

CDP Q&A: DEFORESTATION-FREE PRODUCTS ON THE EU MARKET

Comment from CDP Europe on what the deforestation and forest degradation regulation means for companies

April 2022

OBLIGATIONS FOR COMPANIES

CDP Europe supports the objective of the EU's deforestation-free products initiative. The proposed regulation provides clear rules on due diligence ensuring a level playing field for operators in terms of the requirements that must be met before placing forest risk commodities (FRC) and associated products on the EU market. The new rules build on existing EU initiatives – the EUTR and FLEGT – while complementing the EU's Corporate Sustainability Due Diligence initiative. The proposed regulation aims to minimize the consumption of products coming from supply chains associated with deforestation or forest degradation and increase EU demand for and trade in legal and deforestation-free commodities and products.

Companies, including small and medium enterprises, will need to:

- ▼ Collect information about the products they place on the EU market that were produced from January 2021 onwards to confirm they are not linked to deforestation.
- ▼ Exercise mandatory due diligence and analyze and evaluate the risks in supply chains.
- ▼ Take adequate and proportionate mitigation measures, such as using satellite monitoring tools, field audits, capacity building of suppliers or isotope testing to check the origin of a product.
- ▼ The due diligence requirements of the regulation are expected to apply to operators from 2024 and 2025 for operators that are microenterprises.

This publication should be used as a guide for corporate stakeholders wishing to learn more about the anticipated changes to the existing frameworks and how the EU's initiative may affect their operations.

DEFINITIONS

The EU's proposal recommends a definition of deforestation-free:

- ▼ Deforestation-free definition means
 - ▼ (a) that the relevant commodities and products, including those used for or contained in relevant products, were produced on land that has not been subject to deforestation after December 31, 2020, and
 - ▼ (b) that the wood has been harvested from the forest without inducing forest degradation after December 31, 2020.

The relevant market actors are divided into two categories: operators and traders

- ▼ Operator means any natural or legal person who, in the course of commercial activity, places relevant commodities and products on the Union market or exports them from the Union market.
- ▼ Trader means any natural or legal person in the supply chain other than the operator who, in the course of commercial activity, makes available on the Union market-relevant commodities and products.

Synergies Between Existing and New Legislation

The deforestation-free products regulation builds on the existing frameworks of the EUTR (EU Timber Regulation) and FLEGT (Forest Law Enforcement, Governance and Trade), laying out renewed due diligence rules. While the deforestation-free products initiative sets out rules for product-focused due diligence, the EU's Corporate Sustainability Due Diligence initiative addresses legal fragmentation in Europe concerning due diligence rules and defines rules for a horizontal due diligence instrument focusing on business processes.

EUTR (EU Timber Regulation)

The deforestation-free products regulation adapts and improves the due diligence procedure established under the EUTR. New features are introduced, such as the due diligence statement (article 4), the geographic information requirement or geo-location, linking the commodities and products to the plot of land where they were produced (article 9), increased cooperation with customs (articles 14 and 24), minimum inspection levels (article 14) as well as the country benchmarking (articles 25-26).

FLEGT (Forest Law Enforcement, Governance and Trade)

To respect bilateral commitments the EU will preserve the progress achieved with partner countries that have an operating system in place (FLEGT licensing stage). The deforestation-free products regulation includes a provision declaring the wood already covered by a FLEGT license to have fulfilled the legality requirement. The Commission anticipates, where feasible, the integration of some Voluntary Partnership Agreement components into specific cooperation programmes, such as Forest Partnerships to further support forest governance.

The table shows how the regulation on deforestation-free products interacts with the EUTR and FLEGT and shows which supplementary requirements are introduced under the new regulation.

| | EUTR | FLEGT | Deforestation-free products Regulation |
|-----------------------------|-----------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Legislative coverage | Regulation on the obligations of operators who place timber and timber products on the market | Regulation licensing scheme for imports of timber into the European Community | Repeal EUTR, adapt FLEGT and lay down rules 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. |

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| Time coverage | EUTR: 2010 to 2020 | FLEGT Regulation: 2005 to 2020 | <p>Companies to collect information about products placed on the market that were produced from January 2021 onwards. Review after 3 years and every 5 years thereafter</p> <p>At the latest two years after entry into force, the Commission will carry out a first review of the list of FRC and associated products covered by the regulation.</p> |
| Scope of companies/market actors | <p>All sizes of businesses (i.e., micro, small, medium, and large).</p> <p>Obligations of operators who place timber and timber products on the internal market for the first time and the obligations of traders.</p> <p>Due diligence requirements for operators (any natural or legal person who, in the course of commercial activity, places relevant commodities and products on the Union market or exports them from the Union market).</p> <p>Traceability rules on timber and timber products for traders (means any natural or legal person in the supply chain other than the operator who, in the course of commercial activity, makes available on the Union market-relevant commodities and products).</p> | <p><u>Operators</u></p> <ul style="list-style-type: none">Renewed due diligence rules.A due diligence statement confirming due diligence checks resulted in no or only negligible risk found. The statement should include the information set out in Annex II for the relevant commodities and products.Keep a record of due diligence statements for 5 years from the date of introduction to the information system. <p><u>Large traders</u></p> <ul style="list-style-type: none">Submit a due diligence statement according to article 4, thereby becoming liable for the compliance of the relevant commodity or product.A risk assessment and, where necessary, risk mitigation according to article 10. Large traders are subject to the same checks on operators in accordance with article 15. <p><u>SME traders</u></p> <ul style="list-style-type: none">Required to collect a record of their suppliers and customers and keep the information for at least five years.Take action and inform the competent | |

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| | | | <p>authorities if new information becomes available regarding the non-compliance of their commodities and products.</p> <ul style="list-style-type: none"> Subject to checks referred to in article 16. <p><u>Authorized representative</u></p> <ul style="list-style-type: none"> Operators or traders may mandate a representative to make available the due diligence statement on their behalf. |
| Geographical coverage | Covering illegal logging globally. | Voluntary Partnership Agreement countries. | Forests: operators to collect the geographic coordinates (or geolocation via latitude and longitude) of all the plot(s) of land where the relevant commodities and products were produced. |
| Product scope | Timber and timber products listed in the Annex to Regulation 995/201010. | <p>Timber and timber products to which the FLEGT licensing scheme applies irrespective of the partner country are listed in Annex II of FLEGT Regulation.</p> <p>Some VPA product scopes are broader and some are narrower relative to the product scope of the EUTR.</p> | <p>Products already covered by the EUTR and FLEGT, as well as:</p> <ul style="list-style-type: none"> Relevant commodities and goods both released for free circulation or exported from the Union market <ul style="list-style-type: none"> cattle, cocoa, coffee, oil palm, soy and wood as well as relevant products as classified in the Combined Nomenclature set out in Council Reg (EEC) 2658/87. Ban on products associated with deforestation. |
| Due diligence requirements | <p>Measures and procedures providing access to the following information concerning the operator's supply of timber or timber products placed on the market:</p> <ul style="list-style-type: none"> description, including the trade name and type of product as well as the common name of tree species and, where applicable, its full scientific name, country of harvest, and where applicable: (i) sub-national region where the timber was harvested; and (ii) concession of harvest, quantity (expressed in volume, weight or number of units), name and address of the supplier to the operator, name and address of the trader to whom the timber and timber products have been supplied, | | <p><u>Article 9</u></p> <ul style="list-style-type: none"> (a) description, including the trade name and type of relevant commodities and products as well as, where applicable, the common name of the species and its full scientific name. (b) quantity (expressed in net mass and volume, or number of units) of the relevant commodities and products. |

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| | <ul style="list-style-type: none"> documents or other information indicating compliance of those timber and timber products with the applicable legislation. | <ul style="list-style-type: none"> (c) identification of the country of production. (d) geo-localization coordinates, latitude and longitude of all plots of land where the relevant commodities and products were produced, as well as the date or time range of production. (e) name, email and address of any business or person from whom they have been supplied with the relevant commodities or products. (f) and to whom the relevant commodities or products have been supplied. (g) adequate and verifiable information that the relevant commodities and products are deforestation-free. (h) adequate and verifiable information that the production has been conducted in accordance with relevant legislation of the country of production, including any arrangement conferring the right to use the respective area for the purposes of the production of the relevant commodity. |
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Other proposals under the EU's Green New Deal have interlinkages with the deforestation-free proposal, namely the proposed corporate sustainability due diligence and the proposed revision of the renewable energy directive.

CORPORATE SUSTAINABILITY DUE DILIGENCE

This deforestation-free regulation will be complementary with the proposed corporate sustainability due diligence directive (CSDDD), which aims to improve the EU regulatory framework on company law and corporate governance.

- ▼ The CSDDD initiative is based on a horizontal approach addressing adverse human rights and environmental impacts acting upon the behavior of companies in their own operations and in their value chains.
- ▼ While the CSDDD will address business operations and value chains in general, the deforestation approach is focused on specific products and product supply chains.

RENEWABLE ENERGY DIRECTIVE

The deforestation-free products regulation is also expected to be applied together with the Renewable Energy Directive relating to some commodities used as biofuels or to produce biofuels, such as wood pellets or derivatives of soy and palm oil.

- ▼ The Renewable Energy Directive sets, among others, sustainability criteria rules for biofuels, bioliquids and biomass to be considered sustainable and specifies targets for the EU to achieve a renewable energy target of at least 32% by 2030.

How The Regulation Will Work

- ▼ Companies confirm to national authorities that the products they place on the EU market conform to the rules.
- ▼ Member States will have access to relevant information through a digital system on the commodities and products, such as geographic coordinates and country of production.
- ▼ Anonymised data from the digital system will be made available to the wider public.
- ▼ The regulation introduces the country benchmarking system to incentivize countries to ensure stronger forests protection and governance, facilitate trade and to better calibrate enforcement efforts by helping competent authorities to focus resources where they are most needed, and to reduce companies' compliance costs.

Member State Competent Authorities

- ▼ Carry out inspections of imports.
- ▼ Report on their enforcing activities to the Commission.
- ▼ React to substantiated concerns and suspend the placing of relevant commodities with non-negligible deforestation risks.



Companies Placing Products on the EU market

- ▼ Collect relevant information about commodities and products to ensure they have not been produced on land deforested or degraded after 31 December 2020.
- ▼ Exercise mandatory due diligence and analyse and evaluate supply chain risks.
- ▼ Take adequate and proportionate mitigation measures, such as using satellite monitoring tools, field audits, capacity building of suppliers or isotope testing to check the origin of the product.



Producing Countries' Governance

- ▼ Producing countries will benefit from EU support and funding through Forest Partnerships to adapt to the measures.
- ▼ The aim of cooperation programs is to strengthen forest governance and create socio-economic opportunities.

Prohibition of deforestation-related products

Only relevant commodities and products compliant with the following conditions may be placed on the Union market:

- ▼ they are deforestation-free;
- ▼ they have been produced in accordance with the relevant legislation of the country of production; and
- ▼ they are covered by a due diligence statement.

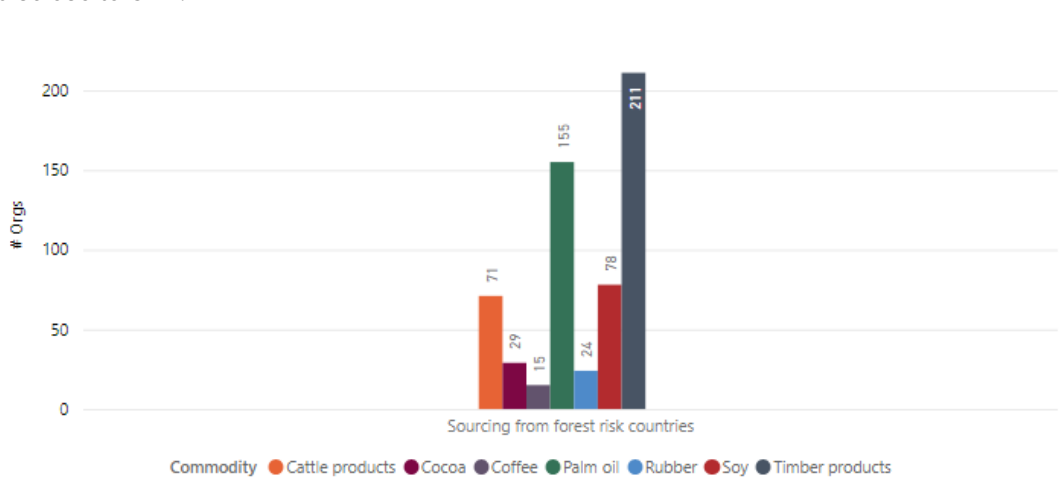
Product scope¹

The deforestation-free products regulation introduces rules regarding the export from and placing on the Union market “relevant commodities” such as cattle, cocoa, coffee, oil palm, soy and wood and relevant products (listed in Annex I), that contain, have been fed with or have been made using relevant commodities. This will apply to products produced after 2020.

¹ as well as relevant products as classified in the Combined Nomenclature set out in Council Reg (EEC) 2658/87



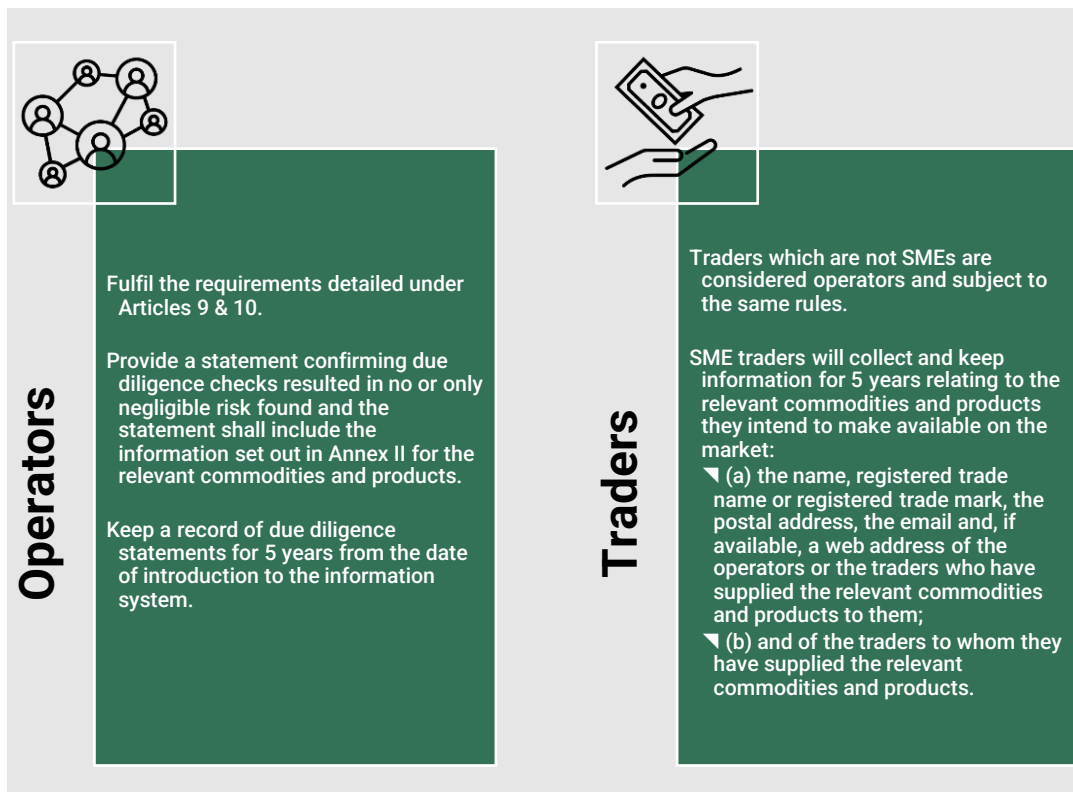
Companies responding to CDP's forests questionnaire are ahead of the legislative requirements as they already report on these commodities as well as rubber, which the EU proposal currently excludes. See the graph below for analyses of the commodities companies disclose to CDP.



Share of organizations (global) that disclose information on their sourcing of forest risk commodities

The due diligence obligations for operators and traders are defined in articles 9 and 10 of the regulation.

- ▼ The regulation establishes a tiered, mandatory due diligence system, relying on a deforestation-free definition, combined with a benchmarking system.
- ▼ Due diligence requirements include:
 - ▼ the collection of information and documents needed to fulfil the requirements set out in article 9 (see the table on page 2).
 - ▼ risk assessment and mitigation measures in accordance with article 10.



The risk assessment and risk mitigation requirements are outlined in article 10 of the regulation.

- ▼ The requirements build on the risk assessment criteria established in the EUTR;
 - ▼ by further qualifying and providing additional elements the operators must consider, reflecting the fact that this regulation focuses on both legality and sustainability (i.e., deforestation-free).
- ▼ Article 10 requires information about the country/area of production, features of the relevant commodity and product and the supply chain, as well as other relevant complementary information such as certification or other third-party verification tools, provided that they meet the information requirements set out in article 9.

How Can CDP Support Companies with Upcoming EU Legislative Requirements?

CDP Forests questionnaire

CDP Forests questionnaire provides a logical framework to guide companies toward removing commodity-driven deforestation from supply chains. The tool is aligned with the indications of international standards, such as the Accountability Framework.

CDP promotes the importance of traceability as one of the key actions and best practices that must be implemented by a company committed to reaching its zero-deforestation targets. **The logical framework of the CDP Forests questionnaire guides and motivates companies to improve their capacity to trace the origin of commodities.** CDP's scoring methodology further incentivizes the adoption of traceability by weighting the corresponding questions in relation to the final CDP Forests score. The table below shows the data points in the CDP Forests questionnaire collecting information relevant to article 9 of the regulation of deforestation-free products.

| Article 9 - Obligations for operators | CDP Forests questionnaire |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| ▼ (a) description, including the trade name and type of relevant commodities and products as well as, where applicable, the common name of the species and its full scientific name; | (F0.4) Select the forest risk commodity(ies) that you are, or are not, disclosing (including any that are sources for your processed ingredients or manufactured goods); and for each select the stages of the supply chain that best represent your organization's area of operation |
| ▼ (b) quantity (expressed in net mass and volume, or number of units) of the relevant commodities and products; | (F1.5a) Disclose your production and/or consumption figure, and the percentage of commodity volumes verified as deforestation- and/or conversion-free. |
| ▼ (c) identification of the country of production; | (F1.1) How does your organization produce, use or sell your disclosed commodity(ies)? – Under this question, companies can disclose country of origin. (F1.5b) For your disclosed commodity(ies), indicate the percentage of the production/consumption volume sourced by national and/or sub-national jurisdiction of origin. *Under this question, companies will be required to disclose information on the proportion of deforestation/conversion-free products. |
| ▼ (d) geo-localization coordinates, latitude and longitude of all plots of land where the relevant commodities and products were produced, as well as the date or time range of production; | (F2.2a) Provide details of your organization's value chain mapping for its disclosed commodity(ies). *Under this question, companies can disclose a list of suppliers and locations. |
| ▼ (e) name, email and address of any business or person from whom they have been supplied with the relevant commodities or products; | (F2.2a) Provide details of your organization's value chain mapping for its disclosed commodity(ies). |

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| <ul style="list-style-type: none"> ▼ (f) name, email and address of any business or person to whom the relevant commodities or products have been supplied; | <p>*Under this question, companies can disclose a GDPR compliant list of suppliers and locations.</p> |
| <ul style="list-style-type: none"> ▼ (g) adequate and verifiable information that the relevant commodities and products are deforestation-free; | <p>(F6.4) For your disclosed commodity(ies), do you have a system to control, monitor, or verify compliance with no conversion and/or no deforestation commitments?</p> <p>(F6.4a) Provide details on the system, the approaches used to monitor compliance, the quantitative progress, and the non-compliance protocols, to implement your no conversion and/or deforestation commitment(s).</p> <p>(F6.5) For your disclosed commodity(ies), indicate if you collect data regarding your own compliance and/or the compliance of your suppliers with the Brazilian Forest Code.</p> <p>(F6.5a) For your disclosed commodity(ies), indicate which Key Performance Indicators (KPIs) you use to measure your own compliance with the Brazilian Forest Code and your performance against these indicator(s).</p> <p>(F6.5b) For your disclosed commodity(ies), indicate which Key Performance Indicators (KPIs) you use to measure the compliance of your suppliers with the Brazilian Forest Code and their performance against these indicator(s).</p> <p>(F6.6) For your disclosed commodity(ies), indicate if you assess your own compliance and/or the compliance of your suppliers with forest regulations and/or mandatory standards.</p> <p>(F6.6a) For your disclosed commodity(ies), indicate how you ensure legal compliance with forest regulations and/or mandatory standards.</p> |
| <ul style="list-style-type: none"> ▼ (h) adequate and verifiable information that the production has been conducted in accordance with relevant legislation of the country of production, including any arrangement conferring the right to use the respective area for the purposes of the production of the relevant commodity; | |

CDP's forests questionnaire helps companies to keep ahead of the regulation.

The EU's proposal represents a crucial turning point in curbing the impact of EU consumption on global deforestation, however significant elements of the commodities and ecosystems scope are absent.

- ▼ CDP began collecting data on natural rubber in 2018 and is included as a forest risk commodity in the CDP questionnaire. The data show that while 56% of companies have a traceability system in place to track and monitor the origin of this commodity, just 14% of companies have a time-bound target for increasing sustainable production or consumption.
- ▼ While the EU continues its research into the inclusion of other at-risk ecosystems such as the Cerrado (Savannah) in Brazil and the Gran Chaco Argentino, which are both heavily affected by commodity-driven deforestation, CDP's forests questionnaire

helps companies to report on all ecosystems related to the production of disclosed commodities, as well as ecosystem restoration efforts.

Landscape and Jurisdictional Approaches Program

Decoupling products from deforestation involves unravelling complex supply chains and aligning them with the sourcing regions. This involves creating the conditions for integrative and cross-sectorial approaches as well as solutions on the ground with the required speed, scale and resilience needed to decouple the production of commodities from deforestation and result in deforestation-free landscapes.

Landscape and jurisdictional approaches can help align supply chains with the producing regions from which they source while contributing to the collective efforts of local stakeholders, governments and engaged corporates of a determined landscape/jurisdiction. This type of holistic approach, with integrated governance and management frameworks at scale, minimizes the risk of commodity-driven deforestation, enhances stakeholder relations and the inclusion of local stakeholders, as well as optimizes the sustainable management of nature.

Landscape approaches:

- ▼ Bring multiple stakeholders in the landscape under one shared vision of sustainability.
- ▼ Aim to balance and reconcile multiple nature (including forest, water, biodiversity), climate, and livelihoods goals.
- ▼ Align and create a collective action/management plan for delivering results in the short, medium and long term.

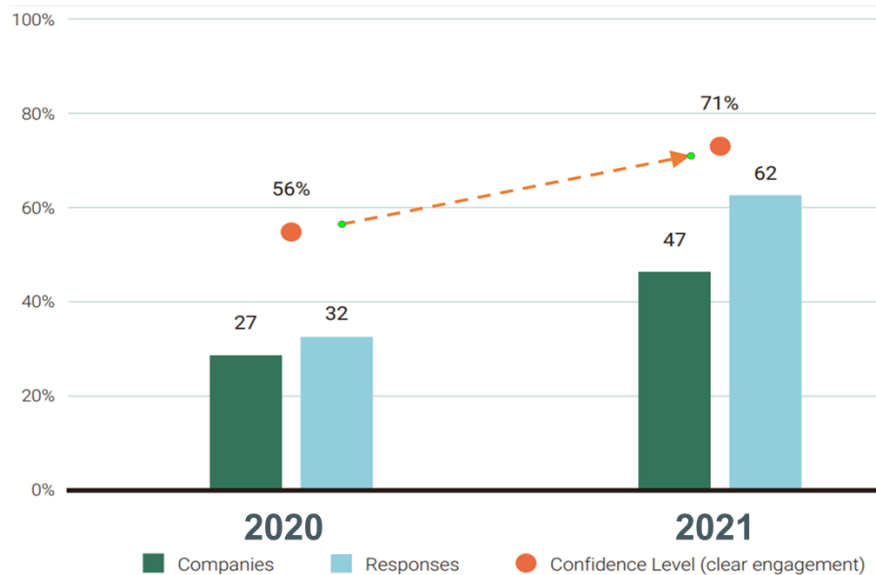
Jurisdictional approaches:

- ▼ Are a type of landscape approach where the landscape is defined by the political boundary of a jurisdiction (e.g., district, municipality, state, province).
- ▼ Implemented within a political framework.
- ▼ Create strong governmental leadership, which contributes to local-national policies.

Scaling up jurisdictional and landscape approaches: what is CDP's ambition?

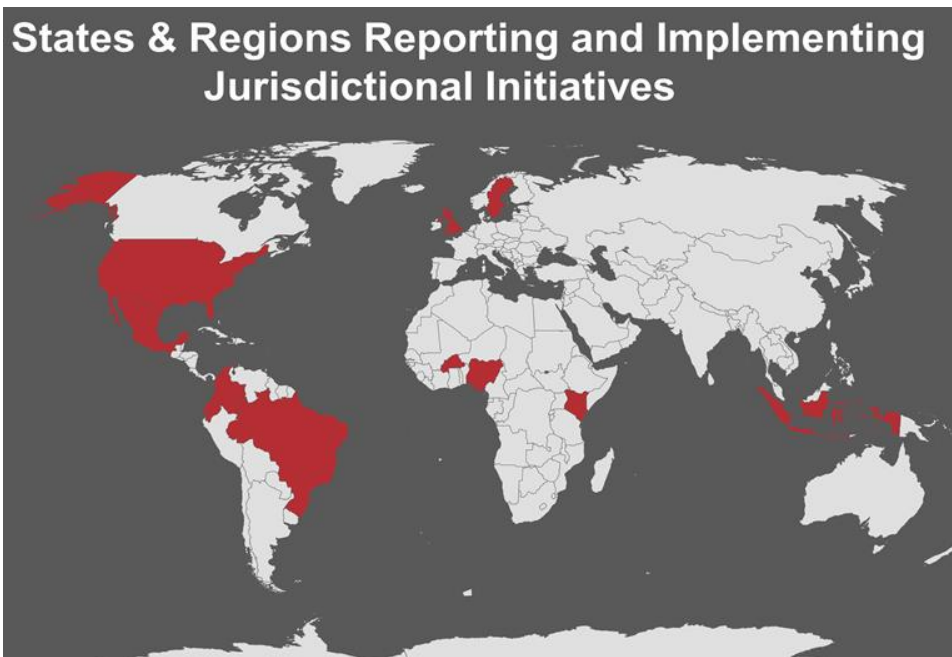
In 2020 CDP included a question about landscapes and jurisdictional engagement in its forest questionnaire to corporates and for states and regions. CDP's disclosure results showed that from 2020 to 2021 there was an increase of 74% of companies engaging with this type of initiative. Despite the considerable increase in corporate engagement, this represents only 5% of the total forest responders. The data also show an unsatisfactory confidence level of the responses, indicating room for improvement, particularly for the soy and the cattle sector.

Number of companies, number of responses, and % of confidence level on LA/JA responses.



CDP's data show increased responses from 2020 to 2021

CDP's data also show that in 2021 30% of the total states and regions disclosing to CDP implement jurisdictional approaches. The data indicate that more companies, states and regions are implementing landscape and jurisdictional approaches across the world. As the regulation is developed to support deforestation-free initiatives, companies need to be prepared for an increase in requirements for reporting in addition to their contributions to the collective goals of sustainability in the areas their operations rely upon for sourcing.



The landscapes and jurisdictional approaches program is incorporated into CDP's 2025 nature ambitions and place-based actions. These approaches contribute to CDP's ambition to decouple the production of forest risk commodities from deforestation to build transparency, take action and accelerate leadership.

CDP Supply Chain Membership

CDP supply chain membership supports companies to engage suppliers, pinpointing risks and identifying opportunities. Our 200+ members worldwide are using the program to set and achieve their science-based targets, zero-deforestation and water security targets, engaging more than 20 000 suppliers.

CDP supply chain membership can be a useful tool for supporting companies that will need to step up their capacity to trace forest-risk commodities and products to the production site. The supply chain program enables companies to engage with their key suppliers to promote further transparency and capture current forest data available along their value chains. Engagement with members of key forest suppliers at the grassroots level is crucial to improving forest commodity data availability and quality. The program can also act as a risk scenario analysis tool for members to identify forest risks and gaps in supplier disclosure and maturity.

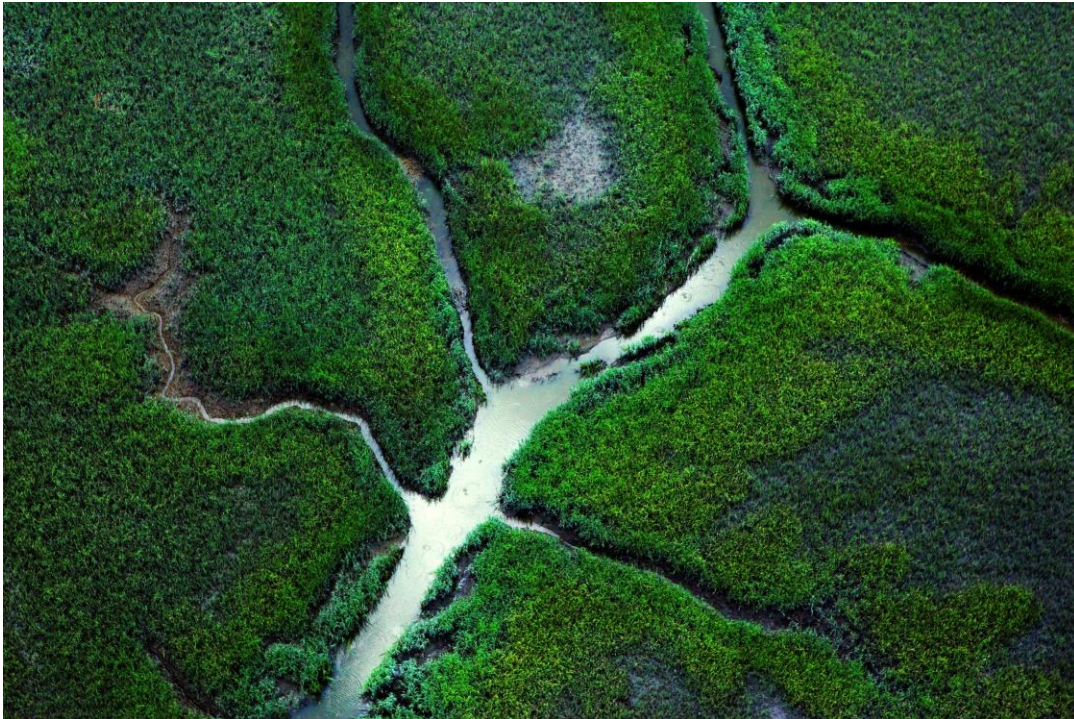
The effort needed to comply with the deforestation law and achieve deforestation-free products is considerable. Companies risk facing reputational and financial risks if preparatory action is not taken soon enough to comply with the legislative requirements.

The CDP supply chain team works side by side with companies supporting them with:

- ▼ Supplier's selection, working with members to develop a supplier list of their key suppliers according to spending, high-risk forest commodity industries and suppliers who operate in raw materials from forest risk countries, to disclose to the forest questionnaire.
- ▼ Supplier engagement through the CDP platform; technical guidance documents and multi-lingual Help Center for supplier inquiries.
- ▼ Definition of pathways for deforestation-free supply chains, through the selection and adoption of forest KPIs aligned with the Accountability Framework.
- ▼ Capacity-building webinars for beginner and advanced suppliers, held in different time zones and languages.
- ▼ Data collection through the CDP Forests questionnaire and supply chain module, including customer-related details on the % of the certified volume sold, collaborative projects and opportunities and emissions from land-use change and deforestation.
- ▼ Data-analysis aggregated and tailored* data outputs.
- ▼ Actionable and tailored supplier feedback to selected forest KPIs and supplier scores**.
- ▼ Benchmark against peers and track supplier progress year on year.

* Only applicable to Lead and Premium members.

** Only applicable to forest commodities that are scored.



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CDP Europe and the CDP global system

CDP is a global non-profit that runs the world's environmental disclosure system for companies, cities, states and regions. Founded in 2000 and working with more than 680 investors with over \$130 trillion in assets, CDP pioneered using capital markets and corporate procurement to motivate companies to disclose their environmental impacts, and to reduce greenhouse gas emissions, safeguard water resources and protect forests. Over 14,000 organizations around the world disclosed data through CDP in 2021, including more than 13,000 companies worth over 64% of global market capitalization, and over 1,100 cities, states and regions. Fully TCFD aligned, CDP holds the largest environmental database in the world, and CDP scores are widely used to drive investment and procurement decisions towards a zero carbon, sustainable and resilient economy. CDP is a founding member of the Science Based Targets initiative, We Mean Business Coalition, The Investor Agenda and the Net Zero Asset Managers initiative. Visit cdp.net or follow us [@CDP](https://twitter.com/CDP) and on [LinkedIn](https://www.linkedin.com/company/cdp) to find out more.

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CDP Europe's annual report is available [here](#) and its regular policy newsletter can be joined [here](#).

CDP Government Partnerships

CDP Government Partnerships are designed to help governments analyse the impact of policies and regulation to achieve carbon-neutrality and resource efficiency by 2050. CDP's global disclosure system equips national, EU and international policymakers and governmental bodies with the data they need to track and measure the impact of policies, identify gaps, trends and best market practice that can be tackled and incentivized through policymaking to create positive impact and drive the transition.

By endorsing the CDP disclosure system, governments can actively drive the increase in quantity and quality of climate and environmental data of corporates and local governments as well as action on climate change, water insecurity and deforestation.

CDP Europe in European and international media

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