

§ 5 A controversial approach to fight deforestation worldwide: anti-deforestation law

I. The problem of worldwide deforestation and forest degradation despite bold commitments

- forests, esp. rainforests, play a key role in stabilising the global climate by absorbing and storing CO₂; moreover, they produce a significant part of the world's oxygen
- large-scale deforestation or forest degradation, esp. slash-and-burn-practices, can *destabilise the climate globally*, with catastrophic effects also in other parts of the world
- therefore, the ongoing large-scale deforestation in some countries despite their governments' bold promises to stop it is conceived a threat - not only to these countries but also to the world, including Europe
- as governments of several countries have shown themselves unwilling or unable to halt deforestation, the EU has opted for the approach to use the coveted access to its internal market as leverage

II. The EU Regulation on Deforestation-free Products (EUDR) of 2023

(Regulation 2023/1115, original version/ revised version of 19.12.2025)

- an unconventional approach to support forest conservation worldwide
 - European legislation, but aiming for a global impact
 - forest-protecting law, but not in the field of forestry law but environmental and economic law
 - not a "European Deforestation Regulation", but a regulation on deforestation-free products
- an EU regulation (directly binding EU law!) with the the purpose to *ensure that products in the European market do not contribute to deforestation or forest degradation worldwide*
 - applies to products exported from the EU and imported into the EU (→ e.g. Indonesian palm oil)
 - new rules should originally apply from 30.12.2025 (to large & medium enterprises) and 30.06.2026 (to micro & small enterprises)
- requires *operators and traders* that trade in cattle, cocoa, coffee, oil palm, rubber, soya and wood, as well as products derived from them (e.g. leather, chocolate, tyres or furniture), *to conduct extensive diligence on the value chain* to ensure that their goods do not result from recent (post 2020) deforestation, forest degradation or breaches of local laws (esp. environmental laws, land-use laws, third-party rights)
 - such goods must not be placed or made available on the market, or exported from the EU, unless these conditions are fulfilled and the goods are covered by a ***due diligence statement*** submitted electronically to the EUDR Information system (art. 3, 4, 33)
 - the statement includes the declaration that no or only a negligible risk of non-compliance was found (art. 4(1), 5(1))
 - if later information indicates that goods may not comply, the operator or trader must immediately inform the competent authorities in the relevant member states (art. 4(5), 5(1))
 - traders who are only small and medium enterprises (SME) only need to collect certain information and keep it for five years (art. 5(2-4))
- The European Commission has established an official list of countries with a particularly high or low risk of deforestation
 - in Southeast Asia, Myanmar is classified a high-risk country, while the Philippines, Laos, Thailand, Vietnam, Singapore, Brunei Darussalam and Timor-Leste (but not Malaysia and Indonesia) are classified low-risk countries

III. The controversy surrounding the Anti-Deforestation Regulation in the Global South

- the EUDR is politically controversial because it *practically forces European environmental policies on sovereign third countries*
 - it is therefore often criticised by the governments (e.g. in Brazil, Indonesia)
 - but it is often supported or even criticised as too weak by civil society organisations in these countries (e.g. in Indonesia)
- the EUDR is also politically controversial because it imposes an *immense bureaucratic burden* on companies
 - see for illustration the 45 pages Guidance Document published by the European Commission
 - however, not everyone sees this as a problem: see the translation of the Guidance Document into Bahasa Indonesia, provided by an Indonesian civil society organisation, so that Indonesian businesses can comply with it
- the direction of the discussion in Indonesia may shift after it turned out that the devastating effect of the Sumatra floods in November 2025, which killed more than 1.000 people, is largely due to the massive regional deforestation

IV. The softening of the Anti-Deforestation Regulation in December 2025

- after intensive lobbying, also by the Indonesian Government, the EUDR was softened by an amendment of 19.12.2025 (Regulation 2025/2650):
- application of new rules postponed for one year (to 30.12.2026 resp. 30.06.2027)
- some types of products (e.g. print products) exempt
- no relativisation of the substantial obligation to ensure a deforestation-free supply chain
- *simplified declaration* instead of due diligence statement *for micro and small downstream operators and traders*
 - one-time submission with simplified data (postal address instead of precise geolocation)
 - only primary operators (who first place a product on the European market) must submit due diligence statement
 - lighter obligations if later information indicates that product may not comply with EUDR
- simplification review by European Commission until 04.2026 to limit bureaucratic burden

V. Discussion: How to protect the rainforest effectively without patronising the Global South and placing the burden lopsidedly on it?

- Is the approach of the EUDR appropriate?

YOUR OPINION: _____

YOUR ARGUMENTS: _____

- Are there better alternative ways?

YOUR OPINION: _____

- Should natural areas of outstanding global ecologic importance (rainforests, seas, glaciers, geo-regional water reservoirs etc.) be considered a common natural heritage of mankind? If they should, what should be the legal consequences (under future global international law)?

YOUR OPINION: _____

