

Traceability and Regulation June 2024

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Forest Risk Commodities Regulation (FRCR)

The United Kingdom established the Environment Act in 2021 and in order to enable the key elements of the Act, are in the process of creating the Forest Risk Commodities Regulation.

This is a statement issued by the Secretary of State for the Environment of the UK Government.

“Deforestation is now the second leading cause of climate change globally, after burning fossil fuels, and is responsible for around 11% of all greenhouse gas emissions. Forests host around 80% of the world’s wildlife on land and are home to many species found nowhere else. In the last 60 years, more than half of tropical forests worldwide have been destroyed, reducing biodiversity and endangering beloved and crucial species like orangutans and other great apes, tigers, leopards and jaguars.

Commodities such as cattle and palm oil have been identified as some of the key drivers of deforestation. The UK believes that working in partnership with producer countries to strengthen forest governance is the best way to prevent illegally deforested commodities from the global commodity market.

This is why, as world leaders gather at COP28 for the next round of climate negotiations, we are confirming how UK law will work to prevent the use of forest risk commodities derived from illegally deforested land in UK supply chains.

The legislation will help to protect precious tropical forests at risk of illegal clearance. This will help us to support producer country efforts to enforce their laws and stop illegal clearance and protect vital forest habitat for endangered wildlife.

New Due Diligence Requirements

In 2021 this Government introduced new legislation in the Environment Act to tackle illegal deforestation in UK supply chains. This is a flagship measure to deliver on the commitment made by the UK and over 140 other countries at COP26 in Glasgow to halt and reverse deforestation by 2030.

Schedule 17 of the Environment Act introduced three core requirements on regulated businesses:

1. It prohibits them from using illegally produced forest risk commodities, including both raw and derived products
2. It requires that they establish a due diligence system for each regulated commodity
3. And it requires that they report annually on their due diligence exercise. To ensure transparency, parts of their reports will be published.

Secondary legislation is necessary to operationalise the requirements of Schedule 17. Therefore, we are developing regulations for key forest risk commodities to ensure that they were produced on land used in compliance with local land laws.

Commodities in scope

Initial secondary legislation will focus on four commodities identified as key drivers of deforestation: cattle products (excluding dairy), cocoa, palm oil and soy. These four commodities are estimated to account for 64% of the UK's tropical deforestation footprint, with as much as 93% of this deforestation likely to be in violation of local laws. Regulating these four commodities will tackle over half of the UK's estimated deforestation footprint and enable us to quickly put this critical regulation into force, whilst not disrupting trade and supply chains.

We will keep the regulations under review, taking an opportunity to make any necessary refinements if required. The use of illegally harvested timber in supply chains is regulated separately through the UK Timber Regulations.

Businesses in scope and exemptions

These regulations are a significant step towards reducing the UK's overseas deforestation footprint. We are setting a global annual turnover threshold at £50m to ensure that only larger businesses who can most effectively influence supply chains are in scope of the regulations. In addition, businesses that are using 500 tonnes or less of each commodity per annum can apply for an exemption from the obligations.

We are setting a grace period to enable businesses to prepare following the regulation being made. The intention is that the obligations will apply from the beginning of a reporting year.

Enforcement

The regulations will provide for a wide array of sanctions that can be used for a range of contraventions, from reporting failures to significant breaches of the prohibition against using forest risk commodities produced on land illegally occupied or used. Amongst these, we have set an unlimited monetary penalty to offer an effective deterrent to regulated businesses by enabling sufficiently high-value penalties to be applied for the most serious breaches, while offering a reasonable range that an enforcement body can use in practice.

To ensure fair and proportionate enforcement action, appropriate guidelines for the issuing of sanctions will be published.

Protecting biodiversity is a global priority and all nations have a part to play. This law shows the UK delivering on our commitments by ensuring that there is no place on our supermarket shelves for key commodities that have been grown on land that is illegally used

or occupied, tackling climate change and helping to protect so many beloved endangered species.”

From this statement, the main differences between FRCR and EUDR are:

- Relevant commodities are cattle excluding dairy, cocoa, palm oil and soy with EUDR including coffee and rubber with timber already regulated under the UK Timber Regulation.
- The FRCR does not require a due diligence statement to be issued for each shipment entering the UK.
- The scope of companies to be captured is a £50 million global turnover with the exclusion of 500 MT or lower annual usage.
- The authority will inspect companies placing the relevant commodities on the market.
- Note that, at the moment, there is an unlimited monetary penalty for contravention.

The fine details of the regulation are yet to be revealed and the precise timing is also uncertain especially with the UK election in play.

July 2024 Instalment

An update on regulations in other parts of the world.