

Checkliste zur EU-Verordnung gegen den Import von Waldzerstörung und -umwandlung

Diese Checkliste soll Journalist:innen, Entscheidungsträger:innen und weiteren Interessierten eine Hilfestellung bieten, um schnell erfassen zu können, ob die wichtigsten Aspekte im Verordnungsentwurf gegen importierte Entwaldung der EU-Kommission enthalten sind.

Am 22. Oktober 2020 forderte das Europäische Parlament die Europäische Kommission mit dazu auf, einen Gesetzesentwurf vorzulegen, der von Unternehmen verlangt, sicherzustellen, dass ihre Importe in den EU-Markt nicht zur Abholzung von Wäldern oder zu Menschenrechtsverletzungen führen. Darüber hinaus soll es auch Finanzinstituten verboten werden, Gelder an Unternehmen zu vergeben, die Waren importieren, die zur Abholzung von Wäldern oder zu Menschenrechtsverletzungen beigetragen haben.

In der Resolution des Parlaments wird ausdrücklich anerkannt, dass:

- die Abholzung von Wäldern und die Umwandlung anderer intakter Ökosysteme in industrielle Landwirtschaft nach der Verbrennung von Kohle, Öl und Gas die zweitgrößte Ursache für den Klimawandel ist,¹
- die europäischen Importe von Rohstoffen, die mit dieser Zerstörung verbunden sind, für 10 % der weltweiten Entwaldung verantwortlich sind,²
- ohne Maßnahmen zur Beendigung der Entwaldung die Ziele des Pariser Abkommens und des Green New Deal nicht erreicht werden können,³
- die Zerstörung und Schädigung der globalen Wälder in erheblichem Maße gegen die Menschenrechte verstößt, was insbesondere die Rechte der indigenen Völker betrifft;⁴ und
- Vorschriften, die verhindern, dass Waren mit Abholzung in Verbindung gebracht werden, hätten keine Auswirkungen auf die Menge oder den Preis der Waren für Verbraucherinnen und Verbraucher, da die Kosten für die Lieferanten zur Sicherstellung von Entwaldungsfreiheit ihrer Produkte minimal sind.⁵

Das Parlament sprach in der Resolution eine Reihe spezifischer Empfehlungen aus, um sicherzustellen, dass das Ziel der erarbeiteten Rechtsvorschriften erreicht wird und die durch den europäischen Markt verursachten Waldzerstörungen und Menschenrechtsverletzungen verringert werden.

Nachfolgend finden Sie eine einfache Checkliste mit zwölf Punkten sowie Verweisen auf die Textpassagen in der Resolution, um zu bewerten, ob der Kommissionsvorschlag zur Verordnung gegen importierte Entwaldung diesem Ziel entspricht oder nicht.

Die Checkliste

1) Die Gesetzgebung sollte, unabhängig von ihrer Rechtsform, Größe oder Komplexität der Wertschöpfungsketten, für alle Wirtschaftsbeteiligten gelten, die von der Gesetzgebung abgedeckte Waren oder deren Folgeprodukte auf dem EU-Markt in Verkehr bringen.⁶

2) Die Gesetzgebung sollte auch für Finanzinstitute gelten, die Unternehmen finanzieren, versichern oder andere Dienstleistungen für Unternehmen erbringen, die entwaldungskritische Rohstoffe und deren Folgeprodukte ernten, gewinnen, produzieren, handeln oder verkaufen.⁷

3) Die Gesetzgebung muss sicherstellen, dass Unternehmen, die Waren in den EU-Markt einführen, nachweisen müssen, dass ihre Produkte keine Wälder oder anderen natürlichen Ökosysteme zerstören oder schädigen.⁸

4) Die Gesetzgebung muss sicherstellen, dass Unternehmen, die Waren in den EU-Markt einführen, nachweisen müssen, dass ihre Produkte nicht gegen die Menschenrechte verstoßen. Das umfasst auch die Rechte indigener Völker in Bezug auf ihre freie vorherige und informierte Zustimmung zu jeglicher Nutzung ihres Landes.⁹

5) Die Gesetzgebung muss für alle Waren, die im hohen Maße mit der Degradierung und der Zerstörung von Wäldern und anderen natürlichen Ökosystemen in Verbindung gebracht werden, gelten. Dazu gehören mindestens:

- Palmöl,
- Soja,
- Fleisch,
- Leder,
- Kakao,
- Kaffee,
- Kautschuk und
- Mais.¹⁰

6) Die Maßnahmen der Unternehmen zur Achtung und zum Schutz der Menschenrechte, der natürlichen Wälder und der natürlichen Ökosysteme müssen für die gesamte Wertschöpfungskette gelten. Dabei müssen alle Arten von Geschäftsbeziehungen des Unternehmens mit Geschäftspartnern und anderen Unternehmen entlang der gesamten Wertschöpfungskette sowie jegliche weitere staatliche und nicht-staatliche Einrichtungen berücksichtigt werden, die in direktem Zusammenhang mit den Geschäftstätigkeiten, Produkten oder Dienstleistungen des Unternehmens stehen.¹¹

7) Die Gesetzgebung sollte für Händler gelten, die eine der aufgelisteten Waren an Unternehmen mit Sitz in der EU verkaufen oder von ihnen kaufen. Unternehmen in der EU dürfen nur dann mit Händlern der unter die Rechtsvorschriften fallenden Waren und ihrer Folgeprodukte zusammenarbeiten, wenn sie sicherstellen können, dass diese Händler die Gesetzgebung einhalten.¹²

8) Die Anwender müssen sicherstellen, dass alle Unternehmen, die mit den aufgelisteten Rohstoffen und ihren Folgeprodukten arbeiten, jährlich und öffentlich über ihre Sorgfaltspflichten und Konsultationsverfahren, die ermittelten Risiken, ihre Verfahren zur Risikoanalyse, -minderung und -behebung sowie deren Umsetzung und Ergebnisse berichten.¹³

9) Bei diesen Prozessen müssen die Anliegen aller betroffenen Menschen vor Ort, einschließlich der Arbeitnehmer und der indigenen Völker berücksichtigt und rechtzeitig behandelt werden.¹⁴

10) Die Sanktionen bei Rechtsbruch müssen so hoch sein, dass sie vor Verstößen abschrecken und müssen Folgendes umfassen:

- Dauerhafte Beschlagnahme von nicht-konformen Waren und Folgeprodukten
- Sofortige Aussetzung der Genehmigung für das Inverkehrbringen von Produkten auf dem EU-Markt
- Ausschluss von der öffentlichen Auftragsvergabe; und
- Strafrechtliche Sanktionen für verantwortliche Einzelpersonen und, soweit zulässig, für juristische Personen.¹⁵

11) Unternehmen, die gegen diese Bestimmungen verstoßen, sollten zivilrechtlich für die Umweltzerstörung und die Menschenrechtsverletzungen ihrer Zulieferer haften.¹⁶

12) Darüber hinaus müssen die Bürger das Recht haben, gegen Unternehmen wegen Verletzung der Verordnung vor Gericht und/oder vor Verwaltungsbehörden vorzugehen.¹⁷

Stand: November 2021



Deutsche Umwelthilfe e.V.

Bundesgeschäftsstelle Radolfzell
Fritz-Reichle-Ring 4
78315 Radolfzell
Tel.: 0 77 32 9995 - 0

Bundesgeschäftsstelle Berlin
Hackescher Markt 4
Eingang: Neue Promenade 3
10178 Berlin
Tel.: 030 2400867-0

Ansprechpartnerinnen

Tina Lutz
Campaignerin Naturschutz und
biologische Vielfalt
Tel.: 030 2400867 - 890
E-Mail: lutz@duh.de

Kathrin Anna Frank
Projektmanagerin Naturschutz
Tel.: 030 2400867 - 884
E-Mail: frank@duh.de

www.duh.de info@duh.de [umwelthilfe](https://twitter.com/umwelthilfe) [umwelthilfe](https://facebook.com/umwelthilfe)

Wir halten Sie auf dem Laufenden: www.duh.de/newsletter-abo

Die Deutsche Umwelthilfe e.V. (DUH) ist als gemeinnützige Umwelt- und Verbraucherschutzorganisation anerkannt. Sie ist mit dem DZI-Spendensiegel ausgezeichnet. Testamentarische Zuwendungen sind von der Erbschafts- und Schenkungssteuer befreit.

Wir machen uns seit über 40 Jahren stark für den Klimaschutz und kämpfen für den Erhalt von Natur und Artenvielfalt. Bitte unterstützen Sie unsere Arbeit mit Ihrer Spende – damit Natur und Mensch eine Zukunft haben. Herzlichen Dank! www.duh.de/spenden

¹ “whereas emissions from land-use change, mostly due to deforestation, account for approximately 12 % of global greenhouse gas (GHG) emissions and are the second biggest cause of climate change after burning coal, oil and gas” (Parlamentarische Resolution, S. 5, D)

² “whereas Union consumption is estimated to contribute to at least 10 % of global deforestation” (Parlamentarische Resolution, S. 7, O)

³ “Points out that global preservation of forests and preventing their degradation are some of the biggest sustainability challenges of our times, without which the objectives of the 2030 Agenda for Sustainable Development, the Paris Agreement and the Green Deal cannot be achieved; stresses that the sustainable use of forests and ecosystems in many parts of the world cannot be ensured with current policies” (Parlamentarische Resolution, S. 7 §2)

⁴ “deforestation, degradation and conversion of world forests exacerbates the threat posed to indigenous peoples and local communities, who are met with human rights violations, attacks and killings in response to their efforts to protect their forests, land and environments” (Parlamentarische Resolution, S. 6, K)

⁵ “A legal framework to prevent the entry into the Union internal market of products linked to deforestation, will have no impact on volume and price of the commodities sold in the Union and covered in the Annex of this resolution and that extra costs incurred by operators to implement these legal obligations are minimal.” (Parlamentarische Resolution, S. 6 §28)

⁶ “The proposal should apply to all operators, irrespective of their legal form, size or complexity of their value chains, i.e. any natural or legal person (excluding non-commercial consumers) that places commodities that are covered by the proposal and their derived products on the Union internal market for the first time, or that provides financing to the operators undertaking these activities. This should apply to both Union and non-Union-based operators.

Operators that are not based in the Union should mandate an authorised representative to perform the tasks (in accordance with Regulation (EU) 2019/1020 of the European Parliament and of the Council).” (Parlamentarische Resolution, S. 24 §2)

⁷ “The proposal should equally apply to all financial institutions authorised to operate in the Union which provide finance, investment, insurance or other services to operators that harvest, extract, produce, process, trade or sell forest and ecosystem-risk commodities and their derived products to ensure that these financial institutions themselves and their supply chain companies respect the responsibilities on the environment and human rights as set out in the proposal.” (Parlamentarische Resolution, S. 26 2)

⁸ “Commodities covered by the proposal and their derived products placed on the Union market should not result in, or derive from, the degradation of natural forests or natural ecosystems due to human activity.

For that purpose, FERCs placed on the Union market, in raw form or as products derived from or containing such commodities, should not be harvested, extracted or produced from land that, at a defined cut-off date, had the status of natural forest or natural ecosystem in accordance with the definition laid down in Section 3.3. The cut-off date must be set in the past, but no later than 2015, and must also be science-based, justifiable, implementable in practice and in line with Union international commitments. It should only be legally possible to place on the Union market a commodity that has been harvested, extracted or produced in compliance with conservation objectives and it did not lead to the loss or degradation of ecosystem functions on or adjacent to the land from which it was harvested, extracted or produced.

The Commission's legislative proposal should contain definitions as to what constitutes a “forest”, a “natural forest” that possesses many or most of the characteristics of a forest native to the given site, even in the presence of human activities, “deforestation”, “forest degradation”, a “natural ecosystem”, “ecosystem degradation” and “ecosystem conversion”.

Those definitions should be based on objective and scientific considerations and take into account relevant sources of international law and international organisations, as well as other initiatives providing for suitable definitions, such as the Food and Agriculture Organisation of the United Nations, the European Environmental Agency, the Accountability Framework Initiative or the High Carbon Stock Approach.

The definitions should be based on the following principles

- they should allow the achievement of the highest level of environmental protection, notably for forests and other natural ecosystems, and be consistent with the Union's international and domestic commitment on forest, biodiversity and climate protection,
- they should support the Union's goal of preserving natural forests and ecosystems, including in particular primary and regenerated forests, and prevent their replacement with forests and ecosystems derived from human activities, such as tree plantations,
- they should be sufficiently comprehensive to grant protection to other natural ecosystems that, as forests, are important for the preservation of biodiversity or for the achievement of the climate objectives set out in the Paris Agreements,
- they should aim at ensuring that the adoption of Union measures to protect the world's forests might result in the problem of conversion and degradation being shifted onto other natural ecosystems that are as important as natural forests for biodiversity, climate and human rights protection.” (Parlamentarische Resolution, S. 26 §3.2)

⁹ “FERCs placed on the Union market, in raw form or as products derived from or containing such commodities, should not be harvested, extracted or produced from land obtained or used in violation of human rights embedded into national laws, nor those rights expressed, as a minimum, in the EU Charter of Fundamental Rights or in international agreements, such as the rights of indigenous peoples and local communities, including tenure rights and the procedural right to give or withhold their free prior and informed consent as set out for example by the UN Permanent Forum on Indigenous Issues and UN and regional treaty bodies, the right to water, the right to environmental protection and sustainable development, the right to defend human rights and the environment, free from any form of persecution and harassment, labour rights as enshrined in ILO fundamental conventions and other internationally recognised human rights related to land use, access or ownership, as well as the human right to a healthy environment, as defined in the Framework Principles on Human Rights and the Environment and the standards and good practices identified by the UN Special Rapporteur on human rights and the environment.

Special attention should be paid to child labour with the aim to eliminate it.

At all stages, harvesting, extracting or producing covered commodities should respect local communities' and indigenous peoples' community and land tenure rights in all forms, whether they are public, private, communal, collective, indigenous, women's or customary rights. Indigenous peoples' and local communities' formal and customary rights to lands, territories and resources should be identified and respected, as should their ability to defend their rights without reprisals. Those rights include the rights to own, occupy, use and administer these lands, territories and resources.

Commodities covered by the proposal should not be obtained from land whose acquisition and use affects community and land tenure rights. In particular, commodities placed on the Union market should not be harvested, extracted or produced from the lands of indigenous peoples and local communities, both those lands formally titled and those under customary ownership, without their free, prior and informed consent.” (Parlamentarische Resolution, S. 27 §3.4)

¹⁰ “The proposal should cover all commodities that are most frequently associated with deforestation, degradation of natural forests and conversion and degradation of natural ecosystems due to human activity. A list of these commodities should be prepared on the basis of an independent expert evaluation, taking into account the precautionary principle, and should be provided in an annex to this proposal and comprise at least palm oil, soy, meat, leather, cocoa, coffee, rubber, and maize and all intermediate or final products that are derived from these commodities, and products that contain these commodities. In the event that the derived products contain input from more than one commodity covered by the proposal, due diligence should be performed with respect to each of these commodities. Commodities covered by Regulation (EU) No 995/2010 of the European Parliament and of the Council (‘the EU Timber Regulation’) should be integrated into the scope of the proposal, following the Commission's assessment on the basis of an independent, expert evaluation, taking into account the precautionary principle, within three years from the date of entry into force of the proposal.” (Parlamentarische Resolution, S. 25 4)

¹¹ “All operators should be entitled to lawfully place FERCs and FERC-derived products on the Union market only when, in accordance with provisions referred to in -Section 4 of this Annex, they are able to demonstrate that within their own activities and all types of business relationships that they have with business

partners and entities along their entire value chain (i.e. transport companies, suppliers, traders, franchisees, licensees, joint ventures, investors, clients, contractors, commercial customers, consultants, financial, legal and other advisers) that, at the very most, there is a negligible risk level, that the goods placed on the Union market:

- originate from land obtained via the conversion of natural forests or other natural ecosystems;
- originate from natural forests and natural ecosystems undergoing degradation, and
- are produced in, or are linked to, violation of human rights.” (Parlamentarische Resolution, S.25 1)

¹² “The proposal should apply to a trader, i.e. any natural or legal person that in the course of a commercial activity, sells to or buys from operators on the Union internal market any commodity covered by the proposal or a derived product that has been already placed on the Union internal market. Operators on the Union internal market should not be able to engage with traders, unless traders are able to:

- identify the operators or traders that supplied the commodities covered by the Regulation and their derived products; and
- where applicable, identify the traders to which they supplied the commodities covered by the proposal and their derived products; and
- ensure the traceability of their products, in order to be able to identify their origin, when they are placed on the Union Internal Market.” (Parlamentarische Resolution, S.26 3)

¹³ “Operators should annually report on their due diligence and consultation processes, the risks identified, their procedures for risk analysis, risk mitigation and remediation, and their implementation and outcomes to the competent authority and in a public, accessible and appropriate manner, which will not disproportionately in particular burden small and medium-sized enterprises.

The Commission should adopt delegated acts to set out the format, and the elements of the reports. In particular, operators should, inter alia, report on the system they use and how they apply it to the commodities in question, identified risks and impacts; the actions taken to cease and remedy existing abuses and to prevent and mitigate risks of abuse, as well as their outcomes; the measures and results of monitoring the implementation and effectiveness of such actions, warnings received through the early-warning mechanism and how the operator took them into account in their due diligence processes, and a list of all subsidiaries, subcontractors and suppliers, products and their quantity and origin. A failure to publish complete and timely reports should be penalised and ultimately lead to the suspension of authorisation to place products on the Union internal market.

4.4. Duty of documentation

Operators should maintain a written record of all due diligence actions and their results and make it available to the competent authorities upon request.” (Parlamentarische Resolution, S.31 §4.3)

¹⁴ Operators should:

- (a) adequately, timely and directly consult impacted and potentially impacted stakeholders;
- (b) properly take into account stakeholders’ perspectives in the definition and implementation of the due diligence measures;
- (c) ensure that representative trade unions and workers’ representatives are involved in the definition and implementation of the due diligence measures;
- (d) establish an early-warning mechanism that give an opportunity to workers and interested parties with substantiated concerns to inform the operator about any risk of harm to natural forests, natural ecosystems and human rights throughout the entire value chain; the operator should take this information into account in its due diligence processes;
- (e) properly take into account indigenous and local knowledge and risks and concerns expressed by local communities, indigenous peoples, land and environmental defenders.” (Parlamentarische Resolution, S.30 §4.2)

¹⁵ Member States should ensure, in accordance with their national law and practice, the enforcement of the duties referred to in Section 4 by:

(a) providing for proportionate, effective and dissuasive penalties and sanctions for non-compliance with any of the obligations set out therein or where non-compliance with any of those obligations causes, contributes to, is linked to, or aggravates damage to natural forests or natural ecosystems or human rights abuses or the risks thereof; these should include:

- i. effective, proportionate and dissuasive penalties proportionate to the damage to natural forests, natural ecosystems or human rights, as set out in the proposal, the cost of natural forest and natural ecosystem and human rights restoration and the economic prejudice resulting from the infringement to the affected communities;
- ii. permanent seizure of covered commodities and derived products concerned;
- iii. immediate suspension of authorisation to place products on the Union internal market;
- iv. exclusion from public procurement processes;
- v. criminal penalties to individuals and, where allowed, for legal entities in the case of the most serious offenses;

(b) designating competent national investigating and enforcement authorities (‘competent authorities’); the competent authorities should monitor that operators effectively fulfil the obligations laid down in the proposal; for that purpose, the competent authorities should carry out official checks, in accordance with a plan as appropriate, which may include checks on the premises of operators and field audits, and should be able to adopt provisional orders and, in addition and without prejudice to the application of sanctions, should have the power to require operators to take remedial actions; the competent authorities should also carry out timely and thorough checks when in possession of relevant information, including substantiated concerns from third parties, and should treat information related to their activity in accordance with Directive 2003/4/EC on public access to environmental information” (Parlamentarische Resolution, S.31 §5.1)

¹⁶ “(a) Civil liability Operators should be:

- i) jointly and severally liable for harm arising out of human rights abuses or damage to natural forests and natural ecosystems, as set out in the proposal, that has been caused, aggravated, contributed by or linked to controlled or economically dependent entities;
- ii) liable for harm arising out of human rights abuses or damage to natural forests and natural ecosystems, as set out in the proposal, directly linked to their products, services or operations through a business relationship, unless they can prove they acted with due care and took all reasonable measures given the circumstances that could have prevented the harm; operators may therefore discharge their liability if they can prove that they took all due care to identify and avoid the damage.” (Parlamentarische Resolution, S.33 §5.2)

¹⁷ “ensuring that members of the public have the right to challenge non-compliance before the judicial or administrative authorities, which should include any individuals or groups whose rights and obligations or interests are affected, directly or indirectly, by the undertaking’s total or partial failure to perform its duties, including employees, customers, consumers and end-users, trade unions, transnational trade union federations, local communities, national or local governments or institutions, journalists, NGOs and local civil society organisations.” (Parlamentarische Resolution, S. 32 §5.1 (c))