

June 2022

High Carbon Stock Approach Statement on European Union Legislation for Deforestation-free Products

On 17 November 2021, the European Commission released its proposal for a Regulation on deforestation-free products to prevent certain commodities and derived products from entering the European Union (EU) market if they are associated with deforestation and/or forest degradation.

The High Carbon Stock Approach (HCSA) welcomes the EU Commission's proposal to reduce its footprint as a major consumer of products contributing to global deforestation and forest degradation and to work with producer countries and stakeholders to tackle this global challenge.

Established in 2014, the [HCSA](#) sets the standard approach for implementing no deforestation on-the-ground for any commodity grown in moist tropical forest landscapes.¹ It has wide support and recognition by a multitude of international institutions and governments including by the United Nations,² the European Commission³, the French Government⁴, the World Economic Forum⁵, and many commodity sustainability schemes including the Roundtable on Sustainable Palm Oil standard.⁶

The HCSA Steering Group acknowledges the EU Regulation identified the need to define and identify forests as part of risk mitigation approaches to meet EU operators' due diligence obligations. The HCSA requires robust quality assurance⁷ of land managers applying its no deforestation Toolkit to assess their plans for new development or changes in land use within existing landholdings to conserve High Carbon Stock (HCS) forests and High Conservation Values (HCV) as well as respect the rights of Indigenous Peoples and Local Communities (IPLC).

¹ As of April 2022, the HCSA Toolkit has been used or trialled in 14 countries - Indonesia, Papua New Guinea, Solomon Islands, Cameroon, Gabon, Liberia, Madagascar, Nigeria, Uganda, Brazil, Guatemala, Honduras Mexico and Peru for plantations of oil palm, pulpwood, cocoa and rubber. See this [link](#) for more details on where the HCSA is being used and trialled.

² The HCSA is acknowledged as an effective [no deforestation implementation tool](#) 2018 and [Nature-based Solution](#) 2019 to climate change by the United Nations.

³ The HCSA is referenced as a tool for forest conservation in the EU's 'Stepping up EU Action to Protect and Restore the World's Forests' [report](#) 2019.

⁴ French Government [strategy](#) 2018 discusses importing requirements in relation to deforestation and references the HCSA Toolkit.

⁵ In November 2021 the HCSA was announced as one of the five Top Innovation winners of the Tropical Forest Commodities Challenge by the World Economic Forum/Tropical Forest Alliance.

⁶ The HCSA was incorporated into the Roundtable on Sustainable Palm Oil (RSPO) standard for the [Production of Sustainable Palm Oil](#) 2018.

⁷ It requires [registration](#) of planned HCSA and HCV-HCSA assessments by HCSA Steering Group members and for companies to work with [Registered HCS Approach Practitioners](#) and [HCV Network Licensed Assessors](#) to undertake the assessments. The requirements to use Licenced Assessors and to submit assessment reports for evaluation are in place to ensure quality of assessments is in accordance with the HCSA Toolkit and HCV-HCSA Assessment Manual. The HCSA or HCV-HCSA assessment outcomes are [publicly available](#) on the relevant HCSA or HCVN websites. The quality assurance processes also assist in ensuring that any [claims](#) made by land managers are supported by published results.

Whilst the EU Regulation is a good step forward, the current proposal has some significant weaknesses and gaps. HCSA recommends the following steps be taken to address these issues and to ensure the Regulation is robust, inclusive, and effective:

i) Strengthen the Definition and Identification of Natural Forests

The EU Commission is proposing to use the UN Food and Agriculture Organization (FAO) definition of forest cited under Article 2: *Definitions*. However, this definition does not distinguish natural forests from tree plantations. The EU Commission must ensure its definitions of natural forest, deforestation and tree plantations does not allow for natural forests to be converted to tree plantations.

The HCSA methodology for identifying natural forest in the humid tropics used the FAO definition as a starting point to develop a practical assessment approach in complex and disturbed landscapes. We found the FAO definition alone was not sufficient to address the patchiness of disturbed tropical forest, nor to specify effective approaches for measuring parameters such as canopy cover and height. The HCSA recommends the EU Commission recognises the High Carbon Stock Approach⁸ as the accepted methodology for identifying natural tropical moist forests as a form of evidence in Due Diligence carried out by operators. The HCSA is widely recognised by numerous international standards, and it applies the definition of *natural forest* used in the Accountability Framework.⁹ A definition of natural forest is necessary under Article 2 to ensure a clear distinction from plantation forests.¹⁰

ii) Incorporation of Human Rights including the Land and Territorial Rights of Indigenous Peoples and Local Communities.

In the explanatory memorandum of the proposal under the section '*Fundamental Rights*', the EU Commission stated the importance of '*protecting the rights of vulnerable communities*' in accordance with '*the laws of the country of production*'. The proposed Regulation should reference/align with the EU's [Corporate Sustainability Due Diligence and amending Directive \(EU\) 2019/1937](#) which requires companies to exercise due diligence in accordance with international human rights and labour laws. This is particularly important for upholding customary tenure rights and the principle of Free, Prior and Informed Consent (FPIC) of Indigenous Peoples and Local Communities (IPLC), whose rights are often inadequately protected by national laws.

⁸ Natural [tropical moist](#) forests classified as High-Density Forest, Medium Density Forest, Low-Density Forest, Young Regenerating Forest defined by levels of biomass, vegetation structure, and composition using the [High Carbon Stock Forest Approach](#). See the [HCSA Toolkit](#) for more information.

⁹ Recognised under the Accountability Framework Initiative [no deforestation definition](#); Roundtable on Sustainable Palm Oil's standard for the [Production of Sustainable Palm Oil](#) 2018; Consumer Good Forum's Forest Positive Coalition [Palm Oil Road Map 2021](#); Cocoa Forest Initiative Framework for Action – [Ghana](#) 2017, [Côte d'Ivoire](#) 2017, [Cameroon](#) 2019; [Global Platform Sustainable Natural Rubber](#) 2020; Climate Bonds Initiative CBI – [Forestry criteria](#) 2018

¹⁰ Outside tropical moist forests defer to the Accountability Framework Initiative for a wider scope of natural forest and ecosystem [definitions](#).

The [HCSA requires that integrated](#) conservation and land use planning must first seek the FPIC of affected IPLCs. If FPIC is granted, land managers must plan with affected communities to ensure that their rights (including land, food security and labour rights) are respected.

iii) Include Protection of Other Ecosystems

The *Article 32(1)* proposes the first review of the Regulation will take place 2 years after entry into force and will include an assessment on ‘*the need and the feasibility of extending the scope of this Regulation to other ecosystems.*’ The European market’s consumption of commodities and its derived products are not only contributing to the clearance and degradation of natural forests, but many other ecosystems such as peatlands, savannahs, grasslands etc. These other ecosystems are integral to biodiversity conservation and many local communities live and/or rely on these ecosystems. The EU Commission must expand the scope of the Regulation proposal to reduce the risk of non-forest ecosystems being cleared and/or degraded.

The HCSA’s methodology includes use of the High Conservation Value methodology to ensure natural forest and non-forest ecosystems, e.g., peatlands, wetlands, etc., along with the services they provide (e.g. in terms of biodiversity and livelihoods) are conserved.

iv) Due Diligence Process and Risk Mitigation

We endorse the findings of the *EU Impact Assessment*, that legally binding options such as mandatory due diligence (*Article 8*) is an effective measure to assess and mitigate risks. We support the EU Regulation position that recognises that third-party verification and certification schemes can be used in the risk assessment procedure (*Article 10 (2j)*). But this should not be a substitute for EU operators’ own due diligence obligations (*Article 8*). The Regulation should further recognise its role, especially when it comes ensuring traceability to the plots of land where commodities are produced. The HCSA assessment can play an important role in an operator’s risk assessment procedure as well as support compliance of smallholders with the future EU law as the HCSA is being adapted to smallholder implementation.

The HCSA is a mitigation tool that can be used by EU operators to effectively demonstrate meeting their due diligence obligations for commodities grown in the moist tropics. The HCSA requires robust quality assurance of land managers applying its Toolkit to support credible no deforestation implementation in the production of commodity crops in tropical forest areas. Furthermore, the HCSA is incorporated into a number of certification schemes including the Roundtable on Sustainable Palm Oil’s standard for the [Production of Sustainable Palm Oil](#), [Global Platform Sustainable Natural Rubber](#) and the Cocoa Forest Initiative Framework for Action – [Ghana](#), [Côte d’Ivoire](#), [Cameroon](#) and is working with these schemes on opportunities and support for smallholder implementation.

v) Expand the Scope to other Deforestation-risk Commodities, SMEs, and other Sectors

The EU proposal under *Article 1 Subject matter and scope* targets six commodities – beef, cocoa, coffee, palm oil, soy and timber as well as derived products. However, the EU needs to include rubber in its commodity scope as it is a significant contributor to deforestation and forest degradation¹¹ and the EU is a major consumer of rubber with its consumption predicted to grow by 14% by 2030.¹² Moreover, the EU should continue to monitor emerging commodities contributing to deforestation and the degradation of natural ecosystems and update the relevant commodities required to abide the EU Regulation on a regular basis.

Furthermore, given most EU operators managing deforestation-risk commodities are Small to Medium Enterprises (SMEs) it is important for the EU to strengthen their due diligence requirements proportionally and provide more legal certainty, definitions/criteria, and deliver support and resources toward SME adoption of risk mitigation measures, including capacity building and implementation of the HCSA Toolkit in their supply chain under (*Article 6:5*). It is also critical that the EU create requirements including public reporting criteria for the finance and investment sectors to ensure financing is not continuing to contribute to deforestation and natural ecosystem degradation.

The HCSA methodology can be used for integrated land use planning in any country and commodity grown in [tropical moist forest](#) landscapes and therefore is applicable for all commodities under the EU Regulation within tropical moist forest landscapes. The HCSA Approach can be used by SMEs, large-scale commodity producers and the HCSA is developing a simplified Toolkit for communities & small farmer cooperatives which will be available by mid-2022. Additionally, a multitude of financial institutions/assessments already reference HCSA for no deforestation implementation.¹³

vi) Transparency and Reporting

The proposed Regulation obliges EU member states to regularly report (*Article 19*) on how member country operators and traders are implementing their due diligence requirements. These reports are to be built upon EU operator and trader annual reporting of their due diligence compliance with the EU Regulation including providing the precise geolocation coordinates of where the commodity product was produced. Given most operators in the EU

¹¹ The [March 24 report](#) of the European Parliament ENVI Committee (Rapporteur: Christophe Hansen) amendment to Article 1-paragraph 1 amendment includes rubber in the Regulation scope of applicable commodities and products. Estimating The Role of Seven Commodities in Agriculture-Linked Deforestation: Oil Palm, Soy, Cattle, Wood Fiber, Cocoa, Coffee, And Rubber. Technical Note, World Resources Institute (October 2020) <https://files.wri.org/d8/s3fs-public/estimating-role-seven-commodities-agriculture-linked-deforestation.pdf>; <https://www.wri.org/insights/eu-deforestation-regulation>

¹² The IRSG forecasts EU consumption of natural rubber to rise steadily by 14.5% over the decade to 2030 – rising from 1.023m tonnes in 2020 to 1.171m tonnes in 2030. IRSG 2021 World Rubber Industry Outlook: Review and Prospects, July 2021, IRSG: Singapore

¹³ [‘Banking Beyond Deforestation How the banking industry can help halt and reverse deforestation’](#) The Banking Environment Initiative by University of Cambridge (2021); Forest 500 [‘Financial Institution Assessment Methodology’](#) (2020); Bank Track’s [‘Soft Commitments, Hard Lessons: an analysis of the Soft Commodities Compact Soft Commodities Compact’](#) (2020); Barclays [‘Soft Commodities Compact Progress Report’](#) (2019); ShareAction’s [‘Banking on a Low-Carbon Future’](#) ranking report (Dec 2017). Note in some cases HCSA is explicitly referenced and/or the reference is made to the Round Table on Sustainable Palm Oil and/or the Accountability Framework Initiative (Afi); the former has incorporated HCSA into its standards and the Afi recognises HCSA as an effective no deforestation tool.

are SMEs, it is critical that the SME reporting requirements (*Article 11 (2)*) are strengthened to include these actors to also report annually on their due diligence compliance. Also, the Regulation requirements must not be prejudicial against smallholders supplying and trading with the EU market. The Regulation must be scalable and accommodate smallholders by providing support and incentives for them to access the EU market. These efforts should be accompanying by actions undertaken in partnerships with producer countries.

HCSA can contribute to the transparency and reporting required by the EU as its quality assurance reports are published on the [HCSA](#) and [HCV Network](#) websites.

vii) Cooperation and Support for Producer Countries and Smallholders

The Regulation *Article 28* recognises the need to collaborate with producer countries to invest in measures and actions to adequately address additional root causes risking commodity driven deforestation and forest degradation. The Regulation also recognises that these partnerships will require the inclusion of stakeholders and rights-holders.

There are several opportunities for the EU to act to ensure these partnerships will be robust and successful including providing: technical assistance and financial support to develop traceability systems in origin countries; public-private sector collaboration on the exchange of information and best practices in the preservation, conservation and sustainable use of forests to tackle issues at the origin; trade incentives and support for smallholders and other funding opportunities for authorities and smallholder support organisations in producing countries to scale up traceability and no deforestation implementation to ensure the legislation does not prejudice smallholder market access. Moreover, these partnerships must be developed through a multi-stakeholder process that includes local communities themselves and must recognise the responsibility of different actors along the supply chain to deliver change at the producer end.

The HCSA is a multi-stakeholder approach where land managers are required to cooperate with Indigenous Peoples and Local Communities to produce land use plans for the conservation of High Carbon Stock forests and High Conservation Values, community use and plantation development.

The HCSA is also developing a simplified Toolkit for communities and small farmer cooperatives with access to benefits and incentives to support their efforts to conserve High Carbon Stock forests and High Conservation Values which will be available by mid-2022.