DEFORESTATION REGULATION – QUESTIONS ON THE FINAL COMPROMISE TEXT

General question

1. When will be there be an opportunity to clarify practical questions and the interpretation of the legal requirements? Can this also be part of the process of developing guidelines?

Questions on the guidelines

Our members are available to share their knowledge and experience to make sure the legislation can be implemented as effectively and efficiently as possible.

1. Through what process are these guidelines likely to be worked out? How can we participate?
2. Guidelines are necessary before the Regulation is implemented. Ideally by June 2023. How can we help or accelerate this process?
3. Will the guidelines be commodity-specific? Will the guidelines cover each obligation set out in the Regulation?
4. Could guidelines also be considered to support harmonised enforcement by Member States if these guidelines provide a benchmark of what is “best practice”?

Questions on interpretation of the final text

Questions related to the geolocation and the information provision.

1. How must the geolocation + polygon data be declared in the due diligence statements? Is it possible to declare a broader set of plots that an operator sources from in general? In other words, can operators declare “a pool of compliant plots of land” that might have contributed to a certain EU shipment, instead of having to specify the exact plots of land for the exact shipment?
2. Can a polygon (with GPS coordinates) replace several compliant smallholders that cannot provide GPS coordinates for their individual plots? Can polygons cover contiguous plots of land?
3. How to get the geolocation when there is no farm registry or the information is inaccurate/not up to date?
4. How will a GPS coordinate allow checking the validity of a no-deforestation claim in practice (aligning GPS and deforestation maps? How will it work if concession maps are not available)
5. How to declare polygons in a due diligence statement when the polygons are in shapefile format?
6. How does the due diligence/risk assessment relate to the information requirement for geolocation to plot? If there is a mistake or error in the provision of geolocation data information, can the operator show that its due diligence found negligible risk?
7. What kind of documentation will be required to prove compliance with local legislation and with deforestation-free criteria?
Questions related to definitions and operators/traders’ specific responsibilities.
8. How should “negligible risk” be understood in practice? Should there be examples for this in the guidelines?
9. Who is considered the operator in the EU member state? The operator having to file the Due Diligence Statement (the first chain player to place the good on the market) is the farmer or can it be the cooperative?
10. If a “trader” produces products listed in the Annex with commodities already imported and verified, do you still need to issue a due diligence statement? If you export a palm oil derivative which has been made with palm oil covered by due diligence when imported, do you still have to submit a due diligence statement and fulfil the obligations of an operator?
11. What is the mechanism for EU exports?
12. Large operators will have to publicly report on their DD system annually. For those operators that are in the scope of CSRD and comply with ESRS in due time is it sufficient to publish their report according to the requirements in CSRD? Or will there be additional reporting requirements?
13. How does a company’s risk assessment relate to the sources used by the EU Observatory?

Questions related to EU Commission’s action.
14. What is the methodology for the country benchmarking?
15. Information gathering and sharing needed for the implementation: Could we have a definition of high, standard, and low risk countries faster than announced as not knowing makes for difficult planning?
16. When will the EU Observatory be operational/available? Will EU observatory have access to Concession maps? What will be the output of the Observatory? Is it downloadable deforestation data layers for companies to conduct polygon analysis with companies’ own tools? Or something else?
17. How can we ensure the Single Window Environment is compatible with current traders’ platform for traceability?

Questions related to member states’ action.
18. Could competent authorities receive the due diligence statement per each shipment ahead of the sailing of the ship to minimise risk to traders and provide a Red/Amber/Green system to confirm compliance? The journey of any cargo is available publicly based on satellite information. So let us try and use the digital world as well as we can to minimise risk and reduce costs.
19. What does it take for the 3-day suspension to take place? What constitutes high-risk?
20. How are the checks calculated in terms of % on operators + traders and % on volumes? What does this mean in practice? How does a competent authority determine that an operator or volume is high risk?