

§ 5 Anti-deforestation policy

I. The problem of worldwide deforestation and forest degradation despite bold commitments

- forests, esp. rainforests, play a key role in stabilising the global climate by absorbing and storing CO₂; moreover, they produce a significant part of the world's oxygen
- large-scale deforestation or forest degradation, esp. slash-and-burn-practices, can destabilise the climate globally, with catastrophic effects also in other parts of the world
- therefore, the ongoing large-scale deforestation in some countries despite their governments' bold promises to stop it is conceived a threat - not only to these countries but also to Europe
- as governments have shown themselves unwilling or unable to halt deforestation, the EU has opted for the approach to use the coveted access to its internal market as leverage

II. The EU Regulation on Deforestation-free Products (EUDR) of 2023

(Regulation 2023/1115)

- an unconventional approach to support forest conservation worldwide
 - European legislation, but aiming for a global impact
 - forest-protecting law, but not in the field of forestry law but environmental and economic law
 - not a "European Deforestation Regulation", but a regulation on deforestation-free products
- an EU regulation (directly binding EU law!) with the the purpose to *ensure that the products* the EU citizens consume *do not contribute to deforestation or forest degradation worldwide*
 - applies to products imported into the EU and exported from the EU (e.g. Indonesian palm oil)
 - applies from 30.12.2025 to large & medium enterprises and from 30.06.2026 also to micro & small enterprises
- requires *operators and traders* that trade in cattle, cocoa, coffee, oil palm, rubber, soya and wood, as well as products derived from them (e.g. leather, chocolate, tyres or furniture), *to conduct extensive diligence on the value chain* to ensure that their goods do not result from recent (post 2020) deforestation, forest degradation or breaches of local laws (esp. environmental laws, land-use laws, third-party rights)
 - such goods must not be placed or made available on the market, or exported from the EU, unless these conditions are fulfilled and the goods are covered by a **due diligence statement** submitted electronically to the *EUDR Information system* (art. 3, 4, 33)
 - the statement includes the declaration that no or only a negligible risk of non-compliance was found (art. 4(1), 5(1))
 - if later information indicates that goods may not comply, the operator or trader must immediately inform the competent authorities in the relevant member states (art. 4(5), 5(1))
 - traders who are only small and medium enterprises (SME) only need to collect certain information and keep it for five years (art. 5(2-4))
- The European Commission has established a list that specifies countries with a particularly high or low risk of deforestation
 - in Southeast Asia, Myanmar is classified a high-risk country, while the Philippines, Laos, Thailand, Vietnam, Singapore, Brunei Darussalam and Timor-Leste (but not Malaysia and Indonesia) are classified low-risk countries

III. The controversy surrounding the Anti-Deforestation Regulation in the Global South

- the EUDR is politically controversial because it *practically forces European environmental policies on sovereign third countries*
 - it is therefore often criticised by the governments (e.g. in Brazil, Indonesia)
 - but it is often supported or even criticised as too weak by civil society organisations in these countries (e.g. in Indonesia)

- the EUDR is also politically controversial because it imposes an *immense bureaucratic burden* on companies
 - see for illustration the 45 pages Guidance Document published by the European Commission
 - however, not everyone sees this as a problem: see the translation of the Guidance Document into Bahasa Indonesia, provided by an Indonesian civil society organisation, so that Indonesian businesses can comply with it
- **update 04.12.2025:** in December 2025, the controversy surrounding the EUDR has triggered plans to postpone the EUDR's application and simplify its implementation

IV. Discussion: How to protect the rainforest effectively without patronising the Global South and placing the burden lopsidedly on it?

- Is the approach of the EUDR appropriate?

YOUR OPINION: _____

YOUR ARGUMENTS: _____

- Are there better alternative ways?

YOUR OPINION: _____

- Should natural areas of outstanding global ecologic importance (rainforests, seas, glaciers, geo-regional water reservoirs etc.) be considered a common natural heritage of mankind? If they should, what should be the legal consequences (under future global international law)?

YOUR OPINION: _____

