



EUROPEAN
COMMISSION

Brussels, XXX
[...] (2025) XXX

COMMISSION DELEGATED REGULATION (EU) .../...

of XXX

amending Regulation (EU) 2023/1115 of the European Parliament and of the Council as regards the list of relevant commodities and relevant products

(Text with EEA relevance)

This draft has not been adopted or endorsed by the European Commission. Any views expressed are the preliminary views of the Commission services and may not in any circumstances be regarded as stating an official position of the Commission.

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

In accordance with Article 3 of Regulation (EU) 2023/1115 of the European Parliament and of the Council (EUDR), relevant commodities and relevant products shall not be placed or made available on the Union market or exported, unless all the following conditions are fulfilled:

- (a) They are deforestation-free;
- (b) They have been produced in accordance with the relevant legislation of the country of production; and
- (c) They are covered by a due diligence statement.

Article 2(1) of EUDR defines relevant commodities as cattle, cocoa, coffee, oil palm, rubber, soya and wood. Article 2(2) of EUDR defines relevant product as products listed in Annex I of the same Regulation that contain, have been fed or have been made using relevant commodities.

Before placing on, making available on, or exporting from the Union market relevant products, operators and traders are subject to specific due diligence obligations as regards relevant products pursuant to Articles 4 and 5 of EUDR.

Article 34(5) of EUDR empowers the Commission to adopt delegated acts to amend Annex I with regard to the relevant CN codes of relevant products that contain, have been fed with or have been made using relevant commodities.

The Delegated Regulation amends Annex I of Regulation (EU) 2023/1115 of the European Parliament and of the Council to introduce targeted and limited technical fixes to the list of relevant products, by clarifying the range of products not covered by the Regulation. The revisions are necessary to ensure a simpler and more straightforward application of the EUDR and legal certainty. The Delegated Act Regulation also prevent problems at the EU external borders as economic operators and customs authorities will have clarity on which products are in/out of scope of the EUDR. It will also avoid unnecessary administrative costs for economic operators and competent authorities.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

On *[date to be inserted]*, the Commission consulted the Member States Expert Group /Multistakeholder Platform on Protecting and Restoring the World's Forests, including the EU Timber regulation and the FLEGT Regulation.

The draft Delegated Regulation was published on the Better Regulation portal for a four-week feedback period from *[date to be inserted]* to *[date to be inserted]*, in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making *[Number to be inserted]*.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

Article 1 states that the Annex to this Delegated Regulation amends Annex I of Regulation (EU) 2023/1115.

Article 2 sets out the date of entry into force of this Delegated Regulation.

COMMISSION DELEGATED REGULATION (EU) .../...

of **XXX**

amending Regulation (EU) 2023/1115 of the European Parliament and of the Council as regards the list of relevant commodities and relevant products

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2023/1115 of the European Parliament and of the Council of 31 May 2023 on the making available on the Union market and the export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) 995/2010¹, and in particular Article 34(5) thereof,

Whereas:

- (1) Regulation (EU) 2023/1115 lays down rules aiming to minimise the Union's contribution to deforestation and forest degradation. It does so by imposing due diligence obligations on operators and traders placing on, making available on, or exporting from the Union market relevant commodities and products listed in Annex I to that Regulation.
- (2) It is necessary to amend Annex I to Regulation (EU) 2023/1115 to introduce limited and targeted technical fixes in order to ensure legal certainty for operators, traders, and competent authorities on which categories of products fall within the scope of that Regulation.
- (3) Several codes listed under 'Palm Oil' and 'Rubber' in Annex I to Regulation (EU) 2023/1115 encompass products which can be manufactured with commodities that are not relevant commodities. Therefore, it is necessary to clarify that products included in that Annex fall within the scope of Regulation (EU) 2023/1115 only in so far as they are produced using a relevant commodity, by the addition of 'ex' in front of several entries. In addition, it is necessary to clarify that the relevant products listed under 'Wood' in Annex I to Regulation (EU) 2023/1115 do fall within the scope of that Regulation if they are made solely of bamboo, rattan, and other materials of woody nature.
- (4) Certain entries in Annex I to Regulation (EU) 2023/1115 could give rise to ambiguity whether waste, second-hand and used products fall within the scope of Regulation (EU) 2023/1115, thus discouraging circular and resource efficient practices. Therefore, it should be made clear that waste as defined in Article 3, point (1) of Directive

¹ OJ L 150, 9.6.2023, p. 35. ELI: <http://data.europa.eu/eli/reg/2023/1115/oj>

2008/98/EC of the European Parliament and of the Council², as well as second-hand and used products do not fall within the scope of that Regulation.

- (5) Samples of products and products used for examination, analysis, and testing, within the meaning of Articles 86 and 95 of Council Regulation (EC) 1186/2009³, are used by economic operators for different purposes such as quality testing, design validation, and market research but also for analytical purposes. Samples of products are of negligible value and can be used by companies to seek and solicit orders from new suppliers. Products used for examination, analysis and testing are used by economic operators to determine their composition, quality or other technical characteristics for the purposes of information or industrial and commercial research. Those products are then completely used up or destroyed in the course of the examination, analysis or testing. Samples of products and products used for examination, analysis, and testing can come from suppliers with whom the company does not yet have a contractual relationship, and with which they may never enter into a contractual agreement. Subjecting samples of products and products used for examination, analysis, and testing to Regulation (EU) 2023/1115 would not be proportionate with regard to their contribution to the achievement of the objectives of that Regulation. Therefore, Regulation (EU) 2023/1115 needs clarify that samples of products and products which undergo examination, analysis or tests do not fall within the scope of that Regulation (EU).
- (6) Packing materials and packing containers placed on the EU market or exported as products on their own, fall within the scope of Regulation (EU) 2023/1115. However, it should be made clear that packing materials and containers do not fall within the scope of that Regulation when they are used to support, protect, or carry another product placed on the market. In addition, packing materials and containers clearly suitable for repetitive use can be re-exported or made available on the market as product on their own and thus be subject to the due diligence obligations of Regulation (EU) 2023/1115. Therefore, it is necessary to clarify that packing materials and containers clearly suitable for repetitive use used to support, protect or carry another product placed on the market and presented with that product do not fall within the scope of Regulation (EU) 2023/1115 from the moment they are used for such purpose and then onwards. Annex to Regulation (EU) 2023/1115 already excludes from the scope of entry 4415, which covers packing made of wood, packing material used to support, protect or carry another product made available on the market or exported. Nevertheless, it should be made clear that single use packing materials and containers and packing material and containers clearly suitable for repetitive use covered by other entries of Annex I to Regulation 2023/1115 do not fall within the scope of that Regulation.
- (7) Accessory materials, such as user manuals, leaflets, catalogues, and marketing materials, placed on the EU market or exported as products on their own, fall within the scope of Regulation (EU) 2023/1115. However, it should be made clear that

² Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3, ELI: <http://data.europa.eu/eli/dir/2008/98/oj>).

³ Council Regulation (EC) No 1186/2009 of 16 November 2009 setting up a Community system of reliefs from customs duty (OJ L 324, 10.12.2009, p. 23, ELI: <http://data.europa.eu/eli/reg/2009/1186/oj>).

accessory materials accompanying another product do not fall within the scope of that Regulation.

- (8) Items of correspondence, within the meaning of Article 1, point (26) of Delegated Regulation (EU) 2015/2446⁴, serve a communication purpose and thus are not placed or made available on the market. Therefore, it is necessary to clarify that items of correspondence do not fall within the scope of Regulation (EU) 2023/1115.
- (9) To provide economic operators, competent authorities, and customs authorities legal clarity and time for their preparations before the entry into application of Regulation (EU) 2023/1115, this Regulation should enter into force on the day following that of its publication on the *Official Journal of the European Union*.
- (10) Regulation (EU) 2023/1115 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EU) 2023/1115 is amended in accordance with the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the [...] day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Commission
The President
[...]

⁴ Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (OJ L 343/1, 29.12.2015, p. 9, ELI: http://data.europa.eu/eli/reg_del/2015/2446/oj)