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SENSITIVE*
UNTIL ADOPTION

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EU) 2023/1115 as regards provisions relating to the date of application

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EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

Regulation (EU) 2023/1115¹ lays down rules regarding the placing and making available on the Union market as well as the export from the Union of relevant products, as listed in its Annex I, that contain, have been fed with or have been made using relevant commodities, namely cattle, cocoa, coffee, oil palm, rubber, soya and wood. In particular, it aims to ensure that those commodities and relevant products are placed or made available on the Union market or exported, only if they are deforestation-free, have been produced in accordance with the relevant legislation of the country of production and covered by a due diligence statement. Most of the provisions of that Regulation are to be applied as of 30 December 2024.

To ensure that Regulation (EU) 2023/1115 achieves its objectives, operators and traders making available on the market or exporting relevant products are to exercise due diligence in order to prove that the relevant products comply with the requirements of that Regulation. Operators are responsible for a thorough examination and analysis of their own business activities, which primarily requires the collection of data that are relevant to Regulation (EU) 2023/1115, and appropriate documentation supporting them, from each particular supplier.

The Commission considers that the date of application of the provisions of Regulation (EU) 2023/1115 that lay down obligations on operators, traders and competent authorities, listed in Article 38(2) of that Regulation, should be postponed by 12 months to allow Member States, exporting partner countries, operators and traders to be better prepared and for the latter, to fully establish the necessary due diligence systems covering all relevant commodities and products, as laid down in Regulation (EU) 2023/1115. The extended timeline will also allow for further engagement with third countries, where relevant, several of which have expressed concerns related to the too short implementation time.

• Consistency with existing policy provisions in the policy area

In the 2019 Commission Communication on Stepping up EU Action to Protect and Restore the World's Forests² the Commission committed to “*assess additional demand side regulatory and non-regulatory measures to ensure a level playing field and a common understanding of deforestation free supply chains, in order to increase supply chain transparency and minimise the risk of deforestation and forest degradation associated with commodity imports in the EU*”. This commitment was then confirmed in the European Green Deal,³ as well as the 2030 EU Biodiversity Strategy⁴ and the Farm to Fork Strategy⁵, the latter

¹ 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) No 995/2010 ([OJ L 150, 9.6.2023, p. 206](#)).

² Communication from the Commission to the European Parliament, the Council, the European, Economic and Social Committee and the Committee of the Regions, *Stepping up EU Action to Protect and Restore the World's Forests*, COM/2019/352 final.

³ Communication from the Commission to the European Parliament, the Council, the European, Economic and Social Committee and the Committee of the Regions, *The European Green Deal*, COM/2019/640 final.

⁴ Communication from the Commission to the European Parliament, the Council, the European, Economic and Social Committee and the Committee of the Regions, *EU Biodiversity Strategy for 2030 Bringing nature back into our lives*, COM/2020/380 final.

two announcing a corresponding legislative proposal in 2021. The adoption of Regulation (EU) 2023/1115 was an integral part of and coherent with the overall objectives of the European Green Deal and all the initiatives developed thereunder.

This proposal does not amend any substantive rules of Regulation (EU) 2023/1115 but merely aims to accord additional time needed for operators, traders and competent authorities to prepare for compliance with obligations provided therein. While all the elements required for its implementation are technically ready, the proposal responds to concerns expressed in the EU and by international partners by providing additional time for operators and traders to make necessary adjustments in order to minimise the impact on business complying with the objectives of the Regulation.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

EU competence to act in the area of deforestation and forest degradation stems from the articles of the Treaty on the Functioning of the European Union (TFEU) related to the protection of the environment. According to Article 191(1) TFEU “preserving, protecting, and improving the quality of the environment, protecting human health, prudent and rational utilisation of natural resources, promoting measures to deal with regional or worldwide environmental problems, and in particular combatting climate change” are defined as objectives of the Union policy on the environment. In order to achieve the objectives referred to in Article 191 TFEU, Article 192(1) TFEU should thus be used as a legal basis of the proposal.

• Subsidiarity (for non-exclusive competence)

This initiative is consistent with the principle of subsidiarity. Given the need to modify Regulation (EU) 2023/1115 by postponing its application, the objectives of this initiative cannot be achieved by the Member States themselves.

• Proportionality

The proposal is consistent with the principle of proportionality, i.e. it does not go beyond what is necessary to meet the objectives of the Treaties and in particular the smooth functioning of the single market. As with the subsidiarity test, it is not possible for Member States to address the issues without a proposal to amend the date of application of Regulation (EU) 2023/1115 and the related dates.

• Choice of the instrument

The proposal amends Regulation (EU) 2023/1115 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 only as regards the postponement of the date of application and related dates. Thus, it should follow the same form of act, i.e. a regulation.

⁵ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *A Farm to Fork Strategy for a fair, healthy and environmentally-friendly food system*, COM/2020/381 final.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Stakeholder consultations**

The Commission has been in intensive exchanges with several Member States, third countries as well as operators and traders, who have been arguing that more time is needed to prepare for the application of that Regulation due to the challenges that they face, inter alia to establish due diligence systems covering relevant commodities and products.

- **Impact assessment**

An impact assessment was carried out for the proposal⁶ which led to the adoption of Regulation (EU) 2023/1115. The current proposal only amends the date of application of Regulation (EU) 2023/1115 and related dates.

- **Regulatory fitness and simplification**

The main goal of this proposal is to postpone the date of application of Regulation (EU) 2023/1115 by 12 months to allow Member States, operators and traders to be better prepared and to be in a position to fully comply with their obligations pursuant to that Regulation.

The proposal does not change the substance of the rules, but only postpones their date of application by 12 months.

4. BUDGETARY IMPLICATIONS

The legislative financial statement setting out the implications for budgetary, human and administrative resources was attached to the proposal which led to the adoption of Regulation (EU) 2023/1115.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

This proposal changes the date of application of Regulation (EU) 2023/1115 and related dates. As it does not change the substance of the rules, the implementation assessment remains the same as of the proposal which led to the adoption of Regulation (EU) 2023/1115.

- **Detailed explanation of the specific provisions of the proposal**

This proposal concerns the date of application of Regulation (EU) 2023/1115 and dates in other interlinked provisions, in particular the empowerment for the Commission to classify countries or parts thereof, that present a low or high risk, the repeal of Regulation (EU) No 995/2010, the transitional provisions and the provisions on the deferred application of Regulation (EU) 2023/1115 to micro-undertakings or small undertakings. This means that rules providing for substantive obligations, listed in Article 38(2) of Regulation (EU) 2023/1115, will be applied as of 30 December 2025, instead of 30 December 2024. Other related dates will be adjusted accordingly to defer the application of respective rules by 12

⁶ COMMISSION STAFF WORKING DOCUMENT IMPACT ASSESSMENT minimising the risk of deforestation and forest degradation associated with products placed on the EU market Accompanying the document Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the making available on the Union market as well as export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010
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months. However, to provide operators and traders with the information on assignment of risk to relevant countries of production well in advance before their due diligence obligations start to apply, the date by when the Commission is to classify countries or parts thereof, that present a low or high risk is to be postponed only by 6 months.

The reason for this proposal is additional time needed by third countries, Member States as well as operators and traders to be better prepared and to ensure a smooth start for this important legislation fighting deforestation.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
amending Regulation (EU) 2023/1115 as regards provisions relating to the date of application

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee⁷,

Having regard to the opinion of the Committee of the Regions⁸,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Regulation (EU) 2023/1115⁹ was adopted to reduce deforestation and forest degradation. It lays down rules regarding the placing and making available on the Union market as well as the export from the Union of relevant products, as listed in its Annex I, that contain, have been fed with or have been made using relevant commodities, namely cattle, cocoa, coffee, oil palm, rubber, soya and wood. In particular, it aims to ensure that those commodities and relevant products are placed or made available on the Union market or exported, only if they are deforestation-free, have been produced in accordance with the relevant legislation of the country of production and covered by a due diligence statement. Most of the provisions of that Regulation are to be applied as of 30 December 2024.
- (2) To ensure that Regulation (EU) 2023/1115 achieves its objectives, operators and traders making available on the market or exporting relevant products are to exercise due diligence in accordance with Article 8 of that Regulation in order to prove that the relevant products comply with the requirements of that Regulation. Operators are responsible for a thorough examination and analysis of their own business activities, which primarily requires the collection of data that are relevant to Regulation (EU) 2023/1115, and appropriate documentation supporting them, from each particular supplier.
- (3) The Commission took important steps to facilitate the application of Regulation (EU) 2023/1115, engaging with Member States and stakeholders. In particular, the Guidance Document for Regulation (EU) 2023/1115 on deforestation-free products provides guidance to operators, traders as well as competent authorities on the main

⁷ OJ C [...], [...], p. [...].

⁸ OJ C [...], [...], p. [...].

⁹ 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) No 995/2010 ([OJ L 150, 9.6.2023, p. 206](#)).

obligations laid down in Regulation (EU) 2023/1115 and clarifies among others the interpretation of the definition of agricultural use, in particular in relation to the conversion of forest to land the purpose of which is not agricultural use, as requested by the European Parliament and the Council.

- (4) In addition, the Communication on the Strategic Framework for International Cooperation Engagement provides a comprehensive structure for cooperation with third countries to facilitate the implementation of Regulation (EU) 2023/1115. It also outlines the general principles the Commission intends to use in the classification of low-risk and high-risk countries (or parts thereof) in accordance with Article 29(3) of Regulation (EU) 2023/1115.
- (5) Implementing Regulation of [xx 2024] on the functioning of the information system pursuant to Regulation (EU) 2023/1115 provides for an information system and access to it to operators and traders, and if applicable, their authorised representatives, competent authorities, and customs authorities, to implement their respective obligations laid down in the Regulation. Operators and traders thus would be able to register and submit due diligence statements even before the entry into application of Regulation (EU) 2023/1115.
- (6) The Commission considers that the date of application of the provisions of Regulation (EU) 2023/1115 that lay down obligations on operators, traders and competent authorities, listed in Article 38(2) of that Regulation, should be postponed by 12 months. This is objectively necessary in order to allow third countries, Member States as well as operators and traders to be fully prepared, including, for the latter to establish the necessary due diligence systems covering all relevant commodities and products, so to be in a position to fully comply with their obligations.
- (7) In the light of the postponement of the date of application in Article 38(2) of Regulation (EU) 2023/1115 by 12 months, the dates in other interlinked provisions, in particular the repeal of Regulation (EU) No 995/2010, the transitional provisions and the provisions on the deferred application of Regulation (EU) 2023/1115 to micro-undertakings or small undertakings, should be adjusted accordingly.
- (8) However, to provide operators and traders with the information on assignment of risk to relevant countries of production well in advance before their due diligence obligations start to apply, the date by when the Commission is to classify countries or parts thereof, that present a low or high risk should be postponed only by 6 months.
- (9) Regulation (EU) 2023/1115 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Amendments to Regulation (EU) 2023/1115

Regulation (EU) 2023/1115 is amended as follows:

- (1) In Article 29, paragraph 2, the third sentence is replaced by the following:
‘The list of the countries or parts thereof, that present a low or high risk shall be published by means of implementing acts to be adopted in accordance with the examination procedure referred to in Article 36(2), no later than 30 June 2025.’.

(2) Article 37 is replaced by the following:

‘Article 37

Repeal

1. Regulation (EU) No 995/2010 is repealed with effect from 30 December 2025.

2. However, Regulation (EU) No 995/2010 shall continue to apply until 31 December 2028 to timber and timber products as defined in Article 2, point (a), of Regulation (EU) No 995/2010 that were produced before 29 June 2023 and placed on the market from 30 December 2025.

3. By way of derogation from Article 1(2) of this Regulation, the timber and timber products as defined in Article 2, point (a), of Regulation (EU) No 995/2010 that were produced before 29 June 2023 and placed on the market from 31 December 2028 shall comply with Article 3 of this Regulation.’;

(3) In Article 38, paragraphs 2 and 3 are replaced by the following:

‘2. Subject to paragraph 3 of this Article, Articles 3 to 13, Articles 16 to 24 and Articles 26, 31 and 32 shall apply from 30 December 2025.

3. Except as regards the products covered in the Annex to Regulation (EU) No 995/2010, for operators that by 31 December 2020 were established as micro-undertakings or small undertakings pursuant to Article 3(1) or (2) of Directive 2013/34/EU, respectively, the Articles referred to in paragraph 2 of this Article shall apply from 30 June 2026.’

Article 2

Entry into force

This Regulation shall enter into force on the third 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 European Parliament
The President

For the Council
The President