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**REGULATORY SCRUTINY BOARD OPINION**

Proposal for a Regulation of the European Parliament and of the Council on the making available on the Union market as well as export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010

COM(2021) 706

SWD(2021) 326

SWD(2021) 327



Brussels,  
RSB

## **Opinion**

**Title: Impact assessment / Minimising the risk of deforestation and forest degradation associated with products placed on the EU market**

**Overall 2<sup>nd</sup> opinion: POSITIVE WITH RESERVATIONS**

### **(A) Policy context**

Deforestation and forest degradation contribute to climate change and loss of biodiversity. They also have an impact on human health. The EU is a consumer of commodities associated with deforestation and forest degradation.

This initiative aims to minimise the risk of deforestation and forest degradation associated with products placed on the EU market.

### **(B) Summary of findings**

**The Board notes the improvements to the draft report responding to the Board's previous opinion, in particular on coherence and the expected impacts of the policy options.**

**However, the report still contains significant shortcomings. The Board gives a positive opinion with reservations because it expects the DG to rectify the following aspects:**

- (1) The report lacks clarity on the precise content of the preferred option.**
- (2) The report is not sufficiently transparent on how the options compare against the assessment criteria. The scoring of the options is not clearly justified.**
- (3) The report does not sufficiently present the methodologies used for estimating environmental benefits and enforcement costs.**

### **(C) What to improve**

- (1) The report should be more transparent about the method of selection of the policy measures. It should justify the red amber green ratings given to the measures in the initial viability screening.**
- (2) The report should specify further the precise content and functioning of the preferred**

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This opinion concerns a draft impact assessment which may differ from the final version.

option. The report should explain the methodology that would be used to benchmark the countries as “low”, “middle” or “high” risk for deforestation and how this would ensure Member State and third country consultation and buy-in. It should clarify the functioning and consequences of the list for contravening operators, including how operators could be removed from the list. The rationale for choosing the 2020 cut-off date should be better explained, including by clarifying whether alternative dates were considered.

(3) The report should present and analyse options to support the political decision on the future of the existing Voluntary Partnership Agreements.

(4) The report should present how the different options compare against all assessment criteria, including coherence. The comparison of options should integrate the analysis of economic impacts on third countries. It should provide details on the methodology chosen to rank the policy options and an explanation for the resulting scores. The legal delivery instrument(s) of the preferred option should be clarified.

(5) The methodology to estimate the environmental benefits should be elaborated. It seems that it is based on the effectiveness of the EU Timber Regulation while this is not presented as such in the fitness check. The report should also present the methodology and information used to estimate the implementation and enforcement costs for Member States.

Some more technical comments have been sent directly to the author DG.

#### **(D) Conclusion**

**The DG must revise the report in accordance with the Board’s findings before launching the interservice consultation.**

**If there are any changes in the choice or design of the preferred option in the final version of the report, the DG may need to further adjust the attached quantification tables to reflect this.**

Full title	Minimising the risk of deforestation and forest degradation associated with products placed on the EU market
Reference number	PLAN/2019/6251
Submitted to RSB on	25 June 2021
Date of RSB meeting	Written procedure

## **ANNEX: Quantification tables extracted from the draft impact assessment report**

*The following tables contain information on the costs and benefits of the initiative on which the Board has given its opinion, as presented above.*

*If the draft report has been revised in line with the Board's recommendations, the content of these tables may be different from those in the final version of the impact assessment report, as published by the Commission.*

<b>Overview of Benefits - Preferred Option</b>	
<b>Type</b>	<b>Direct benefits</b>
<b>Environmental</b>	<ul style="list-style-type: none"> <li>• The effectiveness in curbing EU-driven deforestation and forest degradation is estimated to be at the high end above 29%.</li> <li>• The environmental benefits are expected at the high end above the following minimums:               <ul style="list-style-type: none"> <li>a) At least 71,920 hectares of forest saved from EU-driven deforestation and forest degradation annually starting in 2030.</li> <li>b) At least 31.9 million metric tons of carbon fewer emitted to the atmosphere due to EU-driven deforestation every year, which could be translated into economic savings of at least 3.2 billion EUR annually.</li> </ul> </li> <li>• It is also expected to contribute to preserving biodiversity decisively and achieving the specific objectives of the EU intervention.</li> </ul>
<b>Economic</b>	<ul style="list-style-type: none"> <li>• Operators sourcing commodities and products from 'low-risk' countries would benefit from higher demand for commodities and products from countries assessed to be 'low-risk'</li> <li>• Producers implementing more sustainable production practices expected to gain share in the EU market and</li> <li>•</li> </ul>
<b>Social</b>	<ul style="list-style-type: none"> <li>• Public access to benchmarking might provide valuable information to NGOs, academia and policy makers and would facilitate decision-making, innovation and research relating to deforestation, forest degradation and trade</li> <li>• Positive impact on: land tenure; governance and capacity building in administration; participation of local communities and civil society; preservation of cultural heritage of indigenous peoples; income distribution, social protection and social inclusion; and workers health and safety.</li> </ul>

### Overview of costs – Preferred Option

Overview of costs – Preferred Option									
	Citizens/Consumer		Businesses		EU Administration		Third countries		
Frequency of cost:									
	One-off	Recurrent	One-off	Recurrent	One-off	Recurrent	One-off	Recurrent	
Direct costs	N/A	Minimal increase in price of products possible  The costs increase will be lower for consumers purchasing 'low risk' products than for those purchasing 'high risk' products	Costs of between 5 000 and 90 000 EUR per operator for setting up the DDS	Total costs for the tiered DDS are estimated to range from 130 to 1,947 million EUR per year  SMEs might be disproportionately affected, however, the two-tiered DDS would be particularly beneficial for SMEs as they would benefit from lower costs of the simplified DDS by placing products derived from low-risk supply chains	<b>EU level:</b> Cost of initial implementation (e.g. developing guidance to MS and operators and traders)  Establishment of the benchmarking system: 337,000 EUR  EUR 1 million over 5 years for integration into customs single window	Total costs of implementation and enforcement for all Member States authorities: 15 million EUR / year  <b>EU level:</b> maintenance of the benchmarking system: 168,000 EUR per year  Maintenance of single window operation EUR 400 k per year	N/A	Possible economic impacts resulting from changes in trade flows	
Indirect costs	N/A	Potentially reduced choice of products.	N/A	Additional costs on producers passed to operators and traders.	N/A	N/A	N/A	Costs of DDS requirements and environmental compliance could be carried down the supply chain.	



Brussels,  
RSB/

## **Opinion**

**Title: Impact assessment - Minimising the risk of deforestation and forest degradation associated with products placed on the EU market**

**Overall opinion: NEGATIVE**

### **(A) Policy context**

Deforestation and forest degradation contribute to climate change and loss of biodiversity. They also have an impact on human health. The EU is a consumer of commodities associated with deforestation and forest degradation.

This initiative aims to minimise the risk of deforestation and forest degradation associated with products placed on the EU market.

### **(B) Summary of findings**

**The Board notes the useful additional information provided in advance of the meeting and commitments to make changes to the report.**

**However, the Board gives a negative opinion, because the report contains the following significant shortcomings:**

- (1) The report does not sufficiently take into account the lessons learned from the fitness check of the EU Forest Law Enforcement Governance and Trade and the EU Timber Regulations, especially regarding the effectiveness of due diligence.**
- (2) The report lacks clarity on the content of the options, how they were selected, how they relate to existing measures and how they are expected to address the problems. It does not include options for some relevant policy choices.**
- (3) The report does not sufficiently assess the expected impacts of the policy options, especially on consumer prices, trade flows, third countries and SMEs.**
- (4) The report is not clear on how effective this initiative can be in reducing deforestation and forest degradation globally.**

### **(C) What to improve**

**(1) The report should better build on the results of the fitness check of the EU Forest Law Enforcement Governance and Trade and the EU Timber Regulations. The problem analysis should summarise the findings that are relevant for the current proposal. In particular,**

issues with effectiveness and enforcement of due diligence and low political commitment in producer countries should be integrated better, including how they would be tackled in this initiative. The report should clarify whether these Regulations will continue to exist in parallel or how they will be integrated in this new initiative. It should also discuss to what extent the possible lack of level playing field for EU operators that want to source sustainable products is part of the problems.

(2) The report should better explain how the options were selected. It should also strengthen the description of their content and ensure that the set of options covers all relevant policy choices. The role of private certification schemes in due diligence systems should be further explored. The report should consider to include options on the cut-off date, given its possibly significant effect on the effectiveness and impact of the initiative. It should better explain the experience and lessons learned from illegal, unreported and unregulated fishing (IUU), including how relevant they are for this initiative. It should better justify the ‘common’ elements to all options, including the ‘deforestation-free’ definition and list of commodities covered by the initiative. Why were these chosen over other possible alternatives? The options and the ‘common’ elements should be underpinned by an assessment of different stakeholder views, including those from operators.

(3) The report should assess why the sustainable corporate governance initiative will not be able to address the problems concerned by this initiative and in which cases both initiatives will apply simultaneously.

(4) The report should assess the possibility of ‘leakage’ due to trade divergence. It should assess the likelihood and the impacts of disrupted supply chains on operators and consumers (e.g. on operator costs and on consumer prices), and investigate if Member States would be differently affected. The report should analyse the impact on producer countries, clarifying the expected effects at local level. The impact on SMEs should be analysed more in depth and possible mitigation measures explored.

(5) The report should clearly outline to what extent this initiative alone will be able to tackle a global objective of reducing deforestation and what role complementing measures, including by other international main importers will have to play to ensure success.

(6) The comparison of the options should be clarified and the related scoring fully aligned with the impact analysis. The effectiveness score should be assessed against the delivery of the specific objectives.

(7) The assumptions for estimating impacts should be elaborated and clearly justified. The report should be clear on the possible lack of quantitative data and provide qualitative evidence where necessary.

Some more technical comments have been sent directly to the author DG.

**(D) Conclusion**

**The DG must revise the report in accordance with the Board’s findings and resubmit it for a final RSB opinion.**

Full title	Minimising the risk of deforestation and forest degradation associated with products placed on the EU market
Reference number	PLAN/2019/6251

Submitted to RSB on	11 April 2021
Date of RSB meeting	5 May 2021





Brussels,  
RSB/

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