

There are no translations available.

[Yesterday](#) we commented the 30th Trade Monitoring Report on G20 trade measures of the World Trade Organization (WTO), explaining how most of restrictions to trade recently introduced by G20 countries (including the European Union), have been justified under the guise of measures aimed at protecting the environment. After the disputed [Carbon Border Adjustment Mechanism \(CBAM\)](#), a new duty applicable in the EU on imports of selected goods due to the carbon emissions produced during their production which has already caused the reaction of countries like [India](#), it is now the turn of the new EUDR - European Union Deforestation-free Regulation, ([Regulation \(EU\) 2023/1115](#)), in effect since June 2023, but with most of its provisions applicable only from end of December 2024. The new EU regulation is creating panic among African countries that produce agricultural commodities, including the [Ethiopian coffee exporters](#), due to the strict due diligence rules that EU importers are called to observe in selecting their suppliers, which expose them to a risk to incur in sanctions up to 4% of their total annual Union-wide turnover, with possible confiscation of goods and exclusions up to 12 months from public procurement processes and from access to public funding, including tendering procedures, grants and concessions.

The new EU regulation targets cattle, cocoa, coffee, oil palm, rubber, soya, wood, and a series of products (described in a specific annex to the Regulation) that contain or have been made, by using such commodities. The regulation also applies to animals that have been fed with commodities not compliant with the EU Regulation. Specifically, such regulation stipulates that all these goods can be placed or made available on the EU market only in case where specific conditions are met.

These conditions are three: 1) they are deforestation-free (they must not come from de-forested lands) ; 2) they have been produced in accordance with the relevant legislation of the country of production; and, 3) they are covered by a due diligence statement made by the operator, trader or other authorised representative in the EU where they declare, under their responsibility, that the 2 criteria above are met by the supplier.

As usual, the devil is in the detail. The requirement n. 2 implies the need, for the country of the supplier, to implement specific regulations proving the legal status of the area of production in terms of (art. 2.40) land-use, environmental protection; forest-related rules (including forest management and biodiversity conservation, where directly related to wood harvesting); third parties' rights; labour rights; human rights protected under international law; the principle of free, prior and informed consent (FPIC), including as set out in the UN Declaration on the Rights of Indigenous Peoples, and tax, anti-corruption, trade and customs regulations. The implementation also requires African companies to develop a system of traceability of the affected commodities from the plot where they have grown to production, processing, and distribution sites. This could potentially involve tracking hundreds or thousands of small collection areas in remote areas. Apart from being extremely complicated to do, this will require additional investments by exporters which will raise the cost of the products on the destination markets. Moreover, as African exporters of agricultural commodities often do not deal directly with farmers, they may rely on multiple intermediaries (e.g., this is the case of coffee), these [traceability systems](#) can be even more complicated to implement. Obviously European lawmakers do not know that.

As many African countries and companies are not currently able to meet these rules – and they hardly will be in the short term – many observers think that this new regulation will discourage EU importers to import such goods from Africa. As indicated above, most of the rules of the agreement, including those on the mandatory due diligence, will apply only from 30 December 2024. African countries have therefore one year time to comply to the requirements of this regulation. In the meantime, a

[report from Coffee Barometer](#)

, prepared by a group of NGOs, argues that most of coffee producers are 'ill-equipped' to handle the transformation required by the new EU Regulation and that the new rules will push EU importers to source their products from more developed regions, like Brazil, that have better traceability. In fact, the report notes, in many developing regions (and this is the case of Africa), producers generally '

*lack resilient management systems to systematically evaluate and alleviate deforestation hazards present within their supply chains*

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In the meantime, European businesses are following a precautionary approach, by [suspending orders](#)

from some African countries that they deem will not be able to meet the standards in the regulation, in order to avoid to incur in the applicable penalties. It's funny to note that some African countries have concluded Economic Partnership Agreements (EPAs) with the EU that are supposed to encourage trade by eliminating customs duties on the commodities and products in question, that often represent the main export commodities of such countries. Such

a pity that these agreements do not foresee any exception or flexibility criteria to the requirements of the new regulation. For every tariff barrier that is eliminated, a regulatory barrier is imposed.