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Tougher EU deforestation regulations are having an increasing impact on palm oil producers, who say they are being targeted unfairly

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The European Union (EU)'s deforestation-free regulation (EUDR) entered into force on 29 June, with many EU and supplier country experts believing it will lead to higher prices and supply difficulties for palm oil importers.

"The law may not lead to a sizeable decrease of palm oil imports into the EU, but with (considerably) reduced geographical areas that are meeting EU requirements, it can lead to increased prices and to temporary supply issues," EU vegetable oil and protein meal industry association (FEDIOL) director general Nathalie Lecocq told *Oils & Fats International*. "We could also anticipate more serious supply issues with palm kernel oil imports," she added.

Under the new law, which becomes binding from 30 December 2024, companies wanting to import soyabean, beef, palm oil, wood, cocoa, coffee, rubber or charcoal into the EU – as well as derived products such as palm kernel oil – must produce a due diligence statement and "verifiable information" proving their goods were not grown on land deforested after 31 December 31 2020, or risk fines of at least 4% of their turnover.

Large businesses have 18 months (and smaller firms 24 months) to comply with

Tightening rules on deforestation

the new regulation, which also includes a benchmarking system assigning a high, standard or low risk rating to countries in and outside the EU, meaning authorities must carry out checks on 9%, 3% and 1% of their products, respectively.

FEDIOL has underlined problems that will arise for many smallholders with "the geolocation of plots, the chain of custody requirements (segregation) and requirements to prove the legality of agricultural production," Lecocq said, adding that "the time frame within which this needs to be achieved is unrealistic".

Lecocq added that as the EUDR targets seven commodities, including palm oil and soyabean, "we cannot say clearly what the EU will be able to continue importing when the regulation applies.

"There is still a lot of uncertainty about the practical implementation, and ability and willingness of producers and other supply chain actors to comply."

Problems are also anticipated when operating the benchmarking and checking system. "The benchmarking criteria is still to be defined, but we understand that it will be judged on the general deforestation rate in a country or region," Lecocq said.

"This may lead to a situation where the supply chain in one commodity has... ensured that deforestation is no longer linked to the specific commodity in that specific region or country, but the whole

region or country may nonetheless be categorised as high risk."

Soya trade affected

Dominique Dejonckheere, senior policy advisor at Copa-Cogeca, the European body representing farmers and agri-cooperatives, told *OFI* that soyabean imports into the EU would also be affected by the new EU regulation as deforestation-free products could not be physically mixed with products not verified as deforestation-free.

This would undermine deforestation-free commitments and efforts carried out in high-risk areas.

"The competitiveness of the EU livestock area will also be put at risk."

Notwithstanding, Lecocq did not oppose the new law in principle, saying it is "critical for addressing the climate challenge and for the planet".

Will Surman, director, strategic communications, public affairs and ESG (environmental, social and governance) at EU food and drink industry association FoodDrinkEurope, agreed the law "is an important step towards our goal for food supply chains to be deforestation-free.

"The EU accounts for approximately 10% of the world's deforestation, mostly through its demand for products from around the world," he noted, adding that the UN Food & Agriculture Organization

► (FAO) estimates palm oil and soyabean account for over two-thirds of that total.

The FAO estimates that 420M ha of forest – an area larger than the EU – was converted from forests to agricultural use between 1990 and 2020.

US anti-deforestation proposals

In the USA, green credentials are also important to the oil and fats industry, with businesses such as Unilever stating: “We ensure the palm oil we buy is not only sustainably sourced, but deforestation-free.”

Industry is less keen to discuss the impact of planned anti-deforestation laws: “Our organisation does not generally speak on these matters as our membership is quite diverse, and we do not wish to risk conflicting with our members’ corporate policies,” said American Fats and Oils Association (AFOA) executive director Leigh Wickersham.

Current US legislation on overseas deforestation is primarily through the 1900 Lacey Act, last amended in September 2021 “which restricts imports of endangered and illegally harvested timber species,” Friends of the Earth (FoE) international forests programme director Jeff Conant told *OFI*.

Other US laws that could have an impact are “US Customs and Border Protection (CBP) regulations which have been applied numerous times to the palm oil sector,” for example, to seize shipments if there is evidence that they were manufactured by forced labour.

Environmental organisations hope an updated version of the Fostering Overseas Rule of Law and Environmentally Sound Trade (FOREST Act), proposed in October 2021 and designed to restrict imports of products linked to illegal deforestation, will assist industry to ensure responsible sourcing. “But this has not been introduced into current Congress,” Conant said.

Only two US states have tried to implement anti-deforestation rules at a sub-national level. California’s B-1979 Deforestation-Free Procurement Act introduced to the state legislature in February and November 2022 was blocked by its accountability and administrative review committee, a US Department of Agriculture press officer said.

Closest to becoming law and currently with the New York state legislature senate rules committee is a Tropical Deforestation-Free Procurement Act, stating that any products purchased by New York state authorities must meet strict supply chain transparency rules.

“Companies must be able to show the sources of products and ingredients down



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Palm oil producer organisations fear the new EU deforestation free regulation (EUDR) will exclude smallholders who will not be able to comply with the regulation’s requirements

to the smallest administrative unit,” said Conant. “This will affect any companies directly selling oils and fats to the state government as well as products composed of these ingredients sold to New York state.” While the bill’s impact is limited to state purchasing, it is important, as “New York is notably the world’s 10th largest economy,” Conant added.

Producer anger

Fadhil Hasan, head of the foreign division at the Indonesian Palm Oil Association (IPOA), locally known as Gabungan Pengusaha Kelapa Sawit Indonesia (GAPKI), said the EUDR would have negative impacts on the industry, especially on smallholders in Indonesia. He told *OFI* that if the regulation did not accommodate the concerns of palm oil and other commodity producers, it would result in higher production costs, lower competitiveness and additional burdens for operators, exporters and large-scale companies.

In addition, the law, was biased towards corporations and buyers, and against smallholders, he said. “The regulation will exclude smallholders from the supply chain as they will not be able to comply with the requirements.”

Indonesia’s palm oil exports to the EU have, in any case, been declining – from 5.5M tonnes in 2017 to 3.7M tonnes in 2022 due to various sustainability-

focused EU regulations, such as the EU Renewable Energy Directive, which restricts the import of bio-based fuel that has an alleged deforestation impact.

Trade has also been hit by anti-dumping duties, for instance, the 15.2% to 46.4% levies on Indonesian palm oil-based fatty acids, which is widely used in cleaning, cosmetics and personal care ingredients.

Gulat Manurung, chairman of the Indonesian Palm Oil Smallholders Association (Asosiasi Petani Kelapa Sawit Indonesia – APKASINDO), said the EUDR was a violation of human rights and a trade policy by the EU to protect its own oil crop farmers.

He added that the EUDR was not a threat to Indonesia because its 2.5M tonnes of annual exports to the EU were already Roundtable on Sustainable Palm Oil (RSPO)-certified, and hence there would be ready alternative markets.

APKASINDO was currently preparing a lawsuit against the EU on behalf of Indonesian smallholders, Hasan said.

There has been a negative reaction to the EU reform in Malaysia as well, with the Malaysian government saying it is considering halting exports of palm oil to the EU as a result.

A group of Malaysian palm oil and rubber smallholders have also submitted a petition to the EU to protest against the deforestation law.

Malaysia’s Minister of Plantation and Commodities Fadillah Yusof, who said in a statement that the law was unjust and “serves primarily to protect a domestic [EU] oilseed [industry] that is inefficient and cannot compete with Malaysia’s efficient and productive palm oil exports”.

Fadillah called the new regulation a way of blocking market access for palm oil and said he would discuss a potential trade boycott with Indonesia, the world’s largest palm oil producer.

Malaysian Palm Oil Board (MPOB) chairman Mohamad Helmy Othman Basha said at the 10th International Planters Conference in June that the EUDR impact on Malaysia’s palm oil growth and revenue would not be serious as the EU imported a relatively small volume compared with other countries.

Malaysia and Indonesia together account for 85% of global palm oil exports, and in a joint statement, Malaysian Prime Minister Anwar Ibrahim and Indonesian President Joko Widodo said they would cooperate closely to address the “highly detrimental discriminatory measures against palm oil”.

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