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Joint Position on the Deforestation-free Regulation for Trilogue Negotiations

COCERAL, FEDIOL, and FEFAC call on the Council and European Parliament to agree on a Regulation which not only ensures deforestation-free supply chains to Europe but also incentivises sustainable transformation on the ground and global deforestation reduction. Furthermore, the overall design of the framework should avoid supply chain disruptions and limiting available supplies for Europe.

To ensure that the final text of the Regulation delivers on global deforestation reduction while guaranteeing availability of supplies, we strongly recommend the following:

1. **Enhanced partnerships with producing countries:** strong partnerships based on roadmaps as well as EU financial and technical assistance to smallholder programmes will be vital to overcome the many challenges associated with obtaining accurate and reliable geolocation data for smallholders' plots of land. Without this cooperation and assistance, many smallholders will be excluded from supply chains, affecting their livelihoods, and impacting in turn volumes of affected commodities available and their prices in the EU.
2. **Commodity-specific guidelines for operators:** given that each sector involved faces unique challenges in complying with the requirements of the regulation, the development of guidelines tailored to each sector would be an opportunity for the Commission and supply chain actors to jointly identify such challenges, find solutions to existing impediments, and build on best practices. This would ultimately support the availability of compliant commodity volumes in the EU.
3. **A credible implementation timeline:** ensure guidelines assisting operators and traders are available well before implementation and that sufficient implementation time is provided (i.e., 18 months minimum), and a longer implementation period where smallholders are concerned as well as for low-risk origins, where there is little to no practice of traceability. It will require much reflection, coordination, and effort to overcome as much as possible the many practical and governance related challenges linked to the collection and continuous update of geolocation data of millions of smallholders and millions of hectares of plots of land. The guidelines should build on and integrate the conclusions of the impact assessment on smallholders foreseen in the Commission's Proposal "no later than five years after entry into force", which is far too late to remediate any negative impacts. If the impact on smallholders is only assessed after implementation, the law risks causing serious, irreparable harm to a large number of small actors in the supply chain in the meantime. Furthermore, as the requirements for geolocation to plot combined with segregated flows and due diligence statements apply to all origins currently, there needs to be sufficient reflection on how relevant these requirements will be for countries and regions with low or no risk of deforestation and consequently no practice of providing geolocation

data. It is also important to reflect on whether it makes sense to generalise these requirements, given the disproportionate costs without having an impact on reducing deforestation.

4. **A thorough impact assessment before expanding the scope proposed by the Commission to other commodities/products and to other ecosystems:** the Council and European Parliament have expanded the Commission's original scope. Given the large costs and disruptions to supply chains associated with the requirements of the Regulation, an impact assessment is needed before contemplating an extension of the scope to other natural ecosystems and to other commodities and products, such as maize.
5. **No duplication of due diligence by large traders:** it would be a duplication of due diligence efforts to require both operators and large traders to perform due diligence on the same commodity flows. In practice, it will lead to operators having to provide the same information twice, once to the competent authorities and a second time to large traders.
6. **Avoiding overcharging the due diligence statements:** considering that a due diligence statement needs to be submitted every time a product is placed on the market, disclosing the steps that were taken to verify the compliance of the relevant commodities and products multiple times a month is administratively excessive and unnecessary. This type of information can be reported on an annual basis instead.
7. **Minimising trade disrupting checks and suspension time:** suspension of release for circulation is extremely costly, disruptive to trade, and leads to supply chain inefficiencies. To illustrate the costs, holding a ship at the port would represent a cost of 30.000 dollars per day. The resulting disruption at each downstream stage of the chain for delayed delivery will add to the cost of production. Increasing the % of checks adds to this logistical and trade disruption. Reducing checks does not compromise on controls on implementation of the Regulation when combined with annual checks on operators' due diligence systems. As for the administrative burden for competent authorities, a high % of checks would require significant resources and expertise and yet still not lead to 100% verification. An annual audit on operators' due diligence processes combined with a lower % of checks would help minimise such disruptions.
8. **Maintain the focus on deforestation:** human rights will be addressed in the Corporate Sustainability Due Diligence and Forced Labour Regulation. Adding human rights to the Deforestation Regulation will add confusion, duplication of obligations, and administrative burden. Human rights should be addressed by the relevant EU legislations.

While neither of the institutional decision-makers have opened the possibility for flexibility in the choice of chain of custody models, **we also urge the Council and European Parliament to reconsider cost-effective and forest-positive chain of custody models, such as 100% deforestation-free claimed volumes through mass balance for certain commodities, such as soy.** Due to the implied requirement for segregation, the majority of our currently sourced soy volumes will not be able to comply with the regulation even though these volumes are deforestation-free. For various commodities, such as soy, building new infrastructure (country elevators, silos, crushing lines or plants, port loading) for segregation of deforestation-free supplies is so costly that operators in most large ports are likely to abstain from such investment. Segregated chains for deforestation-free goods are therefore likely to only happen in smaller ports currently used for niche markets. With the loss of the efficiencies of the shared logistical infrastructure of the larger ports, we estimate significant cost increases. Given such high costs and the fact that segregated flows are most cost-effectively organised in low-risk areas (where, for example, there are no forests to begin with) by identifying and excluding the few farms which may have deforested, supply flows into the EU are expected to be considerably

reduced and to switch from high risk to low risk areas. The current non-EU customers of these low-risk areas would then switch to sourcing from these high-risk areas. This also has the negative consequence of abandoning our ongoing efforts to reduce deforestation in high-risk areas, which would only then be able to supply non-EU markets. This may potentially lead to higher deforestation rates in these areas. Should there be shortages in the low-risk regions, due to poor harvest or geopolitical reasons, the supply into the EU would be severely threatened.

As for palm oil, while a greater number of operators are currently able to supply physical deforestation-free supply chains (with traceability to mill), it is the required segregation of volumes with geolocation to plot data that will lead to a disruption of palm oil supplies, as it will cut off supplies from smallholders as well as mills which are supplied by smallholders. The main reason for this is that concession maps of smallholders are either not available, or if they are, they cannot be shared due to safety risk, jurisdictional constraints, or non-useable electronic formats. Verifying concession maps in palm oil producing countries can only be done on the ground.

Overall, by complicating the requirements too much, with no added value to tackling global deforestation, the willingness of origin suppliers to continue to deliver into Europe may come into question if they can also sell their volumes to other regions with less stringent requirements. Such a trade diversion could lead to further supply chain disruptions and lack of availability of key raw materials for food production.

We remain available to discussing these issues to ensure that deforestation-free supply chains are achieved without significant negative impacts on supplies and consumer prices and without harming current efforts to stop deforestation in high-risk areas.