



## **Joint Recommendations for the EU Council during the trilogue on the proposed Deforestation-free Products Regulation from the European forest sector's representatives**

---

17 November 2022

After the Council had agreed on its General Approach on 24 June 2022, the European Parliament adopted its position on 13 September 2022 on the European Commission proposal for a Regulation 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 (“Deforestation-free Products Regulation) and repealing Regulation (EU) No 995/2010. The adoption of the two institutions’ positions triggered interinstitutional negotiations (the so-called “trilogue”) between the European Parliament, the Council of the European Union, and the European Commission, which are currently ongoing.

As a representative of the EU Member States, the role of the Council is crucial in reaching a compromise text that enables reaching the Regulation’s objective to curb deforestation worldwide, while at the same time ensuring the practical applicability and effectiveness of the Regulation for all key stakeholders.

Since long time, the European forest owners and managers as well as the European forest-based industries have been actively contributing to the future Regulation’s objective by producing and processing only wood legally sourced from sustainably managed forests and complying with the EUTR’s obligations. Wood used by the European industries is already subject to the highest supply-chain controls system in order to ensure legality and foster sustainability.

The European forest and forest-based sector’s main representatives, the European Confederation of Woodworking Industries (CEI-Bois), the European Sawmill Industry Organisation (EOS), the European Timber Trade Federation (ETTF), the Confederation of European Paper Industries (CEPI), the European Furniture Industries Confederation (EFIC), the European Panel Federation (EPF), the Confederation of European Forest Owners (CEPF), the European State Forest Association (EUSTAFOR), the European Farmers and European Cooperatives (COPA-COGECA), and the International Tropical Timber Technical Association (ATIBT), would like to offer several recommendations for the contents of the upcoming Regulation, that would significantly facilitate its implementation while maintaining effectively the scope of the Regulation:

1. Keep basic definitions as clear and operational as possible

**The definitions of “deforestation” and “forest degradation” proposed in the Council’s General Approach should be maintained as they are clear and easily implementable.** This approach is necessary to avoid that operators who source wood from sustainably managed forests are put in a situation of legal uncertainty. Compared to the Council’s position, the initial Commission proposal or



the Parliament's position do not only lack legal clarity but are also based on certain misperceptions which may be further misused (e.g. in the context of forest conversion). Above all, we would like to point out that changes in species composition might be necessary to adapt forest stands to fast changing climatic circumstances and to safeguard future biodiversity potential and forest resilience. Therefore, considering any changes in species composition as "forest degradation" or "conversion", as proposed by the European Parliament, will impede necessary actions on the ground. In order to avoid such misunderstandings, **the definition of "forest degradation" should be unambiguous in excluding sustainable forest management practices from a risk to be classified as a factor in degradation.**

2. New geo-location requirements should be implementable and not apply to operators in low risk countries

Our value chain recalls that the introduction of a mandatory geolocation requirement has been put forward without any proper impact assessment and without any consultation with forestry and timber experts as regards the elaboration on the methodology and its feasibility. Collecting geolocation data of small forest holders and passing them along in the value chain in a meaningful way implies important technical, logistical, legal, and governance challenges which currently go beyond the capacity of the responsible stakeholders.

Additionally, it is crucial that **operators and traders importing commodities and products from countries benchmarked as low risk should be exempted from the requirement of geolocation to avoid unnecessarily complicating the simplified due diligence process.** Apart from simplifications of the geolocation requirement, we regret that the European Parliament proposed to offer **less simplifications of due diligence requirements for operators which produce in low-risk countries.** This would not only put unjustified burden on operators but could also decrease incentives for countries to reduce their risk category.

As a note on the risk benchmarking of countries, in order to make implementation possible, the Commission should provide the classification of producer countries **prior to the implementation of this legislation.**

Reiterating and further emphasizing our demand to exclude from the geolocation requirement the low-risk countries, we support the proposal of the Parliament to have commodity-specific guidelines, to be prepared involving stakeholders directly affected by the compliance with this Regulation, as it is necessary to provide operators the necessary support to face the complex challenges of implementing the geolocation requirement in the respective value chains. It is also important that the implementation period for the geolocation requirement is extended to allow enough time for significant operational changes based on what is contained in the commodity-specific guidelines; **if the guidelines are to be issued within 12 months after the Regulation's entry into force, then the operators and traders should have at least 24 months to implement those guidelines.** Alternatively, the Regulation could specify that there is an implementation period of a specific duration after the commodity-specific guidelines are issued. At a minimum, regardless of the guidelines' adoption, an



implementation period of at least **5 years** after the entry into force of the Regulation should be offered to operators.

3. Measures protecting indigenous peoples should consider the role of forest certification schemes and be adopted in agreement with a panel of international experts and Representatives from IPLCs

In the adopted position of the European Parliament, there is a high number of legal obligations for operators and traders in relation to indigenous peoples. It should, however, be pointed out that there is no clarity on the definition of “indigenous peoples”. While there are existing UN definitions, in the text adopted by the European Parliament, “Indigenous Peoples” is associated with 'local communities', leading operators to great uncertainty. While we are strongly deploring and rejecting any form of violence against indigenous peoples, **we believe that the policy-makers should consider the role of the existing forest certification schemes, such as PEFC and FSC, as a tool to show compliance with the traditional and legal rights of indigenous peoples. When considering obligations and/or requirements for operators and traders in relation to indigenous peoples, this shall be done in consultation with the forest certifications bodies and with a panel of international experts and Representatives from IPLCs.**

4. Set up an expert group prior making the geolocation requirement mandatory and restrict the access to geolocation information to competent authorities

As the forest and forest-based sector has already communicated on several occasions, there is currently no geolocation system in place and the systems proposed by the Institutions are not commonly used by operators. So far, operators have not been provided with a realistic estimation of the costs for establishing a geolocation system. Therefore, **we urge the EU Institutions to set up an expert group, in consultation with third countries and operators, prior to making geolocation a mandatory requirement and to base the adoption and implementation of geolocation on the findings of this expert group.** This group should analyse when and under which conditions the geolocalisation requirement should be mandatory. In doing so, it is important to ensure that an efficient system is put in place that does not unduly burden operators.

Furthermore, serious concerns are raised regarding a possible public access to the geolocation information that operators are demanded to provide as part of their due diligence obligations, either via the registration of the due diligence statements in the so-called “Register” information system or, as proposed by the European Parliament, via annual reporting. Geolocation information is highly sensitive and its dissemination to the wider public could potentially result in major disruptions to the daily operations of operators and traders. At the same time, there is a significant risk of non-compliance to European Competition Law. Moreover, given the intense competition in the European woodworking sector, confidentiality around the so-called “resource area” is crucial. Therefore, **we call on the EU Council and the EU Member States to restrict the access to the geolocation information to competent authorities, in exercising compliance with their obligations under this Regulation.**



Moreover, it is the signatories' view that, in order to remove any duplication of the due diligence efforts, that duty shall remain on operators only, as already underlined by the Council in its General Approach. Therefore, traders should be exempted from the due diligence obligations. However, if traders that are not SMEs would still have to prove that the operators up in the supply chain had satisfied their own due diligence obligations, as posed by the General Approach, access to the reference number of each registered due diligence statement shall suffice. Access to the geolocation information is therefore not necessary for traders.

5. Consider all the potentially negative consequences of possible unsubstantiated concerns filed against operators or traders

While the European forest and forest-based sectors recognise the rights of natural and legal persons to submit substantiated concerns, a balance must be struck to also protect operators against unjustified claims with potentially far-reaching legal consequences. The Regulation should make clear that unsubstantiated concerns shall be rejected by authorities. It is important to emphasise that, overall, the measures aimed at increasing transparency are welcome as long as they cannot be instrumentalised by market competitors and other interest groups with the goal of damaging operators and traders via unfounded allegations. Furthermore, substantiated claims should also demonstrate that the claimants' rights are directly affected by the actions/inactions of the operator. The claims should additionally show that there is a valid interest in the claim (i.e. local issue) and that the information requested by the claimant is indeed necessary and not used for mass production of claims.

The signatories of this letter including the members they represent, support the objective of this new regulation, and express their interest and availability to collaborate in the elaboration of this new regulation and in its implementation. They are committed to sharing their decades of experience (*particularly through certification*) with the proponents of this regulation to further improve the legality of forestry activities and the integrity and traceability of the wood supply chain, while avoiding deforestation.

Signatories of the joint recommendations:

- ATIBT: International Tropical Timber Technical Association
- CEI-Bois: European Confederation of Woodworking Industries
- CEPF: Confederation of European Forest Owners
- CEPI: Confederation of European Paper Industries
- COPA-COGECA: European Farmers and European Cooperatives
- EFIC: European Furniture Industries Confederation
- EOS: European Sawmill Industry Organisation
- EPF: European Panel Federation
- ETTF: European Timber Trade Federation
- EUSTAFOR: European State Forest Association