

## Wilmar Position

**Proposal for a Regulation 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.**

Wilmar supports the effort to halt deforestation and protect High Carbon Stock and High Conservation Value areas. However, some of the measures presented in the Proposal carry important risks, from excluding smallholder farmers from sustainable supply chains and penalising sustainable actors in high-risk countries to disrupting and diverting trade as well as duplicating due diligence. As a leader in implementing sustainable palm oil supply chains, **Wilmar proposes alternative solutions which would meet the aim of promoting sustainable supply chains into and out of the EU, while actively promoting an increase in worldwide sustainable production and a reduction in global deforestation as well as minimising disruptions to trade and supply chains.**

### 1. Country benchmarking system

#### Expected negative impacts

- Consumer goods manufacturers will be reluctant to receive products from a “high risk” country/area, regardless of due diligence process.
- Penalising sustainable actors in “high-risk” areas and distorting competition.
- Discouraging sustainable production in areas which need it the most.
- Putting “low-risk” areas at risk of deforestation.
- A negative political signal to producing countries, in the opposite direction to partnerships with said countries.

#### Alternative solution and positive impacts

- Enforcing the same comprehensive due diligence rules on all suppliers, regardless of geographical origin.
- A carding system for individual operators.

### 2. Requirement to provide geo-localisation coordinates of plots of land of production

#### Expected negative impacts

The requirement of providing the geo-localisation of every plot of land would exclude 40% of producers of palm oil, **namely the smallholders**. Nevertheless, via satellites it is still possible to monitor smallholders in 50km radius around the mill.

#### Alternative solution and positive impacts

- When it comes to the palm oil sector, geo-localisation requirements should relate to [traceability to mill \(TTM\)](#), **which is already 100% implemented at all first palm importers into Europe.**
- Alternatively, geo-localisation requirements for mills and their own plantations only, and therewith excluding smallholders from this requirement.

### 3. Due Diligence Process / Obligation of competent authorities to perform checks and controls by customs authorities

#### Expected negative impact

- Logistical issues would arise from having to submit a due diligence statement for every single shipment. This would lead to an enormous administrative burden for both the operator, the customs and competent authorities.

- How will competent authorities gather knowledge, tools, and experience that companies like Wilmar have, to judge whether a breach with EU requirements has been taken place?

#### **Alternative solution and positive impact**

A more efficient and effective alternative for checks by competent national authorities on selected imports would be by means of an **annual audit of the due diligence systems** of operators. In doing so, the competent authorities can learn from implemented solutions used by operators. Annual audits are already used for most certification standard.

### **4. Scope**

#### **Expected negative impact**

Focusing on a set list of so called “high-risk” commodities without including competing commodities can lead to the **environmental harm shifting to other commodities through substitution effects**. This could lead to a transfer of unsustainable practices to less regulated substitute sectors. This effect is specifically applicable for palm as it can be replaced by other vegetable oils. Also, two years is too long to consider expanding the scope to further commodities.

#### **Alternative solution and positive impact**

**Substitute commodities (in the case of palm oil, this would include all competing vegetable oil crops) should already be included in the scope of the Proposal.**

### **5. Penalties in case of non-compliance**

#### **Expected negative impact**

There is an incentive for producers in origin countries to deforest because of strive for economic development. It is therefore possible that, despite the operators’ best effort, **a supplier connected to deforestation unintendedly enters the EU supply chain** (e.g due to a name change, a new supplier to third-party supply, the fact that it is possible to detect deforestation only after the fact and not before, etc). The Proposal does not specify **if penalties apply in this case**.

In that context, it is important to also note that companies are not allowed to tell upfront which suppliers are on their suspension list because of alleged breach with competition law.

#### **Alternative solution and positive impact**

- When annual audit proves that a due diligence system has been implemented and followed to the best effort, the operator should not receive penalties according to Article 23, if unintended deforesting supplier is detected.
- Inclusion in the Proposal of a “Suspend first” approach. This means immediate suspension after verified deforestation is detected. In a second stage, supplier engagement can take place.

### **6. Absence of provisions for non-complying suppliers to re-enter the supply chain after compensation**

For this Proposal to be truly forward-thinking and inclusive, the deforestation cut-off date of 31 December 2020 for the prohibition of placing on the market would need to be complemented by provisions on how non-complying suppliers could **re-enter supply chains through compensation measures** and a commitment to stop its non-compliance, which are currently lacking in the text.

**Not providing for such corrective measures means forever excluding suppliers from sustainable supply chains into the EU and losing them to unsustainable supply chains.** This would in effect remove the influence EU operators and producing countries’ authorities have on non-complying suppliers.