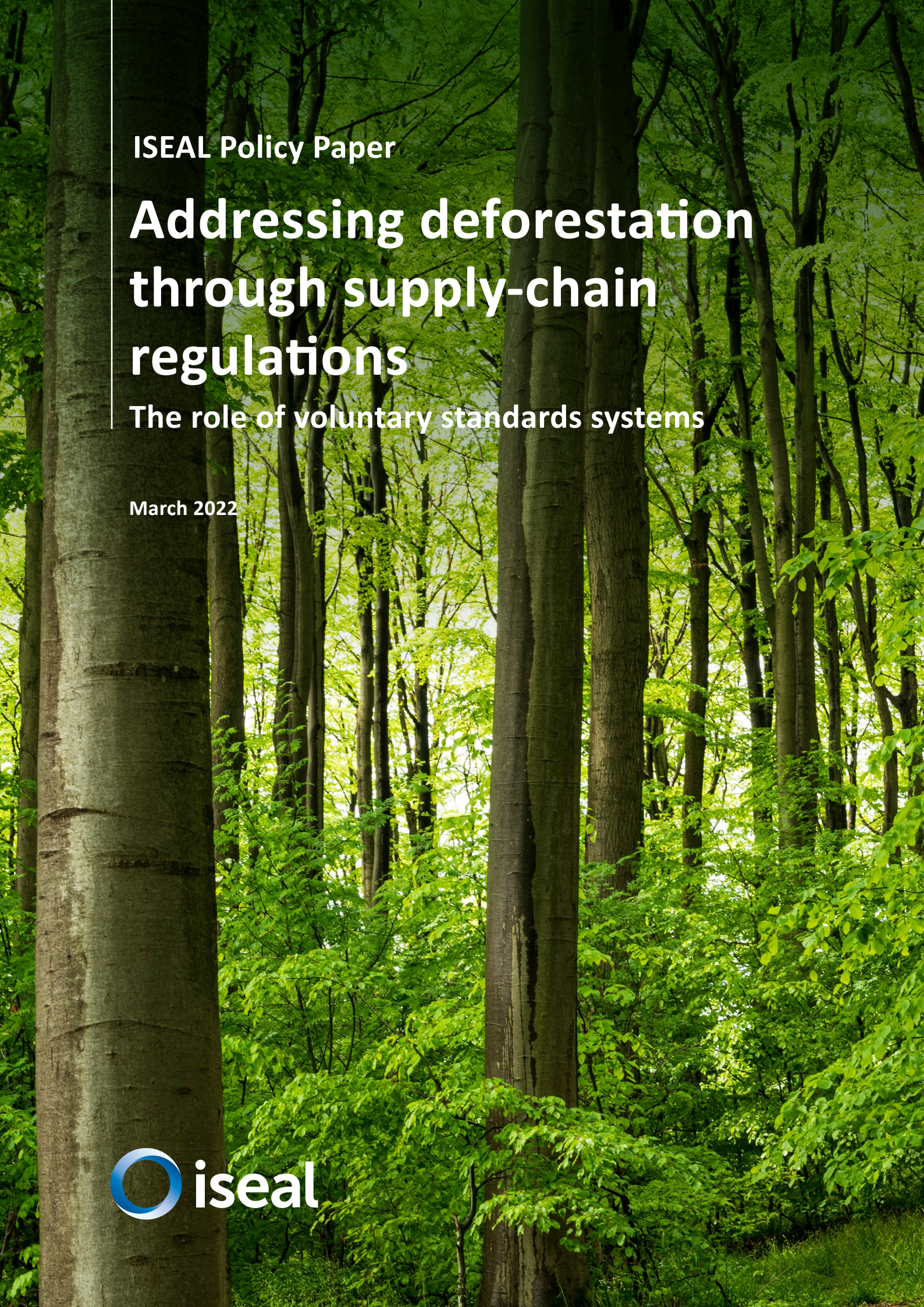

ISEAL Policy Paper

# Addressing deforestation through supply-chain regulations

## The role of voluntary standards systems

March 2022

iseal

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# Contents

# Executive summary

Forests are vital to the survival of the natural world. To decouple agricultural supply chains from deforestation, a 'smart mix' of policies is needed: a combination of mutually reinforcing measures that provides a framework for all stakeholders to act, both on the ground in producer countries and in consumer countries. This paper discusses how voluntary sustainability standards and certification schemes can play an important role in this smart mix, in particular in terms of supporting supply chain regulation.

Voluntary systems have laid the foundations for tackling deforestation in various sectors, and they can provide support tools through which companies and governments can effectively implement new legislative requirements. Certification systems can help streamline company actions and investments and ensure a producer-oriented approach in tackling deforestation. In doing so they enable and accelerate a broader transition towards sustainable practices. At the same time, they do not absolve operators from their duties and responsibilities under new due diligence obligations.

Concrete examples of how supply chain regulations use and incorporate sustainability standards can be found at EU and national levels. The examples included in this paper demonstrate how governments leverage sustainability standards to serve public policy ends. The analysis identifies various functions and roles that certification systems can provide within supply chain due diligence regulations (in addition to the consumer information roles that many of these systems play).

- **An indicator of compliance with selected criteria included in legislation.**
- **A source of information in the risk assessment step of a due diligence system.**
- **A tool to be used in the risk mitigation step of a due diligence system.**
- **A framework for engaging with and protecting smallholders and Indigenous peoples, and other actors in the supply chain.**
- **A mechanism and strategy to go beyond the minimum criteria specified in legislation, delivering additional benefits and outcomes.**



Applying these insights to the European Union's agenda on deforestation-free supply chains, this paper identifies opportunities for stronger synergies and integration between voluntary certification systems and the proposed deforestation due diligence regulation the EU is considering. These include:

- **Defining impactful, ambitious sustainability criteria such as 'deforestation-free':** Standards already contain definitions of deforestation, generally broader than the regulation's – including, for example, the concepts of high conservation value, high carbon stock, and free, prior and informed consent (FPIC); they also have more ambitious cut-off dates. This background should inform discussions on broadening the definition in any regulation, with the aim of improving its impact and extending its scope to ecosystems other than forests.
- **Information requirements:** Standards and certification systems can provide significant assistance in the information collection requirements of the due diligence system, including for geolocation and legal production. Much of the information they provide, such as evidence of legality, is verified ahead of the product being placed on the EU market, enhancing efficiency. Subsequent implementing regulations or guidance setting out details of the information collection procedure could highlight the role of certification schemes.
- **Risk assessment and mitigation procedures:** Standards and certification systems can provide valuable information in the risk assessment step of the due diligence procedure. They can also be employed in the risk mitigation step, as they have been in the EU Timber Regulation; this could be made explicit in any implementing regulations or guidance.[1]
- **Supporting effective and inclusive implementation:** Implementation and enforcement of any new regulations is likely to pose significant challenges for actors in supply chains, especially smallholders and informal producers. Certification systems already provide frameworks to support the inclusion of smallholders in sustainable supply chains, so could play a helpful role.
- **Promoting systemic change:** Standards include a much wider range of criteria than specified in the regulation, for example on human rights and social and labour rights. If the regulation incorporates standards effectively, it will incentivise their uptake, contributing to a wider transition of agricultural commodity supply chains to sustainable practices.

The different roles for standards depend on their scope and system credibility. For regulators to tap into the potential of voluntary standards, they will need to consider how they can set **minimum criteria for standards and certification systems** that are ambitious, comprehensive and in line with best practices. Criteria should include elements such as independence, reliability, transparency, independent assessments, a robust traceability system, system resistance to fraud, and other relevant system aspects. ISEAL's Credibility Principles provide the elements of such an assessment.

Certification systems are by no means the only tool needed, and companies should be incentivised to engage with their suppliers and invest in their supply chains beyond certification. But they have many advantages that policy-makers can leverage by further clarifying their role within supply chain legislation. Building on credible, global certification systems and their multistakeholder networks and platforms is especially important if EU policy-makers want to reduce global deforestation rates, not simply avoid imported deforestation.


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# 1. What is driving global deforestation?

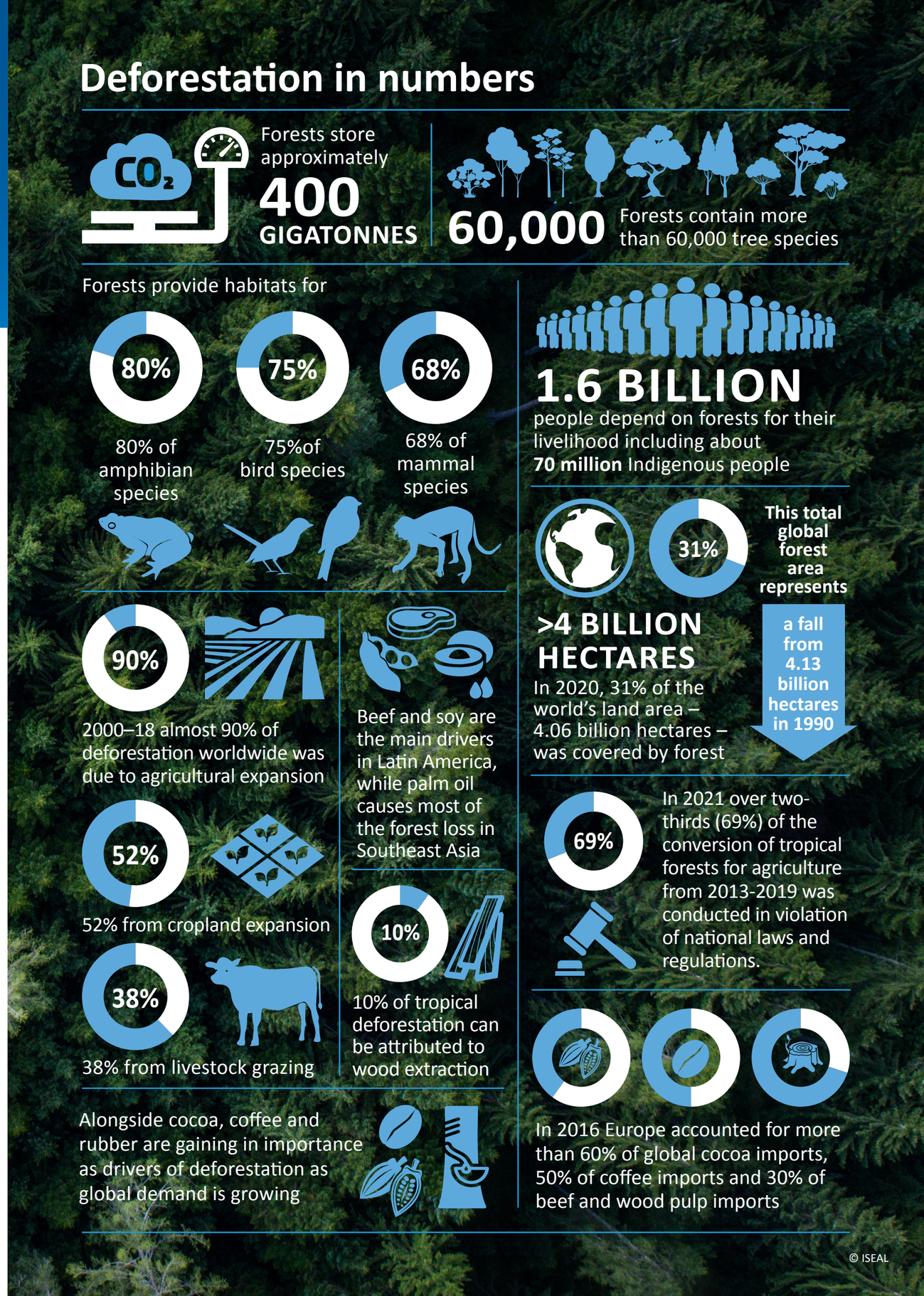
Healthy forests are vital to the survival of the natural world and human civilisation. Forest ecosystems are the largest terrestrial carbon sink, storing approximately 400 gigatonnes of carbon; they also regulate rainfall and water cycles. Forests contain more than 60,000 tree species and provide habitats for 80% of amphibian species, 75% of bird species and 68% of mammal species. Approximately 1.6 billion people depend on forests for their livelihood, including about 70 million Indigenous people.

In 2020, 31% of the world's land area – 4.06 billion hectares – was covered by forest, and of this total, about 45% was located in the tropics.[2] This total global forest area represents a fall from 4.13 billion hectares in 1990. Clearance for agriculture is the main global driver of deforestation. The United Nations Food and Agriculture Organization (FAO) global Remote Sensing Survey – one of the latest of a growing number of studies – has estimated that over the period 2000–18 almost 90% of deforestation worldwide was due to agricultural expansion, with 52% cent from cropland expansion and 38% from livestock grazing.[3]

A significant proportion of the clearance of forests for agriculture has been illegal. A comprehensive survey published by Forest Trends in 2021 estimated that more than two-thirds (69%) of the conversion of tropical forests for agriculture between 2013 and 2019 was conducted in violation of national laws and regulations.[4] Tropical deforestation for agriculture is driven by a small group of commodities. Beef and soy are the main drivers in Latin America, while palm oil causes most of the forest loss in Southeast Asia and may grow in significance in the Congo Basin. 10% of tropical deforestation can be attributed to wood extraction. Though less significant at the global scale, cocoa is an important driver of deforestation in West Africa. Alongside cocoa, coffee and rubber are gaining in importance as drivers of deforestation, as global demand is growing and readily available substitutes do not exist.

European countries are vital/integral importers of tropical commodities, but in most cases not (collectively the largest). In 2016 Europe (including the EU and European Free Trade Association (EFTA) countries) accounted for more than 60% of global cocoa imports, 50% of coffee imports and 30% of beef and wood pulp imports. Asia – mostly, though not only, China – is the largest importer of soy, rubber, palm oil and tropical timber.

Continued growth in world population and the expansion of the global middle class, with accompanying higher consumption levels of processed food and meat, seem likely to drive demand further upwards – strongly for palm oil and soy, more weakly for beef. Without significant policy changes, the further expansion of agricultural land into forests and other natural ecosystems is almost inevitable.[5,6]



# 2. Tackling tropical deforestation: the need for a smart mix of measures

In recent years, many initiatives designed to tackle tropical deforestation have been adopted by international institutions, governments (in both producer and consumer countries), and individual companies and industry associations and groupings. From the experiences of trying to decouple agricultural supply chains from deforestation, we know that there is no 'silver bullet – no single policy instrument or voluntary initiative can address all the drivers of unsustainable production. This has established the need for a 'smart mix' – a combination of mutually reinforcing measures that provides a framework for all stakeholders to play a role.[7]

This smart mix includes action on the ground in producer countries to increase the supply of deforestation-free agricultural commodities; as well as action in consuming countries to create a clear market demand for sustainable products. Coordination between these two spheres of action is an important element of the mix. Here, voluntary sustainability standards have demonstrated they are an effective tool to guide action on the ground in producer countries and link this to certification that is recognised by consumers and brands.

## 2.1 ACTION ON THE GROUND IN PRODUCER COUNTRIES

Conditions on the ground in producer countries are often inadequate to protect forests and promote sustainable, or deforestation-free, production. This is generally because the returns to producers from deforesting are greater than the returns from farming in ways that keep forests standing. Farmers, particularly smallholders, may also lack the capacity – including finance, technology and skills – to farm sustainably. In addition, forest and land-use governance frameworks in producer countries may be too weak to prevent deforestation.

Ideally, deforestation should be tackled by taking action on the ground in producer countries to change the conditions in which the forest-risk commodities are produced. Potential interventions include investments in improving productivity, improving access to inputs, sustainable techniques and training, including financial literacy, and loans for inputs and services. This is particularly important for smallholder farmers, who dominate the production of some crops, particularly cocoa, coffee and palm oil.

This also requires interventions by producer-country governments, including providing better infrastructure, welfare and public services such as health and education, and, critically, improving land and forest governance and law enforcement.

## 2.2 ACTION IN CONSUMER COUNTRIES

Consumer countries contribute to deforestation because they are an important source of demand for forest-risk commodities. This demand can be transformed by supporting or providing favourable market conditions for sustainable products and/or less favourable market conditions for unsustainable products. Several options are available, ranging from eco-labelling programmes aimed at consumers to differentiating import duties for sustainably produced products. Legislating to require due diligence by companies involved in commodity supply chains is another option.

Consumer-country actions such as these – especially if used in combination – can certainly have an impact. But they suffer from two main drawbacks. First, they cannot directly affect conditions on the ground in producer countries; they rely on establishing incentives that encourage farmers and producer-country governments to act. And if these incentives only apply to forest-risk commodities, the deforestation impacts could be transferred to commodities not covered.

Second, their effect will be restricted to those consumer countries implementing the measures, which means, at least in recent years, mainly the EU and UK. The EU is not the largest, and sometimes not even the second largest, global importer of many of the key forest-risk commodities, so its impact on producer countries will be limited. There is a risk that such policies will only attract the high-quality (sustainable, legal, zero-deforestation) products to a certain market, while unsustainably produced commodities continue to flow to other consumer countries that apply lower standards.

## 2.3 THE SMART MIX AND THE ROLE OF VOLUNTARY SUSTAINABILITY STANDARDS

If introduced in isolation, these measures will not achieve their full potential. Without demand-side measures in consumer countries, action in producer countries may simply result in companies sourcing their products more cheaply from other countries not implementing the same measures. Equally, without action in producer countries, demand-side measures such as due diligence legislation or market restrictions may simply result in cleaning up EU supply chains without addressing the drivers of deforestation on the ground.

An added dimension of the 'smart mix' is the interplay between regulatory and voluntary tools such as sustainability standards. Regulation is needed to create a legal floor, requiring businesses to meet certain minimum sustainability requirements. Likewise, voluntary initiatives are needed to demonstrate how these minimum requirements can be exceeded, accelerating a broader transition to sustainable practices.

If well designed and effectively implemented, all these sets of measures – demand side, supply side, regulatory and voluntary – can be mutually supportive. The exact composition of the smart mix is likely to vary with the commodity and the producer and consumer countries in question.

It is also likely that the appropriate smart mix will evolve over time[8]. There are examples where frontrunner companies have taken early steps to tackle deforestation by using their sourcing policies to incentivise producers in developing countries to comply with sustainability standards for forest-risk commodities. This has increased the supply of sustainable products and encouraged governments to modify their public procurement policies and ultimately regulate consumption, production and/or trade. Bilateral or multilateral agreements have followed (or sometimes preceded) national action, providing a spur to action and a level of confidence that other countries are following similar paths.

Effective means of verification are needed to support and complement many of the policies and measures discussed above, including due diligence, public procurement, transparency and stakeholder communication. Mechanisms for companies to demonstrate regulatory compliance are an important part of this. It is clearly preferable for governments to make use of existing tools, such as voluntary sustainability standards, than to construct new systems from scratch – provided they are robust and credible.

Finally, even after the introduction of regulation, standards can play a role in helping governments and consumers identify products that go beyond the minimum criteria included in the legislation. The existing and forthcoming market-related due diligence legislation in the EU and UK related to forest-risk commodities, for example, includes criteria only for legality (UK and EU) and deforestation (EU).

Voluntary standards can help to deliver more ambitious deforestation criteria, alongside criteria related to human rights, labour standards and other environmental aspects. In addition, they can cover pricing mechanisms or shared responsibility clauses – for example, requiring buyers to pay a premium for sustainably certified products or invest in smallholder development initiatives. Mechanisms and clauses such as these are particularly important as they tackle some of the structural drivers of deforestation and human rights abuses in producer countries. The analysis that follows sets out these arguments in more detail.

# 3. Sustainability standards and their impacts on deforestation and ecosystem conservation

The previous section argued that a smart mix of measures is needed to tackle deforestation. This section explains and elaborates why sustainability standards should be included in this mix.

Many standards, particularly those required by law, are product-based, relating to the characteristics of the product itself: examples include health and safety standards, and energy efficiency ratings for appliances. Sustainability standards are more complex: they relate to the conditions under which the product is produced, manufactured, grown, harvested or processed, and the impacts of these activities on economic, social and environmental factors. They are becoming more common as governments, business and consumers attempt to address the ever-more-urgent challenges of the climate and nature emergencies.

There are now many voluntary sustainability standards in use for forest-risk commodities; examples include those of the Forest Stewardship Council, Roundtable on Sustainable Palm Oil and Rainforest Alliance. Figure 1 illustrates the growth in the areas of land certified in eight key commodity sectors from 2008 to 2019.

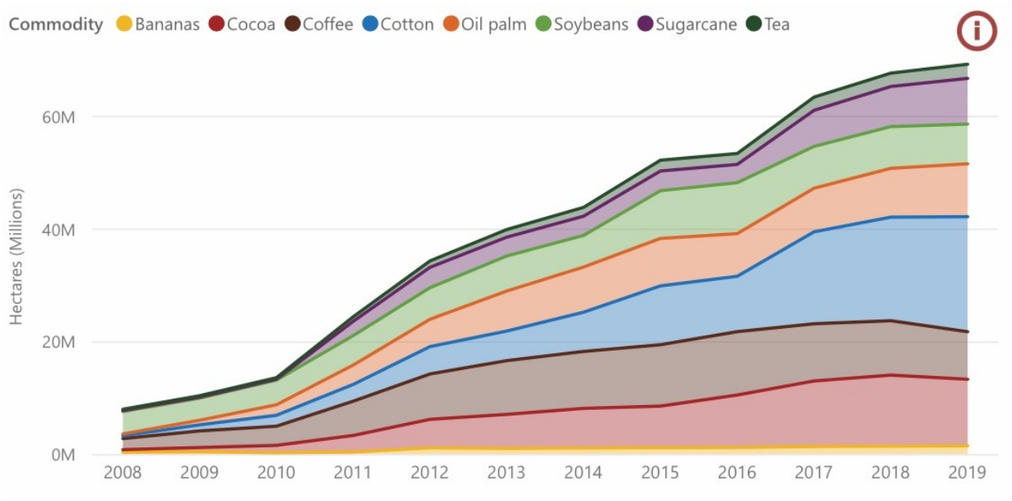



**Figure 1.** *Selected products certified by sustainability standards (minimum possible area)*[9]

These standards lie at the heart of the certification schemes managed by these organisations. They prescribe progressive production standards that certified producers, forest management units or farms must comply with – covering, for example, criteria for the protection of the environment, land rights, human rights, and labour conditions. They also set out procedures for establishing traceability, the certification process (including procedures for the appointment and assurance of certification bodies), and monitoring, auditing and verification procedures to check compliance, including regular reviews of the quality of implementation and impact assessments.

Through their membership requirements, certification schemes can place obligations on downstream companies, committing them to increased purchase volumes of certified products over time, longer-term contractual relations, and active investment in producer countries. Many of these investments are targeted at smallholder producers, recognising that small producers cannot take advantage of the economies of scale associated with certification.

## SUMMARISING THE POTENTIAL BENEFITS OF STANDARDS AND CERTIFICATION SCHEMES:


- Connecting producers and consumers to establish a shared commitment to sustainability.
- Helping to make value chains more transparent, enabling informed choices both in business-to-business and business-to-consumer relations.
- Empowering smallholder organisations to build capacity and transition to sustainable practices.
- Delivering resources to farmers and farmer organisations, including training and knowledge transfer, and payments for ecosystem services.
- Engaging buyers in targeting such investments.
- Supporting consumer-country initiatives such as those discussed in section 2.2.
- Developing and sharing knowledge and data on sustainability practices.
- Providing frameworks and resources to deliver targeted interventions, for example to tackle deforestation, child labour in supply chains or smallholder development.
- Going beyond minimum legal standards established by governments to deliver a wider approach to sustainability, including environmental and social considerations.
- Protecting, supporting and engaging with Indigenous peoples.

The next sections focus on the extent to which these potential benefits are realised in practice, and looks at the impacts and business case for using sustainability standards as well the implementation challenges.

## 3.1 THE IMPACTS OF VOLUNTARY SUSTAINABILITY STANDARDS ON DEFORESTATION

There is a growing literature on the impacts of voluntary sustainability standards. Indeed, as the oldest and the most researched of sustainability approaches, there is much more evidence of their impacts than for newer approaches such as company sourcing codes, jurisdictional approaches or investment programmes. A review of the systemic impacts of voluntary sustainability standards, published in 2018, concluded that 'there is increasing evidence of the certification impacts of voluntary sustainability standards in the sectors they have been designed for'.[10] The study found that the implementation of voluntary sustainability standards had contributed to reduced operational costs and improved reputations, increased product quality, higher incomes, improved labour conditions and lower water contamination.[11, 12]

Looking at voluntary sustainability standards of direct relevance to forest protection and deforestation, a systematic review of the effectiveness of different conservation approaches published in 2019 found the impacts of certification to be mostly positive.[13] Findings included a reduction in tropical deforestation and forest degradation in some (though not all) places and better outcomes for biodiversity. Similarly, a review of 20 years of forest management certification in the tropics, published in 2020, found that certification created strong incentives to protect forest resources among both large and small forest owners.[14] The review concluded that offering continuous technical and financial support to promote long-term certification, particularly among smallholders, could be a good strategy to increase their resilience and help them overcome difficult economic periods.

The role of voluntary sustainability standards in tackling illegal deforestation and supporting compliance with due diligence legislation was assessed in the case the EU Timber Regulation (EUTR), which aims to minimise the risk of placing illegally sourced timber products on the EU market. A study by the consultancy Preferred by Nature, published in 2021 as part of the European Commission's 'fitness check' of the EUTR, stressed the important role of certification schemes. It highlighted their ability to provide reliable information in a cost-effective manner, concluding that: 'The certification of forest products provides both assessment and assurance of most aspects of legality and also provides systems to control and manage fraud and corruption. In addition, the application of chain of custody systems on certified material claims, support the ability to access supply chain information and control the flow of material through the supply chain. It is concluded that certification is a key tool for Operators for meeting EUTR due diligence obligations.'[15]
See section 4.3 for further analysis on this.

Many voluntary sustainability standards for agricultural commodities contain criteria designed to protect forests and avoid deforestation. A 2018 study found that certified farms performed better on biodiversity conservation and tree-cover loss in some settings, though no significant difference was found in others.[16] A 2020 study on the deforestation impacts of the Roundtable on Sustainable Palm Oil certification scheme in Indonesia found that certification had reduced deforestation within the forest estate, though not outside.[17]

Studies have also found positive social outcomes. A 2017 study of the cocoa sector found that Rainforest Alliance certification had had positive impacts on the incidence of child labour and access to education, alongside better practices in retaining shade trees and in handling agrochemicals, and some improvements in cocoa yields and incomes.[18] Another study in 2018 found some improvements in agricultural, social and environmental practices, marginal improvements in crop productivity, incomes and environment, but significant improvements for certified farmers receiving full packages of services, including inputs and training.[19]

There can also be a strong business case for certification. A WWF study of Forest Stewardship Council timber certification in 2015, for example, found that certified companies earned on average an extra US$1.80 for every cubic metre of certified roundwood.[20] The business case was strongest for tropical forest operations and small to medium-sized producers. In 2017 an overall analysis of 40 separate studies concluded that 78% of the businesses surveyed considered improved business operations to be a benefit of using credible sustainability standards, including improved reputation, improved profitability, cost reductions and growth in production.[21] Other benefits included better supply chain management and improved market access.[22]

Standard-setting organisations that focus on individual business units or groups and supply chains have found it more challenging to address unsustainable practices in the wider landscape. The 2018 study cited earlier, however, found that standard-setting organisations were increasingly involved in efforts to influence the enabling environment, for example through facilitating multistakeholder dialogues and private and public sector engagement, and developing and sharing the knowledge base on sustainable practices.



## 3.2 CHALLENGES STANDARDS FACE IN ACHIEVING THEIR OBJECTIVES

Voluntary sustainability standards face several challenges in achieving their objectives. These can be summarised as weaknesses in their criteria; weaknesses in their implementation; high costs of implementation; inability to affect the broader enabling environment; and lack of coverage of commodities and markets. All these factors vary significantly between standards, commodities and countries.

One criticism is that voluntary sustainability standards fail to cover the criteria necessary to deliver the required social and environmental outcomes.[23] The Preferred by Nature study cited above, for example, pointed to gaps in standards' definitions of legality which posed problems for compliance with the EUTR. Clearly, if standards are to be of value in supporting implementation of other elements in the smart mix of measures to tackle tropical deforestation, they must contain relevant criteria; as noted, not all voluntary sustainability standards are the same. This points to the need for a careful evaluation of available standards against the desired objectives when using them to support other measures or incorporating them in a smart mix. It should be noted, however, that the more robust voluntary sustainability standards continually evolve, publishing revised principles and criteria at regular intervals, based on solid stakeholder consultation processes that should pick up and act upon any critical missing criteria.

Criticisms are more frequently made of weaknesses in the implementation of voluntary sustainability standards and certification processes. For example, the European Commission's impact assessment of potential options to reduce the impact of EU consumption on forests, published in 2021, stresses the shortcomings of voluntary sustainability standards in terms of governance, transparency, clarity of standards and reliability of monitoring systems.[24] It highlights concerns over the efficiency and integrity of chain-of-custody systems and the possibility of deliberate fraud by certified companies misleading their auditors and selling volumes of certified products that exceed the volume of certified raw material they are buying.

Other criticisms have been made of a lack of independence of auditors from the companies they are auditing. Also, voluntary sustainability standard assurance may not be able to guarantee that practices continuously meet the standards in between conformity assessments. As above, this points to the need for a careful evaluation of standards and their implementation, with the aim of distinguishing credible from non-credible standards.

Specific issues can arise over the chain-of-custody and traceability models used by many certification systems. 'Mass balance' and 'book-and-claim' (or certificate-based) models allow for the mixing of certified with non-certified materials, in contrast to segregated and 'identity-preserved' models, which guarantee physical traceability; this may not always be sufficient to meet policy objectives.

The costs of implementation of voluntary sustainability standards can be a barrier, particularly for smallholder farmers; certification processes can be costly and time-consuming to introduce and implement. Some standards organisations have made efforts to address this through, for example, specific smallholder standards, providing support for audits and processes for group certification. It can be argued, however, that resources spent to certify operations and to support schemes' managerial structures could be better used for other ends.

As noted above in section 3.1, voluntary sustainability standards, with their focus on operational units and supply chains, can struggle to address unsustainable practices in the wider enabling environment, limiting their impact. This points once again to the need for a smart mix of measures, in which voluntary sustainability standards can play a necessary but not sufficient part. Also, as noted, standard-setting organisations have increasingly been involved in various efforts to influence the enabling environment.[25]

Finally, the coverage of voluntary sustainability standards certainly varies by commodity. Among forest-risk commodities, certification for soy, beef and rubber is much less significant than for timber, palm oil, cocoa or coffee. Coverage also varies between countries; for timber, certification is much more widespread in Europe and North America than in tropical forests in developing countries. Demand for certified products also varies significantly, with greater demand generally seen in western and northern European countries than elsewhere; though where companies in the supply chain commit to sourcing certified products regardless of customer, this factor is less important. As above, this points to the need to include a range of measures in the smart mix and not to rely on voluntary sustainability standards alone.

# 4. The use of sustainability standards in EU policy: emerging practices and insights

This section reviews the use of standards in four sustainability policies at EU or EU member-state level.[26] The purpose of this analysis is to highlight the different ways EU policymakers have historically referenced and used standards in their sustainability policies. The cases illustrate the range of options available to regulators who want to use and reference certification schemes.

This section reviews the use of standards in four sustainability policies at EU or EU member-state level. The purpose of this analysis is to highlight the different ways EU policymakers have historically referenced and used standards in their sustainability policies. The cases illustrate the range of options available to regulators who want to use and reference certification schemes. Different functions and roles that certification systems have provided include:

- **An indicator of compliance with selected criteria included in legislation.**
- **A source of information in the risk assessment step of a due diligence system.**
- **A tool to be used in the risk mitigation step of a due diligence system.**
- **A framework for engaging with and supporting farmers, particularly smallholders, and other actors in the supply chain.**
- **An incentive to go beyond the minimum criteria specified in the legislation, delivering additional benefits beyond the do-no-harm interpretation of due diligence.**

The examples above illustrate these functions and also point to some of the issues that must be resolved when making sustainability standards part of a regulatory framework.

## 4.1 STANDARDS AS INDICATORS OF COMPLIANCE: TIMBER PROCUREMENT POLICIES

Public procurement or purchasing by public authorities – central, regional and local as well as their agencies – is a significant market driver. In the EU it accounts for 15 to 20% of GDP on average, though this varies substantially by sector and product.[27]

Many governments have used their public procurement policy to encourage the purchase of sustainably or responsibly sourced products for use in the public sector; for example, more than 30 countries, mostly in the EU, now require or encourage public-sector purchasers to buy or specify timber products that have been legally or sustainably produced (the details differ by country).[28] Public authorities are major buyers of timber for construction, office and park furniture, and paper and card, so their purchasing decisions can have a significant effect on the market.

The criteria included in these timber procurement policies vary, from simple requirements on government buyers to acquire 'legal' or 'sustainable' timber, without setting out detailed definitions of exactly what these terms mean, to relatively sophisticated sets of sustainability and legality objectives. In practice, the main routes by which suppliers have been able to meet these criteria have been to provide products certified under one of the two main global timber certification schemes, those of the Forest Stewardship Council (FSC) and Programme for the Endorsement of Forest Certification (PEFC). Some government buyers use the definitions set out in these schemes to develop their requirements, and explicitly state that these criteria can be met by demonstrating conformity with voluntary schemes. Other countries have conducted detailed evaluations of these schemes against their own criteria to check whether or not they meet them.

EU procurement rules require specifications to be described in the form of general criteria rather than simply in terms of conformity with specific labelling or certification schemes, but they do permit public authorities to indicate whether or not particular schemes meet the criteria. They must also allow for suppliers to provide evidence that their products meet the criteria even if they are not certified, and some member states have established specific procedures to apply in these cases. In practice, however, this route is infrequently followed, except for specialist uses where certified products are not available in sufficient volume (such as timber for harbour defences).

This is a good example of governments co-opting voluntary sustainability standards to serve public policy ends – sometimes called 'co-regulation', a combination of public and private regulation to provide the best mix for a given issue. In theory, government buyers could have established systems requiring suppliers to provide evidence of conformity with the procurement criteria without reference to any other system – but where existing voluntary sustainability standards do meet these criteria, it is far simpler and more cost-effective, for both suppliers and buyers, to make use of them.

## 4.2 STANDARDS AS INDICATORS OF COMPLIANCE: THE EU RENEWABLE ENERGY DIRECTIVE

The EU Renewable Energy Directives – 2009/28/EC, covering the period to 2020, and (EU) 2018/2001, covering the period after 2020 – use voluntary sustainability standards as indicators of compliance. Both Directives contain sustainability criteria for liquid biofuels (criteria for solid biomass were added in the 2018 Directive). Biofuels are only eligible for financial and regulatory support if they meet specified greenhouse gas savings compared to fossil fuels across their life cycle. The feedstock is also required not to have been obtained from highly biodiverse land, land with high carbon stock or peatland.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The Directive specifies that certification schemes may be used to demonstrate compliance with these sustainability criteria (though users may provide their own evidence for uncertified feedstock); schemes were to be assessed against the criteria by the European Commission. This led to a rapid expansion in the number of sustainability standards covering biofuels, both through specific add-on modules for existing voluntary sustainability standards and new certification programmes designed exclusively around the Directive's sustainability criteria. The recognition and assessment of schemes is publicly available, and as of March 2022, 14 schemes are recognised.[29]

These developments were not all positive, however. Many critics pointed both to the lack of ambition in the sustainability criteria themselves and to weaknesses in some of the certification schemes. In 2016 the European Court of Auditors concluded that the certification framework failed to properly track a range of issues, including land tenure conflicts, working conditions during biofuel production, the environmental requirements of the criteria, and indirect land use-change and possible impacts on food prices caused by biofuel production.[30]

The Court recommended the Commission carry out a more comprehensive assessment of schemes to ensure that they dealt adequately with these problems. Recognising some of the challenges discussed above in section 3.2, the Court also concluded that the Commission should assess whether the schemes' systems of governance were adequate to avoid conflicts of interests and deliver transparency, and whether they featured transparent complaints systems. The Court recommended that the Commission should supervise recognised schemes more closely.

Several of these problems have been addressed in the 2018 Directive and accompanying legislation dealing with indirect land-use change. In particular, requirements for adequate standards of reliability and transparency for recognised standards were added to the 2009 Directive's requirement for independent auditing.

Performance, impact and positive sustainability outcomes are interlinked. An analysis in 2013 of the standards recognised under the Directive concluded that multistakeholder schemes – those where a diverse range of stakeholders are involved in all aspects, from standard-setting to audits and governance – tended to have higher ecological and social requirements, as well as better field-level implementation, due to their solid governance structure, transparency and strong audit and accreditation requirements.[31]



## 4.3 STANDARDS AND DUE DILIGENCE OBLIGATIONS: THE EU TIMBER REGULATION

The idea of 'due diligence' was originally a legal concept applying to individuals – reasonable steps taken by a person in order to avoid committing an offence. It is increasingly being applied to businesses, particularly as regards the impact or potential impact of companies' operations and supply chains on the environment, human rights, and social and labour standards. The due diligence concept is now present in EU legislation on money laundering, hazardous substances, food safety, genetically modified foods and crops, illegally sourced timber and conflict minerals, and also in national legislation in several EU member states. Outside these areas, many businesses also employ due diligence approaches on a voluntary basis.

The EUTR was agreed in 2010 and entered fully into force in 2013.[32] It has two main provisions. It prohibits the placing on the EU market for the first time of illegally harvested timber, and products derived from such timber, whether imported or domestically produced. It also requires operators who place timber products on the EU market for the first time to exercise due diligence with regard to those products, in order to minimise the risk of them handling illegal timber. To do this, they need to possess a framework of procedures and measures: a due diligence system.

A due diligence system must provide a means of ensuring access to information on the products and a process for analysing and mitigating against the risk of placing illegally harvested products on the market. This includes obtaining full information on the products, including their legal status and the countries, regions and sometimes forests of origin. The higher the risk of illegal behaviour in the place of origin, the greater the degree of knowledge the operator must have of the product and its chain of custody.

The role of voluntary sustainability standards and certification schemes is clearly recognised in the regulation itself, which states that: 'In order to recognise good practice in the forestry sector, certification or other third party verified schemes that include verification of compliance with applicable legislation may be used in the risk assessment procedure' (Recital 19). This is repeated in the description of the risk assessment process in Article 6(b).

The EUTR Implementing Regulation adopted in 2012 specifies that the certification or other third-party verified schemes referred to can only be taken into account where they meet certain criteria. These include having requirements on legality, a robust third-party verification system, a supply chain traceability mechanism and controls in place to prevent illegally harvested timber entering the supply chain.[33]

This approach was further elaborated in guidance from the Commission produced in 2016. This mainly sets out a description of the information the company needs to have available about the certification scheme itself.[34] In general, the Commission has made it clear that if a company purchases certified timber products it is not released from its obligation to carry out due diligence; it must still ensure that it can access information on the products it sources, and verify that the supplied products have a valid certificate (to avoid fraud in claims of certification).

Evidence from the only in-depth study conducted to date of company behaviour in response to the regulation, published by Forest Trends in March 2021, confirms that companies do tend to treat certified products as evidence of compliance with the EUTR, and certainly the introduction of the regulation has led to an increase in the purchasing of certified timber.[35] The study, based on in-depth interviews with 72 operators, found that:

- 95% of operators mentioned using independent third-party certification or verification schemes as part of their risk mitigation measures. The proportion of certified timber they were importing had risen markedly from 2012 to 2019 (half the operators interviewed reported 70% or more), though the EUTR was not the only reason.
- Certified products were particularly requested when the source was a perceived high-risk country; if they were not available the operator would request sight of a wide range of documents from its suppliers.
- Three-quarters of operators reported evaluating certification claims, including 20 that specifically checked for fraud. One commented that: 'before the EUTR, we only bought certified timber, but now we understand that we need to thoroughly study and assess all documents/claims.' [36]

Anecdotal evidence also suggests that competent authorities in EU member state tend to treat certification as proof, or at least a strong indication, of compliance, particularly where the products originate from perceived low-risk countries. As mentioned in section 3 above, the Preferred by Nature report published by the Commission in July 2021 highlights the value of voluntary sustainability standards to the implementation of the EUTR, while calling for a number of reforms to the schemes themselves: 'In summary, the findings show that none of these schemes are perfect or can provide complete control of supply chains, but at the same time they are an essential tool to meet EUTR requirements'.[37]


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## 4.4 STANDARDS AND DUE DILIGENCE OBLIGATIONS: THE EU CONFLICT MINERALS REGULATION

The EU Conflict Minerals Regulation ((EU)2017/821) was agreed in 2017 and entered fully into force in 2021.[38] It targets the trade in gold, tin, tantalum and tungsten from areas affected by or at high risk of conflict. Any enterprise importing these minerals to the EU, whether as ores, concentrates or processed metals, is required to exercise due diligence in their supply chains, with the aim of ensuring that the minerals and metals they buy and sell are not funding armed groups or security forces in areas of conflict. The specific guidance for the process of due diligence is drawn from the OECD's Due Diligence Guidance for Responsible Supply Chains from Conflict-Affected and High-Risk Areas, originally agreed in 2011 and revised to cover these minerals in 2013.[39]

The regulation does not apply to companies below a set threshold of volume of imports, specified in the regulation and different for each mineral and metal – requirements apply to roughly the top 80% of imports. Although the regulation applies only to companies importing into the EU, it has an indirect effect on companies outside, since EU importers are required to identify smelters and refiners in their supply chains and check whether they have the correct due diligence practices in place. The due diligence procedure for importers is similar to that set out in the EUTR, requiring the companies to establish strong management systems, identify and assess risks in the supply chain, and design and implement a strategy to mitigate the risks. It is different from the EUTR in also requiring an independent third-party audit of the due diligence system, together with an annual report from each company.

Various industry initiatives have developed voluntary standards and certification schemes to assess due diligence efforts in the mining sector: examples include the Responsible Jewellery Council certification scheme, which includes both a code of practice for members and a chain-of-custody standard for gold and precious metals. The regulation allows for governments, industry associations and other organisations to apply to the European Commission to recognise any supply chain due diligence schemes they have developed and oversee, and in 2019 the Commission adopted a delegated regulation covering the procedures for assessment and recognition.[40] The key requirement is that the scheme should be aligned to the OECD Due Diligence Guidance and meet the procedural requirements such as stakeholder engagement, grievance mechanisms and responsiveness.

As with the EUTR, however, both the Conflict Minerals Regulation and the delegated regulation make it clear that importers retain the responsibility for compliance with the due diligence obligations, irrespective of whether they are covered by a supply chain due diligence scheme recognised by the Commission. This is another example of the EU using third-party schemes to signal compliance with the criteria set out in EU regulation – in this case, the quality of the importer's due diligence scheme rather than the products subject to the regulation.



## 4.5. SUMMARY

The examples presented here illustrate the different ways in which European legislators have considered and used sustainability standards and certification in their policies. These examples also point to some of the inherent risks and challenges that come with using certification.

These uses of standards and certification can be summarised as follows:

- **Certification as a tool to design and inform legislation:** The EU timber procurement example shows how the definitions and requirements around sustainable forest management that schemes such as FSC and PEFC have pioneered have also been taken up by regulators in their policies. This approach is clearly efficient, but where these definitions originate from organisations outside of multilateral organisations and agreements, such as voluntary sustainability schemes, their legitimacy could be questioned.

- **Certification as an indicator of compliance with legislation:** The most common way that policymakers have used certification is as an indicator of legislative compliance. Here, three different approaches can be observed:

  **I.** Regulators specify which certification schemes they will accept as evidence of compliance with a piece of regulation. This approach is used in timber procurement policies in some countries like Germany.

  **II.** Policymakers develop a framework or a meta-standard and then either invite schemes to become recognised or benchmarked against this framework, or do the benchmarking themselves. The UK's timber procurement policy, the EU Renewable Energy Directive and the EU Conflict Minerals Regulation are examples of this approach. In the case of the Conflict Minerals Regulation regulators are quick to point out that importers retain the responsibility for compliance with the due diligence obligations, irrespective of whether they are covered by a recognised scheme. This approach creates a degree of certainty around which schemes regulators consider acceptable.

  **III.** Certification or other third-party verified schemes can used to demonstrate compliance, but only where they meet certain minimum criteria – many of which are procedural in nature. It is up to the company to assess whether the certification schemes it uses meets these criteria. This approach, which can be seen in the EUTR, creates a degree of uncertainty on the part of companies and requires them to have a high level of information and understanding about how a specific scheme works.

- **Certification as a tool to inform and assess sustainability risks:** Where regulations require companies to carry out a sustainability risk assessment as part of their due diligence obligations, certification schemes can provide information to support this process. The EUTR example illustrates this point: here, certification schemes can provide verified information on the legal status of a timber product and the country, region and sometimes forests of origin.

- **Certification as a mechanism to mitigate sustainability risk:** Compliance with a sustainability standard – certification – is clearly one way firms can mitigate their sustainability risks. All the examples presented illustrate this point. Certification schemes that exceed the minimum criteria specified in legislation have a bigger impact on sustainability outcomes than those that are designed with the minimum requirements in mind. This is shown by the example of EU Renewable Energy Directives, which highlights the interplay between a scheme's governance approach, performance and impact.

# 5. Identifying the role for standards in the EU's proposed deforestation regulation

Formally, deforestation has been on the EU's policy agenda since 2008. In recent years the topic has gained significant momentum and resulted in the publication of a comprehensive roadmap and updated communication in 2019. In November 2021 the European Commission published its proposal for a regulation on deforestation.[41] This proposed regulation requires companies trading in forest-risk commodities to undertake due diligence before placing these commodities on the EU market to ensure they were legally produced, and did not originate from land was deforested after 2020.

For this regulatory proposal, the Commission has clearly drawn lessons not only from the design and implementation of the timber and conflict minerals regulations, but also from draft legislation proposed by the European Parliament in October 2020.[42] As discussed in sections 3 and 4, there are several ways in which standards and certification systems can help support the implementation of regulations in general, and due diligence laws in particular.

Section 5.1 analyses the extent to which the text of the European Commission's proposal for a deforestation regulation incorporates these different uses. Section 5.2 sets out recommendations for developing the text further to make better use of the potential of standards and certification systems in meeting the aims of the regulation.

## 5.1 STANDARDS IN THE PROPOSED EU DEFORESTATION REGULATION

The proposed regulation contains the following main elements:

- A prohibition on first placing on the EU market or making available specified forest-risk commodities and products, or exporting them from the EU, unless they are deforestation-free and have been produced in accordance with the relevant legislation in the country of production. 'Deforestation-free' is defined as meaning produced without deforestation or forest degradation after 31 December 2020.
- An obligation on operators (companies or individuals) first placing products on the market or exporting them to exercise due diligence to ensure their compliance with these criteria.
- An obligation on operators to have in place a due diligence system, including processes for collecting information and carrying out risk assessment and risk mitigation. This includes the requirement to collect information on the geographic coordinates of the land on which the products were grown, which could be double-checked via satellite images.
- A 'benchmarking system' placing producer countries, or parts of them, in three tiers of risk: high, standard and low. The level of risk will be based on an assessment of the rate of deforestation; the rate of expansion of agricultural land and production trends of relevant commodities and products; consideration of relevant elements (if any) of the country's nationally determined contribution to the Paris Agreement on climate change, and of any agreements between the country and the EU that address deforestation; and the presence of relevant national laws and whether they are effectively enforced.
- A simplified due diligence procedure for operators sourcing products from low-risk countries; this includes only the information collection requirements of the due diligence procedure and not the risk analysis or mitigation steps.
- Obligations on member states' competent authorities to carry out checks on operators and traders (of greater frequency for companies sourcing from high-risk countries – referred to as 'enhanced scrutiny') and to cooperate and exchange information with each other and with the Commission. Minimum penalties for non-compliance are specified in some detail. Member states are required to report annually on their application of the regulation.
- An obligation on the Commission to 'develop partnerships and cooperation' with producer countries 'to jointly address deforestation and forest degradation', including allowing for the full participation of all stakeholders, including civil society, Indigenous people, local communities and smallholders.
- The commodities to be covered are beef, cocoa, coffee, palm oil, soy and wood; this includes several semi-processed and processed products, such as chocolate and leather. The regulation supersedes the EUTR and there is a commitment to review the coverage of commodities and products no later than two years after the entry into force of the regulation, and at regular intervals thereafter. This review will also look at the feasibility of extending the scope to ecosystems other than forests, such as grasslands, peatlands and wetlands.
- A commitment to a general review of the regulation, to be carried out within five years of its entry into force, including consideration of the need for additional trade facilitation tools, 'including through recognition of certification schemes'; and the impact 'on farmers, in particular smallholders, indigenous peoples and local communities and the possible need for additional support for the transition to sustainable supply chains'.

The draft regulation is modelled to a large extent on the EUTR, but goes significantly further in several respects. The criteria are much wider – zero-deforestation and illegality rather than just illegality. The zero-deforestation criteria are in principle independently verifiable through satellite images.

The prohibition and the due diligence obligations apply not just to companies first placing the products on the market but to all companies in the supply chain apart from SME traders. The due diligence obligations are spelt out in more detail, and the benchmarking system is completely new.

Voluntary sustainability standards and certification schemes are mentioned in three places in the proposed regulation. One of the paragraphs of the preambular text (Recital 35) states that:

> *In order to recognise good practice, certification or other third party verified schemes may be used in the risk assessment procedure, however, they should not substitute the operator's responsibility as regards due diligence.*

This language is very similar to the equivalent text in the EUTR. Article 10(2), detailing the risk assessment procedure, includes as criteria to which the risk assessment shall take 'special account':

> *(j) 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 [the 2018 Renewable Energy Directive – see section 4.2], provided that the information meets the requirements set out in Article 9.*

Article 9 lists the information required under the due diligence procedure, including geographic location, operators in the supply chain and 'adequate and verifiable information' that the products are deforestation-free and have been produced legally. The explanatory notes provided with the proposed regulation point out that: 'Geographic information linking products to the plot of land is already used by industry and certification organisations, as well as on relevant EU legislation.'

As noted above, Article 32, on reviews of the regulation, includes the commitment to include in the first general review, to be conducted no later than five years after the regulation's entry into force:

> *2 (a) the need for and feasibility of additional trade facilitation tools to support the achievement of the objectives of the Regulation including through recognition of certification schemes.*

## 5.2 INTEGRATION OF STANDARDS IN THE PROPOSED EU DEFORESTATION REGULATION: OPTIONS AND INSIGHTS FOR POLICYMAKERS

The proposed regulation includes a role for standards and certification in its implementation and, through the commitment to a general review in Article 32, holds opens the possibility of an expanded future role.

Based on the analysis in previous sections, a number of possible areas can be explored to ensure the proposed regulation enables credible standards and certification systems to play a larger implementation role, deepening the impact of the regulation on preventing deforestation.

It should be stressed that none of these proposals intend to offer certification systems as a substitute for companies' responsibility to conduct due diligence – as Recital 35 makes clear. The experience of the Renewable Energy Directive, where lax requirements for, and oversight of, certification schemes opened too many loopholes, must not be repeated. Rather, standards should be seen as a tool for supporting companies, and the European Commission and competent authorities, in fulfilling their obligations.

### *The definition of 'deforestation-free' and sustainable*

The draft regulation defines deforestation-free as meaning that the relevant commodities were produced on land that had not been subject to deforestation or forest degradation after 2020. The definition of 'forest' is taken from the FAO definition: land spanning more than 0.5 hectares with trees higher than 5 meters and a canopy cover of more than 10%, or trees able to reach these thresholds in situ, excluding plantations and land that is predominantly under agricultural or urban land use.

Voluntary sustainability standards already contain their own definitions, in many cases incorporating a broader understanding of what zero deforestation means. Some, for example, use the concepts of high conservation value and high carbon stock, which are applicable to land conversion in general, not just to forests – which could be useful to the Commission in assessing the scope for extending the regulation to other ecosystems. Many also include a requirement for free, prior and informed consent (FPIC) of affected communities and stakeholders. Some of these broader definitions have also been taken up by sector covenants and company programmes used alongside certification systems.

Lastly, voluntary standards cover a number of issues and criteria that might not directly relate to the scope of the regulation, but are still important for companies to adopt and consider when thinking about a more holistic approach to sustainable production of commodities.

### *Requirements for information*

The proposals for information requirements included in the draft regulation – the first step in the due diligence procedure – refer to the need to collect documents and data demonstrating compliance. There is an obvious role here for certification systems to play.

In particular, some certification schemes already include requirements for geolocation data of production areas (as noted in the explanatory text of the regulation), one of the new requirements of the regulation compared to the EUTR. While some schemes have requirements around geolocation data, these are not always linked to product traceability schemes. Furthermore, some certification schemes have made exceptions for smallholder producers and require that they only submit point location data, as opposed to polygon data. The draft regulation is silent on whether it will allow for such an exemption and whether group certification arrangements will be treated as a single plot. Without such accommodations the regulation runs the risk of excluding smallholder farmers from European markets. Despite these complications, it's clear that existing certification systems can be instrumental in driving the uptake of mandatory traceability requirements in a consistent and producer-oriented manner.

Certification schemes also generally include criteria that the products they certify must have been produced legally, in accordance with the relevant legislation of the country of production – a requirement present in the deforestation regulation as well as the EUTR. Certification schemes have tailored their evidence requirements around these legality issues to make their systems more accessible to smallholders in jurisdictions where land tenure arrangements are unclear and the recognition of customary land rights is weak.




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Regulators should also look closely at whether the information supplied by operators should be verified or verifiable (as is currently the case in the proposal). Briefly, supply chain participants are only required to collect and organise information and data that underpins the classification of deforestation-free as set out by the regulation. This means they can receive self-reported information from within their supply chain and use it to demonstrate that a commodity or product is compliant with (article 3 of) the regulation, without taking any steps to verify the validity of this information. The regulation could have more impact if it required the data used by the operator to demonstrate that a product is deforestation-free and legally produced to be verified before the product is placed on the EU market. This information verification function is something that certification schemes could provide.

### *Risk assessment and mitigation*

Risk assessment and mitigation are important concepts in any due diligence cycle. While risk assessment and identification of deforestation is relatively straightforward – in particular through the use of widely accessible satellite images – the question of how to best mitigate the risk of further deforestation is more complex.

In section 4.3 we highlight how the EUTR incorporates certification standards in risk assessment and mitigation processes. For risk assessment, the lower the extent of certification among the products the company is placing on the EU market, the higher the risk of non-compliance and the greater the need for additional checks. For mitigation, insisting on evidence of certification, if necessary by shifting from non-certified to certified suppliers, is a potential step. It's important to stress this often goes hand in hand with supplier engagement and capacity building efforts to progressively move producers towards certification standards.

Taken together, these elements can create an improved, focused de-risking process which benefits producers. This is what companies under EUTR obligations have been doing in the forestry sector. While these steps in isolation would not be adequate to fulfil the risk assessment and mitigation measures in the deforestation regulation, they should be important elements. They could be referenced in the regulation, or spelt out in guidance from the Commission after the regulation is adopted.

While certification can provide strong risk mitigation, as a stand-alone tool it will have its limits in forest-frontier areas where producers are not looking to get certified. In those scenarios, large-scale mitigation requires collaborative approaches that engage with communities and farmers in high-risk areas. Such mitigation efforts can include training, forest protection, livelihood support and monitoring programmes, at landscape or jurisdictional level. Within these programmes, certification standards can be built in to develop a joined-up mitigation effort which tackles deforestation risks as well as broader sustainability issues.

Generally, it is ineffective to simply abandon high-risk or non-certified suppliers by removing them from the supply chain. Such EU-focused market conditionality is unlikely to have an impact on global deforestation, as laid out in section 2. It would be preferable to create additional incentives and supporting measures to facilitate the uptake of certification schemes. As noted above, some standards organisations already provide this kind of support to smallholders.

### *Minimum criteria for certification systems*

In order for voluntary standards and their certification systems to play a meaningful role in corporate due diligence policies, it is useful to look at some of the criticisms discussed in section 3.2. These include, as the Commission's impact assessment noted, that standards and certification schemes suffer from 'shortcomings in terms of governance, transparency, clarity of standards, reliability of monitoring systems etc.'

Clearly, standards and certification schemes must meet minimum criteria to be usable in the context of the regulation. The European Parliament's proposal of October 2020 included suggestions for minimum criteria to: 'in particular ensure independence from the industry, inclusion of social and environmental interests in standard-setting, independent third-party auditing, public disclosure of auditing reports, transparency at all stages, and openness. Certification schemes should only award certification to products with 100 per cent certified content. Only certification schemes meeting those criteria can be used by operators for their due diligence systems. Third-party certification should not impair the principle of the operator's liability.'[43] Many of these elements could be repeated for the regulation.

Elements could be adapted from the EUTR Implementing Regulation, which includes a set of detailed minimum criteria which could be adapted. Examples here are criteria on having a publicly available system of requirements that covers at least the criteria in the regulation; provision for regular checks to verify that the legislation is complied with; a traceability system; and controls to ensure that non-compliant products do not enter the supply chain (see section 4.3).

Further requirements could also be added, perhaps drawing on criteria such as those set out in ISEAL's Credibility Principles, including requirements for sustainability impacts, collaboration, value creation, measurable progress, stakeholder engagement, transparency, impartiality, reliability, truthfulness, and continual improvement. Whether these are all relevant would depend on the role envisaged for certification systems in the implementation of the regulation. If this is restricted merely to the collection of information, the first step of the due diligence system, some of these criteria are less relevant than they would be if standards and certification schemes are to play a more significant role in the risk analysis and mitigation steps.

Clearly, the certification schemes also need to be resistant to fraud, both in terms of the reliability of the evidence of certification presented to the operator (is it genuine?) and its unique nature (is the same evidence being presented to other operators, effectively reusing the certificate?). Incorporating of adequate counter-measures in certification schemes would be an important criterion.

Whatever the minimum criteria set out in the regulation or in implementing legislation and guidance, regular benchmarking of the standards and certification procedures against them would be helpful. This would provide information on credible standard systems for companies and competent authorities, and could assist in any judicial proceedings around non-compliance.

The emergence of national standards in producer countries – for example, the Indonesian and Malaysian Sustainable Palm Oil standards or the African Standard for Sustainable Cocoa – underlines the need both for minimum criteria and for the EU to provide assistance to producer-country governments to develop their schemes. It is obviously desirable that these governments experience a sense of ownership over the standards (in some countries at least, the approach of the EU legislation is seen as simply an import ban), but it is also essential that they are designed and implemented well enough to demonstrate verifiable compliance with the regulation.



# 6. Conclusion

Establishing that all the forest-risk commodities placed on the EU market have been produced legally and are not linked to deforestation is a highly challenging task. The use of standards and certification systems can assist compliance and improve regulatory effectiveness in several ways. This role should be acknowledged, along with a procedure for distinguishing credible from non-credible systems.

Based on the analysis of existing supply chain and due diligence policies, this paper identified different function and roles that certification systems can provide, including:

- **An indicator of compliance with selected criteria included in legislation.**
- **A source of information in the risk assessment step of a due diligence system.**
- **A tool to be used in the risk mitigation step of a due diligence system.**
- **A framework for engaging with and supporting farmers, particularly smallholders, and other actors in the supply chain.**
- **A mechanism and strategy that goes beyond the minimum criteria specified in the legislation, delivering additional benefits that go beyond the do-no-harm interpretation of due diligence.**

Voluntary standards and their certification systems can play an important role in supporting companies in fulfilling their due diligence obligations, and offer a range of advantages for both upstream users and producers.

While they are by no means the only tool available, they can be a key component within a smart mix of measures and within specific supply chain regulations to end deforestation.

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**ISEAL supports ambitious sustainability systems and their partners to tackle the world's most pressing challenges. With our growing global network and our focus on credible practices, we drive impact and make markets a force for good.**

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**We work by:**

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**With support from:**

giz Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH

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