

Position of the Swedish Confederation of Enterprise on the Deforestation Initiative

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Overall position

The Swedish business community is strongly supportive of efforts to make the economy more sustainable. This includes the efforts to halt and reverse the process of deforestation, which is increasing the impact of greenhouse gas emissions and accelerating the loss of biodiversity. We do not want Swedish - or EU – businesses to be a part of such destruction.

While the degradation of forests is a serious problem, the issue is complex and is both context- and country-dependent. For this reason, it is important that any new law takes into account the differing situation globally and also considers other critical aspects, such as local needs and how to ensure forest regeneration. It is important to remember that sustainability requires a multidimensional approach.

As proposed, the Deforestation Initiative would set mandatory due diligence rules for products that may contribute to deforestation; it would impose a ban on placing such goods on the EU market or exporting them from the EU unless the relevant rules have been followed.

We are well aware of the EUs strong position in global trade and its role as a major importer of goods that may contribute to the problem, as well its power in exerting regulatory influence over other countries. We therefore understand that any EU legislation in this area has the potential for real impact on the ground; this makes it vital to get this done the right way – it is important that undue red tape be avoided. Above all, the system must be practical to implement for those firms trading with the commodities covered by the proposed Regulation. These are sourced globally, in long and complex value chains, involving many farmers, wholesalers, retailers etc., at different stages in the process as well as numerous countries with different agricultural and forest related regulations, not to mention with greatly differing capacities to implement the rules.

It is possible that the Regulation can contribute to increasing demand for the products it covers. This assumes that environmentally aware consumers become more comfortable with using them, reassured that their use will not lead to deforestation. At the same time, the opposite may also come to pass, as demand could fall as a result of rising prices. There is also a risk that small companies will face difficulties in meeting the administrative requirements. Again, we stress the need to avoid unnecessary red tape to mitigate this risk.

It is also possible that, with this Regulation in force, it will be easier to move the free trade agenda forward. In particular the EU-Mercosur agreement is dependent on measures to prevent increased EU-Brazilian trade from causing deforestation in the Amazon.

Specific points

- EU harmonisation is preferred to Member State legislation in this area, as markets and supply chains are global and any fragmentation of the legislation in Europe here will only complicate the processes for businesses.
- The Regulation must be WTO compatible, as we cannot accept the EU breaking international law or the risks of trade friction or worse still trade war. Above all, in order to be WTO compliant, the Regulation should support the non-discriminatory trade of sustainable products.
- If there is no manufacturer or importer established in the EU, online marketplaces must be required to comply with the obligations. Hence, there must be liability for *all* imports in order both to deliver the desired results of the legislation and to avoid market distortion.
- When it comes to the product scope (coffee, cocoa, cattle, palm oil, soy and wood, as well as derived products including leather, oil cakes and chocolate), the underlying cost-benefit analysis is currently poor. In particular, this applies to the costs associated with implementing change in the value chains. These chains are highly complex and changing them will require investments, something which the analyses have not taken into account.
- The system should be tested before it is expanded; therefore it is important to prevent any efforts to expand it to new products at this stage.
- The administrative burden of collecting and processing data on value chains may lead to decreased trade in all the covered products, not just those coming from deforested areas. There is also the risk of further contributing to deforestation, as they too will face new red tape. This must be addressed by a risk-based system that places more checks on high-risk countries than low-risk ones. Such benchmarking is also part of the proposal. It is also important that the benchmarking of such countries is made on a solid and factual basis.
- There are many aspects of the proposal that remain unclear at this stage, which makes it hard to assess the effects of the proposal. This lack of clarity must be addressed with concrete answers. Below, we provide some serious examples of such a lack of clarity
- The Regulation needs to be fully transparent and easy to understand for those firms that are going to implement it. International standards and definitions should be used as basis for the Regulation, as far as these already exist. Often, they do not, and the proposal leaves a great deal of room for interpretation. For example, certain goods may only be put on the EU market where there is a 'negligible risk' that they contribute to deforestation. What constitutes this 'negligible risk'?
- Another example is the definition of 'forest degradation and 'sustainable harvesting operations', which do not consider the range of conditions that exist globally and does not follow the FAO approach of national level definitions.
- It is unclear how compliance should be monitored; should this be through verifying the due diligence processes or by checking the physical products?

- Collecting the geographic coordinates of all plots of land where the relevant commodities and products were produced could lead to a substantial implementation challenge and a disproportionate increase in the administrative burden. A clearer definition of 'production area' is needed; how large or widespread can a production area be?
- It is unclear if the Regulation will require goods such as coffee beans and cacao beans to be tracked and separated physically, in order to ensure that only those goods from deforestation-free areas enter the EU market. Such a requirement would require massive investment and add considerable cost without contributing a great deal to the desired objective.
- Furthermore, there is a complete lack of analysis on the impact lower down the value chain (for example on coffee, rather than on coffee beans). When it comes to such processed goods, the proposal is somewhat unclear over the level of 'risky products' they may contain. Is it 'none'? Or is it 'not above a certain minimum value'? There needs to be greater clarity
- Ensuring that cattle has not been fed with soybeans or palm oil from deforested lands is a presents a considerable administrative challenge. In many countries, there is presently no way to undertake such tracking. Furthermore, is not even clear if the proposal would mean zero tolerance on this aspect? How is this going to be implemented?
- The proposal gives the Commission considerable leeway and authority to address the open questions and make practical changes in the implementation through delegated acts. Some of these changes may have a significant impact on businesses, and should rather be subject of negotiations between the Member States.
- Overall, it is important to ensure that any due diligence efforts support systems that already function well, and that any requirements generated can be implemented in practice. In order to construct a system that genuinely works, it is therefore of the utmost importance to consult with those businesses that work with these supply chains on a daily basis, and who can identify the opportunities and challenges posed by the new law.