controls and measures laid down in this Chapter. The application of this Chapter is without prejudice to any other provisions of this Regulation as well as to other Union legal acts governing the release for free circulation or export of goods, in particular Regulation (EU) No 952/2013 and its Articles 46, 47, 134 and 267. Chapter VII of Regulation (EU) 2019/1020 ■ shall however not apply to controls on relevant ■ products entering the market in so far as the application and enforcement of this Regulation is concerned.

2. Competent authorities shall be responsible for the overall enforcement of this Regulation with regard to a relevant ■ product entering or leaving the market. In particular, competent authorities shall be responsible, *in accordance with Article 16, for identifying checks to be carried out based on a risk-based approach and* for establishing, through the checks *referred to in* Article ■ 16, whether any such relevant ■ product complies with Article 3. The competent authorities shall carry out those responsibilities in accordance with the relevant provisions of Chapter 3.
3. *Without prejudice to paragraph 2 of this Article, customs* authorities shall *carry out controls on the customs declarations lodged in relation to* relevant ■ products entering or leaving the market *in accordance with Articles 46 and 48 of Regulation (EU) No 952/2013*. Such controls shall ■ primarily *be based* on risk analysis, *as established in Article 46(2) of Regulation (EU) No 952/2013*.

4. The reference number of the due diligence statement *shall be made available to customs authorities before the release for free circulation or export of a relevant product entering or leaving the market. For that purpose, except where the due diligence statement is made available through the electronic interface referred to in Article 28(2), the person lodging the customs declaration for release for free circulation or export of a relevant product shall make available to customs authorities the reference number of the due diligence statement* assigned to that relevant product by the information system referred to in Article 33.
5. *For the purpose of taking into account compliance with this Regulation on allowing a relevant product to be released for free circulation or exported:*
- (a) *until the electronic interface referred to in Article 28(1) is in place, paragraphs 6 to 9 of this Article shall not apply, and customs authorities shall exchange information and cooperate with competent authorities in accordance with Article 27, and, where necessary, shall take into account such exchange of information and cooperation on allowing relevant products to be released for free circulation or exported;*
 - (b) *once the electronic interface referred to in Article 28(1) is in place, paragraphs 6 to 9 of this Article shall apply, and notifications and requests under paragraphs 6 to 9 of this Article shall take place by means of that electronic interface.*

6. ***When carrying out controls on*** customs declarations for release for free circulation or export of a relevant **■** product entering or leaving the market, customs authorities shall ***examine***, using the electronic interface referred to in Article 28(1), the status ***assigned to*** the corresponding due diligence statement ***by competent authorities in the information system referred to in*** Article 33.
7. ***Where the status referred to in paragraph 6 of this Article indicates that the*** relevant **■** product ***entering or leaving the market has been identified, pursuant to Article 17(2), as requiring*** to be checked before ***it is*** placed or made available on the market or exported, customs authorities shall suspend the release for free circulation or export of that relevant **■** product.
8. Where all other requirements and formalities under Union or national law relating to the release for free circulation or export have been fulfilled, customs authorities shall allow a relevant **■** product ***entering or leaving the market*** to be released for free circulation or exported in any of the following circumstances:
- (a) ***the status referred to in paragraph 6 of this Article does not indicate that the relevant product has been identified, pursuant to Article 17(2), as requiring to be checked before it is placed or made available on the market or exported;***
 - (b) the release for free circulation or export has been suspended in accordance with paragraph 7 of this Article, ***and*** the competent authorities have not requested ***to maintain*** the ***suspension*** in accordance with Article 17(3);

- (c) *the release for free circulation or export has been suspended in accordance with paragraph 7 and the* competent authorities have notified customs authorities **■** that the suspension of the release for free circulation or export of the relevant **■** products can be lifted.

9. *Where the competent authorities conclude that a relevant product entering or leaving the market is non-compliant, they shall notify the customs authorities accordingly and the customs authorities shall not allow the release for free circulation or export of that relevant product.*

10. The release for free circulation or export shall not be deemed proof of compliance with Union law and, in particular, with this Regulation.

■

Article 27

Cooperation and exchange of information among authorities

1. To enable the risk-based approach referred to in Article 16(5) for relevant **■** products entering or leaving the market and to ensure that checks are effective and carried out in accordance with this Regulation, the Commission, competent authorities and customs authorities shall cooperate closely and exchange information.
2. Customs authorities and competent authorities shall cooperate in accordance with Article 47(2) of Regulation (EU) No 952/2013 and exchange information necessary for the fulfilment of their functions under this Regulation, including through electronic means.
3. ***The customs authorities may communicate, in accordance with Article 12(1) of Regulation (EU) No 952/2013, confidential information acquired by the customs authorities in the course of performing their duties, or provided to the customs authorities on a confidential basis, to the competent authority of the Member State in which the operator, trader or authorised representative is established.***
4. ***Where the competent authorities have received information in accordance with this Article, those competent authorities may communicate that information to competent authorities of other Member States in accordance with Article 21(3).***

5. Risk-related information shall be exchanged as follows:
- (a) between customs authorities in accordance with Article 46(5) of Regulation (EU) No 952/2013;
 - (b) between customs authorities and the Commission in accordance with Article 47(2) of Regulation (EU) No 952/2013;
 - (c) *between customs authorities and competent authorities, including competent authorities of other Member States, in accordance with Article 47(2) of Regulation (EU) No 952/2013.*

Article 28

Electronic interface

1. The Commission shall develop an electronic interface based on the European Union Single Window Environment for Customs, established by ***Regulation (EU) 2022/2399 of the European Parliament and of the Council¹***, to enable the transmission of data, in particular the notifications and requests referred to in Article 26(6) to ***(9) of this Regulation***, between national customs systems and the information system referred to in Article 33 of this Regulation. This electronic interface shall be in place by ... [***five*** years after the date of ***entry into force of this Regulation***].

¹ Regulation (EU) 2022/2399 of the European Parliament and of the Council of 23 November 2022 establishing the European Union Single Window Environment for Customs and amending Regulation (EU) No 952/2013 (OJ L 317, 9.12.2022, p. 1).

2. The Commission *shall* develop an electronic interface *in accordance with Article 12 of Regulation (EU) 2022/2399* to enable:
- (a) operators and traders to comply with the obligation to submit the due diligence statement of a relevant commodity or relevant product pursuant to Article 4 of this Regulation, by making it available through the national single window environment for customs referred to in Article 8 of *Regulation (EU) 2022/2399* and receive feedback thereon from competent authorities; and
 - (b) the transmission of that due diligence statement to the information system referred to in Article 33.

3. The Commission shall adopt implementing acts specifying the details of implementation arrangements for paragraphs 1 and 2 of this Article and, in particular, defining the data, including its format, to be transmitted in accordance with paragraphs 1 and 2 of this Article. ***The implementing acts shall also clarify how any changes in the status assigned by competent authorities to due diligence statements in the information system referred to in Article 33 shall be notified immediately and automatically to the relevant customs authorities through the electronic interface referred to in paragraph 1 of this Article.*** The implementing acts may also determine that certain specific data available in the due diligence statement and necessary for activities of customs authorities, including surveillance and fight against fraud, is transmitted and registered in Union and national customs systems. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 36(2).

CHAPTER 5

COUNTRY BENCHMARKING SYSTEM AND COOPERATION WITH THIRD COUNTRIES

Article 29

Assessment of countries

1. This Regulation establishes a three-tier system for the assessment of countries or parts thereof. ***For that purpose, Member States and third countries, or parts thereof, shall be classified into one of the following risk categories:***
- (a) ***‘high risk’ refers to countries or parts thereof, for which the assessment referred to in paragraph 3 results in the identification of a high risk of producing in such countries or in parts thereof, relevant commodities for which the relevant products do not comply with Article 3, point (a);***

- (b) *'low risk' refers to countries or parts thereof, for which the assessment referred to in paragraph 3 concludes that there is sufficient assurance that instances of producing in such countries or in parts thereof, relevant commodities for which the relevant products do not comply with Article 3, point (a), are exceptional;*
- (c) *'standard risk' refers to countries or parts thereof which do not fall in either the category 'high risk' or the category 'low risk'.*

2. *On ... [date of entry into force of this Regulation], all countries shall be assigned a standard level of risk. The Commission shall classify countries or parts thereof, that present a low or high risk in accordance with paragraph 1. The list of the countries or parts thereof, that present a low or high risk shall be published by means of implementing acts to be adopted in accordance with the examination procedure referred to in Article 36(2), no later than ... [18 months after the date of entry into force of this Regulation]. That list shall be reviewed, and updated if appropriate, as often as necessary in light of new evidence.*

3. The classification of low-risk and high-risk countries or parts thereof, pursuant to paragraph 1 shall ***be based on an objective and transparent assessment by the Commission, taking into account the latest scientific evidence and internationally recognised sources. The classification shall be*** based ***primarily*** on the following assessment criteria:
- (a) rate of deforestation and forest degradation;
 - (b) rate of expansion of agriculture land for relevant commodities;
 - (c) production trends of relevant commodities and ***of relevant*** products.
4. ***The assessment referred to in paragraph 3 may also take into account:***
- (a) ***information submitted by the country concerned, regional authorities concerned, operators, NGOs and third parties, including indigenous peoples, local communities and civil society organisations, with regard to the effective covering of emissions and removals from agriculture, forestry and land use in the nationally determined contribution to the UNFCCC;***

- (b) agreements and other instruments ■ between the country concerned and the Union *and/or its Member States* that address deforestation *and* forest degradation and facilitate compliance of relevant commodities and relevant products with Article 3 and their effective implementation;
- (c) whether the country concerned has national or subnational laws in place, including in accordance with Article 5 of the Paris Agreement, and takes effective enforcement measures to *tackle deforestation and forest degradation, and to* avoid and penalise activities leading to deforestation and forest degradation ■ and in particular whether it applies penalties of sufficient severity to deprive of the benefits accruing from deforestation or forest degradation;
- (d) *whether the country concerned makes relevant data available transparently; and, if applicable, the existence, compliance with, or effective enforcement of laws protecting human rights, the rights of indigenous peoples, local communities and other customary tenure rights holders;*
- (e) *sanctions imposed by the UN Security Council or the Council of the European Union on imports or exports of the relevant commodities and relevant products.*

5. ***The Commission shall engage in a specific dialogue with all countries that are, or risk to be classified as, high risk, with the objective to reduce their level of risk.***
6. ***Without prejudice to paragraph 5, the Commission shall formally notify the country concerned of its intention to classify that country or a part thereof to a different risk category and invite it to provide any information deemed useful in that regard. The Commission shall also inform the competent authorities of such intention.***

The Commission shall include the following information in the notification:

- (a) the reason or reasons for the intention to change the risk classification of the country or parts thereof;
- (b) the invitation to respond to the Commission in writing with regard to the intention to changing the risk classification of the country or parts thereof;
- (c) the consequences of its classification as a high or low risk country.

7. The Commission shall allow the country concerned sufficient time to reply to the notification. Where the notification concerns an intention on the part of the Commission to classify the country or a part thereof to a higher risk, in its reply, the country concerned may provide the Commission with information on measures taken by it to remedy the situation.
8. The Commission shall, without delay, notify *the country concerned and* the competent authorities of inclusion or removal of a country, *or parts thereof*, from the list referred to in paragraph 2.

Article 30

Cooperation with third countries

1. *Within their respective spheres of competence, the Commission, on behalf of the Union, and interested Member States shall engage in a coordinated approach with producer countries and parts thereof that are concerned by this Regulation, in particular those classified as high risk in accordance with Article 29 through existing and future partnerships, and other relevant cooperation mechanisms to jointly address the root causes of deforestation and forest degradation. The Commission shall develop a comprehensive Union strategic framework for such engagement and shall consider mobilising relevant Union instruments.* Such partnerships and cooperation mechanisms *shall* focus on the conservation, restoration and sustainable use of forests, deforestation, forest degradation, and the transition to sustainable commodity production, consumption, processing, and trade methods. Partnerships and cooperation mechanisms may include structured dialogues, ■ administrative arrangements, and ■ existing agreements or *provisions thereof, as well as joint roadmaps* that enable ■ the transition to an agricultural production that facilitates the compliance ■ with this Regulation, *paying particular attention to the needs of indigenous peoples, local communities and smallholders and ensuring the participation of all interested actors.*

2. Partnerships and cooperation ***shall*** allow the full participation of all stakeholders, including civil society, indigenous ***peoples***, local communities, ***women***, the private sector including ***microenterprises and other*** SMEs, and smallholders. ***Partnerships and cooperation shall also support or initiate inclusive and participatory dialogue towards national legal and governance reform processes to enhance forest governance and address domestic factors contributing to deforestation.***
3. Partnerships and cooperation shall promote the development of integrated land use planning processes, relevant legislation of producer countries, ***multi-stakeholder processes***, fiscal ***or commercial*** incentives and other pertinent tools to improve forest and biodiversity conservation, sustainable management and restoration of forests, tackle the conversion of forests and vulnerable ecosystems to other land uses, optimise gains for the landscape, tenure security, agriculture productivity and competitiveness, and the transparency of supply chains, strengthen the rights of forest-dependent communities, including smallholders, ***local communities, and*** indigenous peoples, ***whose rights are set out in the UN Declaration on the Rights of Indigenous Peoples***, and ensure public access to forest management documents and other relevant information.

4. ***Within their respective spheres of competence, the Commission, on behalf of the Union, or Member States, or both,*** shall engage in international bilateral and multilateral discussion on policies and actions to halt deforestation and forest degradation, including in multilateral fora such as CBD, FAO, UN Convention to Combat Desertification, UN Environment Assembly, UN Forum on Forests, UNFCCCWTO, G7 and G20. Such engagement shall include the promotion of the transition to sustainable agricultural production and sustainable forest management as well as the development of transparent and sustainable supply chains as well as continued efforts towards identifying and agreeing robust standards and definitions that ensure a high level of protection of ***forests and other natural*** ecosystems ***and related human rights***.
5. ***Within their respective spheres of competence, the Commission, on behalf of the Union, and interested Member States shall engage in dialogue and cooperation with other major consuming countries, to promote the adoption of ambitious requirements to minimise such countries' contribution to deforestation and forest degradation, and a global level playing field.***

CHAPTER 6
SUBSTANTIATED *CONCERNS*

Article 31

Natural or legal persons' substantiated concerns

1. Natural or legal persons may submit substantiated concerns to competent authorities when they consider ■ that one or more operators or traders are not complying with this Regulation.
2. Competent authorities shall, *without undue delay*, diligently and impartially assess the substantiated concerns, *including whether the claims are well-founded*, and take the necessary steps, including carrying out checks and conducting hearings of operators and traders, with a view to detecting potential non-compliance with this Regulation and, where appropriate, taking interim measures under Article 23 to prevent the placing or making available on the market and export of relevant ■ products under investigation.
3. *Within 30 days of receiving a substantiated concern, if not otherwise stated in* national law, *the competent authority shall* inform the ■ persons referred to in paragraph 1, who submitted ■ the *substantiated concerns, of the follow-up given to the submission* and shall provide the reasons for it.

4. ***Without prejudice to the obligations pursuant to Directive (EU) 2019/1937 of the European Parliament and of the Council¹, Member States shall provide for measures to protect the identity of the natural or legal persons who submit substantiated concerns or who conduct investigations with the aim of verifying compliance by operators or traders with this Regulation.***

Article 32

Access to justice

1. Any natural or legal person having *a* sufficient interest, ***as determined in accordance with the existing national systems of legal remedies***, including where such persons *meet the criteria, if any, laid down in the national law, including persons who* have submitted *a* substantiated concern in accordance with Article 31, shall have access to ***administrative or judicial procedures*** to review the **■** legality of the decisions, acts or failure to act of the competent ***authorities*** under this Regulation.
2. This Regulation shall be without prejudice to any provisions of national law which ***regulate access to justice and those which*** require that administrative review procedures be exhausted prior to recourse to judicial proceedings.

¹ Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law (OJ L 305 26.11.2019, p. 17).

CHAPTER 7

INFORMATION SYSTEM

Article 33

Information system

1. By ... [the date set out in Article 38(2)], the Commission shall establish and subsequently shall maintain an information system which shall contain the due diligence statements made available pursuant to Article 4(2).
2. ***Without prejudice to the fulfilment of obligations established in Chapters 2 and 3, the information system shall provide at least ■ the following functionalities:***
 - (a) registration of operators and traders and their authorised representatives in the Union; for operators placing relevant ■ products under the customs procedure ‘release for free circulation’ or ‘export’, the Economic Operators Registration and Identification (EORI) number established pursuant to Article 9 of Regulation (EU) No 952/2013, shall be included in their registration profile;
 - (b) registration of due diligence statements including the communication to the operator or trader concerned of a reference number for each due diligence statement submitted through the information system;
 - (c) ***making available the reference number of existing due diligence statements pursuant to Article 4(8) and (9);***
 - (d) ***where possible, the conversion of data from relevant systems to identify the geolocation;***

- (e) registration of the outcome of checks on due diligence statements;
- (f) interconnection with customs through the European Union Single Window Environment for Customs, in accordance with Article 28, including to allow the notifications and requests *referred to in* Article 26(6) to (9);
- (g) *provision of relevant information to support the risk-profiling for the plan of checks referred to in Article 16(5), including results of checks*, the risk-profiling of operators, traders and relevant commodities and relevant products for the purpose of identifying, *based on electronic data-processing techniques, operators and traders to be checked as referred to in Article 16(5), and relevant products to be checked by competent authorities*;
- (h) *facilitation of* administrative assistance and cooperation between competent authorities, *and between competent authorities* and the Commission, to exchange information and data;
- (i) *support* communication between competent authorities and operators and traders for the purposes of implementation of this Regulation, *including, where appropriate, through the use of digital supply management tools*.

3. The Commission shall, by means of implementing acts, establish rules for the functioning of the information system under this Article, including rules for the protection of personal data and exchange of data with other IT systems. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 36(2).
4. The Commission shall provide access to that information system to customs authorities, competent authorities, operators and traders ***and, if applicable, their authorised representatives***, in accordance with their respective obligations under this Regulation.
5. In line with the Union's Open Data Policy, ■ the Commission shall provide access to the wider public to the complete anonymised datasets of the information system in an open format that can be machine-readable and that ensures interoperability, re-use and accessibility.

CHAPTER 8

REVIEW

Article 34

Review

1. ***No later than ...[one year after the date of entry into force of this Regulation], the Commission shall present an impact assessment accompanied, if appropriate, by a legislative proposal to extend the scope of this Regulation to include other wooded land. The assessment shall include, inter alia, the cut-off date referred to in Article 2, with a view to minimising the Union's contribution to natural ecosystems' conversion and degradation. The review shall include an assessment of the impact of the relevant commodities on deforestation and forest degradation.***

2. No later than ... [two years after the date of entry into force of this Regulation], the Commission shall ***present an impact assessment*** accompanied, ***if*** appropriate, by a legislative proposal ***to extend*** the scope of this Regulation to other ***natural*** ecosystems, including ***other*** land with high carbon stocks and ■ with a high biodiversity value such as grasslands, peatlands and wetlands. ***The assessment shall cover a potential ecosystem expansion, including on the basis of the cut-off date referred to in Article 2, with a view to minimising the Union's contribution to natural ecosystems' conversion and degradation. The review shall also address the need and the feasibility of extending the scope of this Regulation to further commodities, including maize. The review shall include an assessment of the impact of the relevant commodities on deforestation and forest degradation, as indicated by scientific evidence, and take into account changes in consumption.***
3. ***The impact assessment referred to in paragraph 2 shall also include an assessment of whether it is appropriate to amend or extend the list of relevant products in Annex I in order to ensure that the most relevant products that contain, have been fed with, or have been made using, relevant commodities are included in that list. That assessment shall pay specific attention to the potential inclusion of biofuels (HS code 382600) in Annex I.***
4. ***The impact assessment referred to in paragraph 2 shall also evaluate the role of financial institutions in preventing financial flows that contribute directly or indirectly to deforestation and forest degradation and assess the need to provide for any specific obligations for financial institutions in Union legal acts in that regard, taking into account any relevant existing horizontal and sectoral legislation.***

5. *The Commission may adopt delegated acts in accordance with Article 35 to amend Annex I with regard to the relevant CN codes of relevant products that contain, have been fed with or have been made using relevant commodities.*
6. By ... [five years after the date of entry into force of this Regulation] and at least every five years thereafter, the Commission shall carry out a general review of this Regulation, and shall present a report to the European Parliament and the Council accompanied, if appropriate, by a legislative proposal. The first of the reports shall include in particular, based on specific studies, an evaluation of:
- (a) the need for and feasibility of additional trade facilitation tools – *and in particular for LDCs highly impacted by this Regulation and countries or parts thereof classified as standard or high risk* – to support the achievement of the objectives of this Regulation ■ ;
 - (b) the impact of this Regulation on farmers, in particular smallholders, indigenous peoples and local communities and the possible need for additional support for the transition *towards* sustainable supply chains *and for smallholders to meet the requirements of this Regulation;*

- (c) *the further extension of the definition of forest degradation, on the basis of an in-depth analysis, and taking into account progress made in international discussions on the matter;*
- (d) *the threshold for mandatory use of polygons as referred to in Article 2, point (40), taking into account its impact on tackling deforestation and forest degradation;*
- (e) *changes in the trade patterns of the relevant commodities and relevant products included in the scope of this Regulation when those changes could be an indication of a practice of circumvention;*
- (f) *an assessment of whether the checks carried out have been effective to ensure that relevant commodities and relevant products made available on the market or exported comply with Article 3.*

Chapter 9
FINAL PROVISIONS

Article 35
Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in **Article 34(5)** shall be conferred on the Commission for a period of five years from ... [date of entry into force of this Regulation]. The Commission shall draw up a report in respect of the delegation of power at the latest six months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
3. The delegation of power referred to in **Article 34(5)** may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to **Article 34(5)** shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 36

Committee procedure

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council¹.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply, having regard to the provisions of Article 11 thereof.

¹ ***Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).***

Article 37

Repeal

1. Regulation (EU) No 995/2010 is repealed with effect from ... [the date of application of this Regulation set out in Article 38(2)].
2. *However, Regulation (EU) No 995/2010 shall continue to apply until ... [3 years from the date set out in Article 38(2)] to timber and timber products as defined in Article 2, point (a), of Regulation (EU) No 995/2010 that were produced before ... [the date set out in Article 38(1)] and placed on the market from ... [the date set out in Article 38(2)].*
3. *By way of derogation from Article 1(2) of this Regulation, the timber and timber products as defined in Article 2, point (a), of Regulation (EU) No 995/2010 that were produced before ... [the date set out in Article 38(1)] and placed on the market from ... [three years after the date set out in Article 38(2)] shall comply with Article 3 of this Regulation.*

Article 38

Entry into force and date of application

1. This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.
2. Subject to paragraph 3 of this Article, Articles 3 to 13, 16 to 24, 26, 31 and 32 shall apply from ... [**18** months after the entry into force of this Regulation].
3. Except as regards the products covered in the Annex to Regulation (EU) No 995/2010, for operators that by 31 December 2020 were established as micro-undertakings or small undertakings pursuant to Article 3(1) or (2) of Directive 2013/34/EU, respectively, the Articles referred to in paragraph 2 of this Article shall apply from ... [24 months after the entry into force of this Regulation] .

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at ...,

For the European Parliament
The President

For the Council
The President

ANNEX I

Relevant commodities and relevant products as referred to in Article 1

The following table lists goods as classified in the Combined Nomenclature set out in Annex I to Regulation (EEC) No 2658/87 that are referred to in Article 1 of this Regulation.

Except for by-products of a manufacturing process, where that process involved material that was not waste as defined in Article 3, point (1), of Directive 2008/98/EC, this Regulation does not apply to goods if they are produced entirely from material that has completed its lifecycle and would otherwise have been discarded as waste as defined in Article 3, point (1), of that Directive.

<i>Relevant commodity</i>	<i>Relevant products</i>
<i>Cattle</i>	<i>0102 21, 0102 29 Live cattle ex 0201 Meat of cattle, fresh or chilled ex 0202 Meat of cattle, frozen ex 0206 10 Edible offal of cattle, fresh or chilled ex 0206 22 Edible cattle livers, frozen ex 0206 29 Edible cattle offal (excluding tongues and livers), frozen ex 1602 50 Other prepared or preserved meat, meat offal, blood, of cattle ex 4101 Raw hides and skins of cattle (fresh, or salted, dried, limed, pickled or otherwise preserved, but not tanned, parchment-dressed or further prepared), whether or not dehaired or split ex 4104 Tanned or crust hides and skins of cattle, without hair on, whether or not split, but not further prepared ex 4107 Leather of cattle, further prepared after tanning or crusting, including parchment-dressed leather, without hair on, whether or not split, other than leather of heading 4114</i>

<i>Relevant commodity</i>	<i>Relevant products</i>
<i>Cocoa</i>	<i>1801 Cocoa beans, whole or broken, raw or roasted</i> <i>1802 Cocoa shells, husks, skins and other cocoa waste</i> <i>1803 Cocoa paste, whether or not defatted</i> <i>1804 Cocoa butter, fat and oil</i> <i>1805 Cocoa powder, not containing added sugar or other sweetening matter</i> <i>1806 Chocolate and other food preparations containing cocoa</i>
<i>Coffee</i>	<i>0901 Coffee, whether or not roasted or decaffeinated; coffee husks and skins; coffee substitutes containing coffee in any proportion</i>

<i>Relevant commodity</i>	<i>Relevant products</i>
<i>Oil palm</i>	<p><i>1207 10 Palm nuts and kernels</i></p> <p><i>1511 Palm oil and its fractions, whether or not refined, but not chemically modified</i></p> <p><i>1513 21 Crude palm kernel and babassu oil and fractions thereof, whether or not refined, but not chemically modified</i></p> <p><i>1513 29 Palm kernel and babassu oil and their fractions, whether or not refined, but not chemically modified (excluding crude oil)</i></p> <p><i>2306 60 Oilcake and other solid residues of palm nuts or kernels, whether or not ground or in the form of pellets, resulting from the extraction of palm nut or kernel fats or oils</i></p> <p><i>Ex 2905 45 Glycerol, with a purity of 95 % or more (calculated on the weight of the dry product)</i></p> <p><i>2915 70 Palmitic acid, stearic acid, their salts and esters</i></p> <p><i>2915 90 Saturated acyclic monocarboxylic acids, their anhydrides, halides, peroxides and peroxyacids; their halogenated, sulphonated, nitrated or nitrosated derivatives (excluding formic acid, acetic acid, mono-, di- or trichloroacetic acids, propionic acid, butanoic acids, pentanoic acids, palmitic acid, stearic acid, their salts and esters, and acetic anhydride)</i></p> <p><i>3823 11 Stearic acid, industrial</i></p> <p><i>3823 12 Oleic acid, industrial</i></p> <p><i>3823 19 Industrial monocarboxylic fatty acids; acid oils from refining (excluding stearic acid, oleic acid and tall oil fatty acids)</i></p> <p><i>3823 70 Industrial fatty alcohols</i></p>

<i>Relevant commodity</i>	<i>Relevant products</i>
<i>Rubber</i>	<p><i>4001 Natural rubber, balata, gutta-percha, guayule, chicle and similar natural gums, in primary forms or in plates, sheets or strip</i></p> <p><i>ex 4005 Compounded rubber, unvulcanised, in primary forms or in plates, sheets or strip</i></p> <p><i>ex 4006 Unvulcanised rubber in other forms (e.g. rods, tubes and profile shapes) and articles (e.g. discs and rings)</i></p> <p><i>ex 4007 Vulcanised rubber thread and cord</i></p> <p><i>ex 4008 Plates, sheets, strips, rods and profile shapes, of vulcanised rubber other than hard rubber</i></p> <p><i>ex 4010 Conveyer or transmission belts or belting, of vulcanised rubber</i></p> <p><i>ex 4011 New pneumatic tyres, of rubber</i></p> <p><i>ex 4012 Retreaded or used pneumatic tyres of rubber; solid or cushion tyres, tyre treads and tyre flaps, of rubber</i></p> <p><i>ex 4013 Inner tubes, of rubber</i></p> <p><i>ex 4015 Articles of apparel and clothing accessories (including gloves, mittens and mitts), for all purposes, of vulcanised rubber other than hard rubber</i></p> <p><i>ex 4016 Other articles of vulcanised rubber other than hard rubber, not elsewhere specified in chapter 40</i></p> <p><i>ex 4017 Hard rubber (e.g. ebonite) in all forms including waste and scrap; articles of hard rubber</i></p>

<i>Relevant commodity</i>	<i>Relevant products</i>
<i>Soya</i>	<i>1201 Soya beans, whether or not broken</i> <i>1208 10 Soya bean flour and meal</i> <i>1507 Soya-bean oil and its fractions, whether or not refined, but not chemically modified</i> <i>2304 Oilcake and other solid residues, whether or not ground or in the form of pellets, resulting from the extraction of soya-bean oil</i>

<i>Relevant commodity</i>	<i>Relevant products</i>
<i>Wood</i>	<p><i>4401 Fuel wood, in logs, in billets, in twigs, in faggots or in similar forms; wood in chips or particles; sawdust and wood waste and scrap, whether or not agglomerated in logs, briquettes, pellets or similar forms</i></p> <p><i>4402 Wood charcoal (including shell or nut charcoal), whether or not agglomerated</i></p> <p><i>4403 Wood in the rough, whether or not stripped of bark or sapwood, or roughly squared</i></p> <p><i>4404 Hoopwood; split poles; piles, pickets and stakes of wood, pointed but not sawn lengthwise; wooden sticks, roughly trimmed but not turned, bent or otherwise worked, suitable for the manufacture of walking sticks, umbrellas, tool handles or the like; chipwood and the like</i></p> <p><i>4405 Wood wool; wood flour</i></p> <p><i>4406 Railway or tramway sleepers (cross-ties) of wood</i></p> <p><i>4407 Wood sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or end-jointed, of a thickness exceeding 6 mm</i></p> <p><i>4408 Sheets for veneering (including those obtained by slicing laminated wood), for plywood or for other similar laminated wood and other wood, sawn lengthwise, sliced or peeled, whether or not planed, sanded, spliced or end-jointed, of a thickness not exceeding 6 mm</i></p> <p><i>4409 Wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rebated, chamfered, V-jointed, beaded, moulded, rounded or the like) along any of its edges, ends or faces, whether or not planed, sanded or end-jointed</i></p> <p><i>4410 Particle board, oriented strand board (OSB) and similar board (for example, waferboard) of wood or other ligneous materials, whether or not agglomerated with resins or other organic binding substances</i></p> <p><i>4411 Fibreboard of wood or other ligneous materials, whether or not bonded with resins or other organic substances</i></p> <p><i>4412 Plywood, veneered panels and similar laminated wood</i></p>

<i>Relevant commodity</i>	<i>Relevant products</i>
	<p><i>4413 Densified wood, in blocks, plates, strips or profile shapes</i></p> <p><i>4414 Wooden frames for paintings, photographs, mirrors or similar objects</i></p> <p><i>4415 Packing cases, boxes, crates, drums and similar packings, of wood; cable-drums of wood; pallets, box pallets and other load boards, of wood; pallet collars of wood</i></p> <p><i>(not including packing material used exclusively as packing material to support, protect or carry another product placed on the market)</i></p> <p><i>4416 Casks, barrels, vats, tubs and other coopers' products and parts thereof, of wood, including staves</i></p> <p><i>4417 Tools, tool bodies, tool handles, broom or brush bodies and handles, of wood; boot or shoe lasts and trees, of wood</i></p> <p><i>4418 Builders' joinery and carpentry of wood, including cellular wood panels, assembled flooring panels, shingles and shakes</i></p> <p><i>4419 Tableware and kitchenware, of wood</i></p> <p><i>4420 Wood marquetry and inlaid wood; caskets and cases for jewellery or cutlery, and similar articles, of wood; statuettes and other ornaments, of wood; wooden articles of furniture not falling in Chapter 94</i></p> <p><i>4421 Other articles of wood</i></p> <p><i>Pulp and paper of Chapters 47 and 48 of the Combined Nomenclature, with the exception of bamboo-based and recovered (waste and scrap) products</i></p> <p><i>ex 49 Printed books, newspapers, pictures and other products of the printing industry, manuscripts, typescripts and plans, of paper</i></p> <p><i>ex 9401 Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof, of wood</i></p> <p><i>9403 30, 9403 40, 9403 50, 9403 60 and 9403 91 Wooden furniture, and parts thereof</i></p> <p><i>9406 10 Prefabricated buildings of wood</i></p>

<i>Relevant commodity</i>	<i>Relevant products</i>

ANNEX II

Due diligence statement

Information to be contained in the due diligence statement in accordance with Article 4(2):

- 1. Operator's name, address and, in the event of relevant commodities and relevant products entering or leaving the market, the Economic Operators Registration and Identification (EORI) number in accordance with Article 9 of Regulation (EU) No 952/2013.***
- 2. Harmonised System code, free-text description, including the trade name as well as, where applicable, the full scientific name, and quantity of the relevant product that the operator intends to place on the market or export. For relevant products entering or leaving the market, the quantity is to be expressed in kilograms of net mass and, where applicable, in the supplementary unit set out in Annex I to Regulation (EEC) No 2658/87 against the indicated Harmonised System code or, in all other cases, expressed in net mass specifying a percentage estimate or deviation or, where applicable, volume or number of items. A supplementary unit is applicable where it is defined consistently for all possible subheadings under the Harmonised System code referred to in the due diligence statement.***
- 3. Country of production and the geolocation of all plots of land where the relevant commodities were produced. For relevant products that contain or have been made using cattle, and for such relevant products that have been fed with relevant products, the geolocation shall refer to all the establishments where the cattle were kept. Where the relevant product contains or has been made using commodities produced in different plots of land, the geolocation of all plots of land shall be included in accordance with Article 9(1), point (d).***
- 4. For operators referring to an existing due diligence statement pursuant to Article 4(8) and (9), the reference number of such due diligence statement.***

5. *The text: “By submitting this due diligence statement the operator confirms that due diligence in accordance with Regulation .../...⁺ was carried out and that no or only a negligible risk was found that the relevant products do not comply with Article 3, point (a) or (b), of that Regulation.”.*

6. *Signature in the following format:*

"Signed for and on behalf of:

Date:

Name and function:

Signature:"

⁺ OJ: Please insert in the text the number of this Regulation.