Coffee's Regulatory Blend

VOCAL

Voice of Organisations in Coffee Alliance

Executive Summary

Regulation: a long overdue necessity

Mandatory sustainability regulations are rapidly becoming the new standard for global commodities, including coffee. This shift is not just necessary but overdue, establishing a level playing field that prioritizes human rights and environmental preservation. Embracing this new norm, where sustainability is a requirement rather than an option, is vital for the sector's future.

Benefits for the planet, farmers, and industry

Despite concerns about their implementation, these regulations bring significant benefits for the planet, farmers, and coffee companies alike. The regulations aim to curb deforestation, enhance human rights protections, and boost the credibility of sustainability claims. By mandating companies to address the living income needs of smallholders, these regulations make it clear that fighting farmer poverty is no longer a voluntary action. Additionally, the private sector stands to gain from a more harmonized and equitable marketplace, where all players must adhere to the same sustainability standards.

Industry response: too little, too late

The coffee industry's response to this evolving regulatory environment has been inadequate. The sector has largely either been disengaged from policy discussions or actively opposed the new regulations. Such actions hinder the effective transition to a regulated international sustainability framework. Unlike other industries, the coffee sector has been slow to engage in key discussions on implementation, resulting in a lack of comprehensive strategies for operating under these new regulations. Issues such as accountability, traceability, cost coverage, and the credibility of sustainability claims remain unresolved, leaving the sector struggling to catch up, as well as forcing companies to navigate these challenges individually.

From disruption to resilience

Arguments against regulation, such as the potential disrupting impact on business operations or consumer prices, ignore the long-term survival of the sector. The short-term costs of implementing sustainability measures are far outweighed by the risks of doing nothing and losing viable coffee-growing land due to environmental neglect or a waning appeal of coffee farming for future generations. Adapting to significant change is key to long-term stability.

Rigorous monitoring and real impact

Complying with these new regulations will require rigorous monitoring of coffee supply chains and the ability to demonstrate effective implementation of due diligence measures. Past experiences with Voluntary Standards Systems (VSS) shows that companies often shift the burden of responsibility and costs of implementation onto farmers and producing countries. It is essential that both the industry and regulators provide financial and technical support to small-scale farmers, many of whom are already struggling to meet basic needs.

A reliable regulatory framework: the missing link

Effective regulations are here to stay, shaping the future of global commodity markets. But with this shift comes complexity. For these regulations to achieve their intended impact, regulators must provide clear guidance, robust support, and reliable compliance tools. Dialogue with stakeholders -especially coffee stakeholders in countries of origin- is vital. Unfortunately, the European Union's current engagement mechanisms fall short; lacking clarity in timelines and offering insufficient financial backing, with crucial implementation tools still undefined. Although the move towards mandatory due diligence with strong enforcement is a positive development, regulators must address these shortcomings to ensure the regulations fulfil their promise.

INTRODUCTION

Regulation is here to stay

Coffee's persistent challenges

Coffee is one of the world's most cherished beverages, providing daily comfort to millions. However, despite decades of efforts, the global coffee sector faces persistent sustainability challenges.

Climate change poses a major threat to producers and consumers alike. Coffee is a driver for deforestation in many of the world's existing rainforests.[1] Monoculture often dominates over agroforestry. Hazardous chemicals are widely used, and effluents are poorly controlled. Labour rights and human rights violations are endemic throughout many coffee regions.

The situation is made even worse by the widespread poverty among millions of coffee farmers worldwide. At the same time, there are enormous expectations placed on these small-scale farmers. When it comes to sustainability, the burden—often almost all of it—rests heavily on these farmers, while regulators and the wider industry largely avoid taking their fair share of responsibility. This needs to change.

A welcome change

Sustainability regulations and requirements in agricultural commodity supply chains are evolving rapidly, shifting from voluntary sustainability programmes to mandatory legal compliance. This regulatory shift is welcome and long-overdue, creating a level-playing field to prioritize the protection of human rights and prevent environmental degradation.

This shift is necessary, as voluntary sustainability efforts have largely failed to drive significant sustainability impact in the global coffee sector. The new regulatory landscape requires the coffee sector to adapt and learn to operate within it. Changes will have to be made. Both private sector companies and governments must quickly address these challenges.

A clear picture

The coffee sector needs a clear understanding of the benefits of regulatory changes and the harms of maintaining business as usual when it comes to farmer poverty, labour abuse, deforestation, and monoculture.

Embracing this new normal – where sustainability is no longer voluntary – is essential for the industry. Sustainability regulations are here to stay and will be a driving force in driving systemic sector transformation going forward.

About this compendium

This compendium outlines the major regulatory changes, debunks key misconceptions, and highlights some of the main challenges and implementation concerns.

One of the aims is to provide an overview and improve understanding of the regulatory dynamics, amid widespread disinformation and uncertainty around the regulation, while supporting all stakeholders in the coffee sector in adapting to and embracing these changes. As such, part of this document is directed at the coffee industry and governments of producing countries.

Another goal is to provide a unified message from civil society actors on key issues facing the coffee sector. In this sense, the document serves as a clear outline on the future direction of the sustainability debate in coffee, encouraging a more in-depth dialogue between the industry, governments of producing countries, the European Union, and other interested parties.

KEY MESSAGES

- **Mandatory sustainability regulations have become the standard, essential for levelling the playing field and guiding the coffee industry towards enhanced human rights and environmental protection.**
- **These regulations offer substantial benefits: they aim to curb deforestation, ensure human rights protections, and compel companies to commit to a living income for smallholders, thereby improving the coffee industry's overall sustainability and resilience.**
- **The coffee industry's inadequate response —marked by resistance, disengagement, and misinformation— hinders its effective adaptation to the new regulatory environment.**
- **The industry must focus on readiness and resource mobilization, as misconceptions about sustainable operations and fears of regulatory impact fail to recognize the long-term advantages of embracing sustainability.**
- **Voluntary sustainability certifications and internal company standards are insufficient for meeting new regulatory demands. A comprehensive strategy is required, extending beyond traceability to actively enhance economic, social, and environmental conditions at the farm level.**
- **Adapting to mandatory sustainability will pose challenges for many small-scale farmers, who need both financial and technical support. The risk of excluding these farmers from the market stems not from regulations, but from company decisions.**
- **Effective regulations are vital for creating a level playing field, but their success relies on reliable regulators who offer clear guidance and support, currently a significant shortcoming of the EU.**

PART ONE

A changing regulatory environment

The current changing regulatory environment exists within a broader global context, which encompasses legally binding treaties such as the Paris Agreement, and soft law instruments such as the UN Sustainable Development Goals (SDGs), the 2011 UN Guiding Principles on Business & Human Rights, and the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct. Although many companies have taken steps in addressing human rights over the past decade, the persistent lack of progress toward an economically and ecologically just and equitable system has led policymakers to move toward mandatory legislation.

Over the past few years, the European Union has been leading a global shift with ground-breaking legislation requiring due diligence on human rights and environmental impacts in commodity supply chains.[2] This is exemplified by the EU Regulation on Deforestation (EUDR, adopted in June 2023) and the Corporate Sustainability Due Diligence Directive (CSDDD, adopted in May 2024), and requiring transparent accuracy in reporting and marketing, exemplified by the Corporate Sustainability Reporting Directive (CSRD, adopted in January 2023) and the Green Claims Directive (currently in development).[3]

Although the EUDR and the CSDDD have been watered down in the legislative process in Brussels, as a whole these regulations together form a solid suite of requirements on environmental sustainability and human rights and will also require companies to be far more transparent in their public reporting and in their sustainability claims.

Furthermore, national sustainability regulations are also emerging in EU countries and beyond, in places such as the UK, the US, Canada, Norway, and many other parts of the world.[4]

A coherent whole

Much of the discussion around regulations focuses on the EUDR, and understandably so. It requires compliance on a tight timeline and will drive the most immediate changes. However, all four European regulations covered in this chapter are important and designed to complement each other, addressing both environmental and human rights abuses. They operate as a collective effort. In this context, the EUDR cannot be viewed in isolation from the wider corporate due diligence obligations on the environment and human rights as set out in the CSDDD. These broader regulations will also help address some of the EUDR's more contentious aspects, such as its lack of support for farmer organisations in meeting compliance.

Deforestation-Free Regulation (EUDR)

What it is

The European Union's Deforestation-Free Regulation (EUDR) requires products entering the EU market in seven key commodities including coffee to not originate from areas deforested after December 31st, 2020,[5] as well as for coffee imported into the EU to be produced in accordance with the laws of countries of origin.[6] Its implementation will start in December 2024.

Companies will need to prove that the products they source are traceable to the farm level and are obtained and produced with full respect for the regulations of the countries of origin.[7] Based on the risk of deforestation per country or region, various levels of risk assessment and mitigation efforts will be needed. Products originating from high-risk sources will be subjected to more frequent scrutiny.

Consequences for companies

Both importers into the EU and exporters out of the EU, as well as companies located further along the supply chain, including major retailers, bear the same obligations and legal liability. Companies will be required to submit due diligence statements on each shipment of coffee.

Non-compliance will be met with penalties of up to 4% of the company's annual turnover, to be determined by the EU member states. These may include fines, confiscation of the product and/or associated revenue, temporary exclusion from participation in public procurement processes, and temporary market exclusion. There will also be a mechanism for third parties to submit evidence-based substantiated concerns, if there is cause to believe companies are noncompliant.

Benefits and challenges for coffee farmers and workers

The regulation will help reduce deforestation in coffee-producing regions.[8] Since deforestation both drives and results from climate change, the EUDR will contribute to mitigate the worst effects of climate disruption anticipated in the future. Curbing deforestation will likely help stabilize rainfalls in origin countries, as well as protect soil health, conserve biodiversity, and enhance carbon sequestration.

Additionally, the regulation may prompt companies to increase private sector investment in environmentally friendly production. The stricter requirements will support 'sustainable coffee' producers, potentially expanding access to export markets. The current setup of the EUDR poses a significant risk: industry might offload the cost of compliance onto smallholder producers, instead of integrating the costs into their business models. To address this, the EU must establish clear requirements and robust monitoring systems to ensure that market actors bear their share of the compliance burden without irresponsibly shifting costs.

The EU and private sector companies need to provide substantial technical and financial support to small-scale farmer groups to implement geolocation and traceability requirements effectively. This support should be coordinated at subnational, national, and corporate levels (both in producing countries and consuming markets) through multistakeholder platforms.

It is important to put in place clear measures to avoid a shift in sourcing away from smallholder farmers, and/or from countries perceived as high-risk, as the EU has not yet fully addressed this issue. Nonetheless, beyond regulatory efforts, the private sector has a clear responsibility to avoid disengagement and to support supply chain actors, ensuring that smallholders and less equipped countries are not left behind.

Benefits to the coffee industry

Although many coffee companies and governments of producing countries are pushing back against the EUDR, this regulation will have benefits for the coffee sector. It will increase the ability of the sector to identify, prevent, mitigate, and remedy risk instances of deforestation and forest degradation. It is also critical for the sector to play its part in meeting the Paris Agreement of maximising climate change to 1.5 degrees centigrade. The traceability that the EUDR requires will help companies comply with sustainability reporting requirements.

Common benefits of traceability include helping eliminate fraud, curbing waste, as well as providing opportunities to find new efficiencies and for better quality control. Furthermore, credible data collection is the future for all kinds of business. For coffee, it will be relevant sooner than later to have data on climate and biodiversity impact. In that light, the EUDR is just the first step.

Timeline

The regulation will be mandatory from December 2024 onwards, with small and medium enterprises (SMEs) having an extra year to become compliant. In practice, national authorities within the EU will need time to put their systems in place. Furthermore, when national authorities will start enforcing the regulations, experiences with other regulations show that the first interventions will focus on helping companies understand the requirements and assisting them along the road to compliance, rather than directly stepping toward punitive interventions.[9] In practice the EUDR will most likely be rolled out in stages.

Criticism of the process

While the EUDR is essential and official delays or a renegotiation of this regulation must be avoided, it is important to acknowledge that the EU itself has sometimes been less than helpful in the rollout and development of the EUDR.

There has been insufficient engagement and involvement of the producing countries in the process. Moreover, the EU has been slow in developing the necessary compliance tools, especially the national benchmarking system to determine the level of risk of source countries, the IT systems by which companies can submit their due diligence statements, as well as clarity on how downstream operators can prove compliance.

Furthermore, at the time of writing, the Commission has been refusing to release the necessary guidance for the EUDR, causing further frustration and pushback to the regulation.

Corporate Sustainability Due Diligence Directive (CSDDD)

What it is

The Corporate Sustainability Due Diligence Directive (CSDDD or CS3D) requires companies to:

- make due diligence an integral part of their company policies;
- identify and assess their actual or potential adverse impacts; to end, prevent, and/or mitigate these impacts;
- provide remediation for actual adverse impacts;
- carry out meaningful engagement with stakeholders;
- establish and maintain a complaints mechanism;

- monitor how effective their actions are;
- communicate about these efforts regularly and transparently; and
- adapt their efforts if their impact is insufficient.[10]

The CSDDD is not focused on a product or its import, but on the worldwide activities of the corporation itself. The CSDDD will cover impacts in the company's own operations, its subsidiaries, and its supply chains. It is a realistic approach, acknowledging that there will be human rights and environmental challenges in the value chains.

Consequences for companies

In simple terms, the CSDDD means that companies are no longer allowed to look away from human rights and environmental violations in their supply chain and will be required to set up appropriate responses to the challenges. This inherently means that there are no 'safe harbour' clauses; efforts will always have to be taken in context. Companies need to ensure that their activities are proportionate to the size of their problems. If companies do not take this due diligence obligation seriously, consequences can include civil liability and financial penalties up to 5% of the company's net worldwide turnover.

Benefits to coffee farmers and workers

A crucial requirement in the CSDDD is that companies will have to take into account the ability of smallholders to earn a living income and for workers to earn a living wage. Farmer and worker poverty can no longer be considered a given. Furthermore, when addressing low farm incomes, corporations will be required to critically evaluate their procurement practices, define a plan, and monitor progress as part of a holistic due diligence strategy.[11]

The CSDDD offers many benefits to smallholders, not only as economic operators, but also as rightsholders. These benefits include the possibility of using complaint mechanisms that companies must set up, access to justice in European courts for victims of corporate negative impacts, and an improvement of social and environmental standards.

The CSDDD could drastically reduce slavery, forced labour, child labour, violence against workers seeking to unionize, and other labour abuses that impact millions of smallholder farmers and workers. New evidence has emerged in the apparel sector that a similar regulation to the CSDDD, namely the German 'Lieferkettengesetz', is already forcing South Asian apparel factories to comply with minimum wage laws, provide workers with written contracts, and give bonuses as well as other benefits.

Furthermore, the CSDDD could contribute to greater adoption of sustainable coffee production practices, leading to diversified farm productivity and a reduced environmental footprint (including healthier water for coffee growing communities dependent on wells and rivers for water).

A strong knock-on effect of the CSDDD is that – as long as a company with strong presence in Europe is involved – farmers and workers will benefit independently whether they produce for the EU or for another market.

Benefits to the coffee industry

There are many benefits of the CSDDD to the coffee industry. Most importantly, the CSDDD will increase the ability of the sector to identify, prevent, mitigate, and remedy human rights and environmental abuses. Another major benefit is a harmonised and level playing field for all actors in one of the world's largest markets. For the numerous coffee companies already striving to eliminate rights abuses and embrace sustainability, the CSDDD ensures that they will not face unfair competition by more unscrupulous actors who turn a blind eye to abuses in order to market cheaper products. The CSDDD will also allow companies to meet the growing consumer expectations of coffee that is sourced in a way that is responsible for both growers and the planet. There are many studies in various commodities highlighting the benefits to farmers when companies switch to more sustainable sourcing practices.[12] A continuous plan-do-check-act cycle will also allow companies to have much greater control over risks in their supply chains.

Timeline

The CSDDD is a directive, rather than a regulation, meaning that the directive will require EU member states to develop national regulations within two years of its passing in July 2024.[13] This means some of the key issues around enforcement and compliance are still being developed as national legislations are set up. However, national enforcement agencies are expected to be designated to ensure compliance with the national regulations by 2027 at the latest.

Corporate Sustainability Reporting Directive

What it is

The Corporate Sustainability Reporting Directive (CSRD) requires companies to report on how their activities impact human rights and environmental sustainability, as well as how sustainability impacts the financial health of the company.[14] It will provide more accurate and comparable data to stakeholders and make it harder for companies to pick and choose which environmental and human rights metrics they report on.

Consequences for companies

CSRD reporting must be publicly available and a third-party audit is required. Cases of non-compliance can lead to a variety of sanctions and penalties, including fines, public denunciations, and injunctions to change corporate conduct. Larger companies will need to start reporting in 2025, with a gradual rollout to increasingly smaller companies by 2029.

Benefits to coffee farmers and workers

With the CSRD, companies will not be able to hide behind nice sustainability reports, but will actually have to communicate about the impact they are driving forward. This means that environmental and human rights impacts on coffee farmers and workers will become more evident and will also have to be targeted more transparently by the companies.

Benefits to the coffee industry

Consistent reporting formats make it more predictable to report on and improve the ability of companies to understand and assess their sustainability efforts, as well as to respond quickly to crises, conflicts, and accusations, making it a reputational risk reduction tool. In short, it will help companies make better informed decisions on sustainability interventions.

For companies such as supermarkets, harmonized reporting from the coffee companies whose products they retail, will make overarching reporting simpler. The clarity of reporting will also facilitate the attraction of investments, as well as help to better communicate to consumers. Finally, it will help compare the progress of companies with their competitors, both within the coffee sector and in other commodity sectors.

Green Claims Directive

What it is

The European Commission's proposed Green Claims Directive will set minimum standards for how companies can and cannot make environmental claims, either in advertisements or on packaging.[15] Claims will have to be based on solid data and cannot consist of cherry-picked outcomes, and they must include reporting on the full life cycle of the product as well as on environmental impacts such as CO_2 emissions.

Consequences for companies

Companies will be required to substantiate environmental claims made to consumers. This substantiation will have to be available with the claim, in a physical form or in the form of a web link or equivalent. The Directive will apply to companies that engage in business-to-consumer communication, such as advertising or public environmental claims. The applicable penalties and measures in case of non-compliance include fines, as well as the temporary exclusion from public procurement procedures and from access to public funds.

Benefits to coffee farmers and workers

As with the CSRD, the main benefit for producers is that environmental claims will have to be honest, and that greenwashing and cherry-picking about sustainability projects will be strongly discouraged.

Benefits to the coffee industry

A level playing field and credible communication on environmental claims should be a benefit for all companies that are honest in their desire to move the needle on environmental sustainability, ensuring truly green companies get a return on their investment by being able to communicate about their sustainability work.

The Green Claims Directive will also make it easier to reassure consumers that company claims are real, rather than greenwashing, making these green claims reliable, comparable, and verifiable throughout the EU.

National Regulations

Beyond the EU many other consuming countries either have implemented, are developing, or have announced to develop a wide range of sustainability regulations that are or might become relevant to the coffee sector.[16] Some of the key ones include:

- In December 2023, the UK government announced measures under the Environment Act to combat illegal deforestation in supply chains (Schedule 17). Coffee is not yet included in the implementing regulation, but could be in the future.
- Recently, a bipartisan reintroduction of a renewed FOREST Act has raised the possibility of a US based environmental regulation as well, although the current version of the bill does not include the coffee sector.
- Though not a regulation, the US State Department published its "National Action Plan on Responsible Business Conduct" in March 2024, committing the US government to strengthen policy coordination with other governments and to develop guidance for investors on conducting human rights due diligence.
- There are several state-level bills in the United States at the State level for Deforestation-Free Procurement, most notably in New York, California and Illinois.

- In the US, the Securities and Exchange Commission (SEC) adopted climate-related disclosure rules in March 2024, albeit in a more limited form than initially proposed.
- Similarly, Australia, Japan, and Singapore are considering mandatory climate-related disclosures for large businesses and financial institutions.

This list is by no means comprehensive, proving that sustainability regulation is in constant development and here to stay.[17]

PART TWO

The coffee sector's insufficient response

In broad terms, the coffee sector has responded to the changing regulatory environment in three different ways; by pushing back against the regulations, by being absent from the discussion, and/or by making unfounded claims about compliance. As a result, many coffee companies, producers, and coffee-producing governments are presently ill-equipped to handle this transformation.

To some extent, this lack of preparedness stems from the sector delaying its proactive engagement; much time was spent by both companies and governments of producing countries in efforts to either water down or delay the regulation, for example by questioning the sector's contribution to deforestation.

The time spent on these pushbacks could have better been turned towards preparing for compliance, as some of the changes are indeed fundamental, and require a significant effort. By partnering, sourcing, and investing in small-scale farmers and collaborations with governments of producing countries, businesses could have adopted a 'no regrets' approach, positioning themselves ahead of evolving guidelines.[18]

In recent months, there have been multiple initiatives to catch up. Organisations such as the European Coffee Federation (ECF), the Global Coffee Platform (GCP) and International Coffee Organisation (ICO) have stepped up efforts to support the coffee sector in understanding and preparing for the incoming legislative changes. These interventions include awareness-raising campaigns, conferences, discussion webinars, websites designed to assist with the rollout and letters of clarification to the European Commission. This wave of activity signals a growing recognition of the need for proactive adaptation. As a consequence, coffee has been "missing in action" in many of the policy dialogues, both at the EU and at a globel stage.

Nevertheless, misconceptions persist in the sector, along with bold and misleading claims that lack data support regarding the new regulations and the necessary industry changes. This section examines some of the arguments behind these perspectives.

Missing in action

The move toward regulation in sustainability has been a gradual process, spanning more than a decade, with multiple key milestones since the adoption of the UN Guiding Principles on Business and Human Rights in 2011 and the Paris Climate Agreement in 2015. Furthermore, both national legislations and the suite of EU sustainability regulations have been in development for years. The EU announced the development of the EUDR in 2019.

Throughout this period, the coffee sector has largely remained absent from key policy dialogues, whereas other sectors have actively advocated for regulatory measures, including companies as diverse as textile company H&M, home decoration giant Ikea, automotive company Volkswagen, and the entire cocoa sector.[19] For instance, the ECF joined these discussions at a late stage, seemingly in response to growing pressure. Sector analysis, opinion pieces, and alternative scenarios about deforestation-free coffee and due diligence only began to emerge in 2022-23.[20] As a result of this absence, rather than sitting at the table, the coffee sector has found itself on the menu.

Playing catch-up

Furthermore, there is limited understanding within the coffee sector about the implications of operating sustainably in a regulated environment. The coffee industry has been unable to prevent human rights abuses or to implement comprehensive sustainability measures and transparency in supply chain at a large scale. This despite many promises to do so in recent years. If the industry had lived up to their own earlier commitments, EUDR compliance would be much easier now.

Fundamental questions remain unresolved; what are the mechanisms to keep power accountable, who will cover associated costs, and how to establish credible methods for making claims? For many of these questions, the coffee sector now faces the challenge of having to catch-up.

Cross-sectoral learning

However, the wheel does not need to be reinvented entirely as other sectors are further down this road. Many coffee companies operate in multiple regulated commodities such as cocoa, timber, soy, palm oil, and cattle products.

There are many different tools available. The coffee sector can benefit from the guidance that the Accountability Framework has provided.[21] The cocoa sector also appears to be better prepared and less antagonistic to the regulatory changes.[22] In palm oil, RSPO and other actors have provided guidance on compliance with the EUDR.[23] For the pulp and paper sector, it is the FSC.[24]

The coffee sector should be able to adopt and implement the best practices and guidance from other commodities, integrating them effectively into its supply chain operations. These best practices should include learning from past mistakes (also in other sectors).

Pushing Back

Despite initially having sufficient time to prepare for regulatory compliance, the coffee industry has dedicated much of its energy resisting the new regulations. The focus of this pushback has often been on concerns about the short implementation timeline of the EUDR and the associated costs, indicating a reluctance to adapt to new regulatory realities. While the concerns and requests for clarification are valid, what remains absent from letters of coffee industry associations to the European Commission is any acknowledgment of the industry's own responsibility in addressing the challenges ahead. [25]/[26]

If the coffee industry is not ready at present, it should be mobilising all the resources it can to ensure that it is. Rather than resisting regulatory measures, industry stakeholders should prioritize proactive engagement in preparations. This means investing in capacity-building and making the necessary operational adjustments to support coffee-producing countries and maintain access to the EU market.

Misinformation and Dubious Claims

Numerous claims have been made about the changing regulatory environment by stakeholders within the coffee sector that require corrections, nuance, or qualifications.

DUBIOUS CLAIM 1

"Regulations are bad for business"

One of the most widely heard arguments against regulation, is the trope that regulation is 'bad for business'. This perspective often highlights the costs associated with compliance, the potential risk of losing market access, and the liability that companies and their directors may face. Although these might be potential effects of mandating sustainability practices, it is short sighted to claim that regulation is bad for business. As extensively argued in the previous chapter, the sustainability that these regulations aim to achieve is essential for the coffee sector's survival.

The need to invest now for future rewards deters many corporations, which are often reluctant to sacrifice short-term profits. However, integrating forest conservation with coffee agroforestry offers a path to align economic and environmental objectives. Given that coffee is a perennial plant with a productive lifespan of up to 25 years, this approach requires long-term planning and investment. Without it, many small-scale farmers, who lack the resources and flexibility to adapt or relocate may be forced to abandon coffee cultivation.

Implementing sustainability measures requires time, effort, and financial investment, costs that often translate into higher consumer prices. Furthermore, while curbing deforestation may entail costs in the short run, accepting cross-commodity deforestation in the long run will contribute to catastrophic climate change that would shrink land suitable for coffee by a huge amount.[27] Losing half of the land where coffee can be grown is clearly bad for business, much worse than having to comply with the EUDR and other related regulations.

Nevertheless, if products are barred from entering markets due to environmental or human rights violations, the primary concern should be addressing these violations (which would guarantee market access), rather than criticising the law that requires companies to do so. It is precisely because the current voluntary systems have not been able to create sufficient impact that a regulatory approach is needed and imminent.

Liability for environmental and human rights violations should be viewed as a standard aspect of business accountability, similar to liabilities for financial fraud or other legal infractions. Leaving fraud rampant is bad for business. In the same way, allowing unsustainable practices to run rampant is as well. Measures taken to curb deforestation, such as being fully traceable, can help a company operate more smoothly and efficiently with opportunities to reduce waste, fraud, abuse, and corruption.

A regulatory framework ensures a level playing field for all companies, facilitating compliance with standardized requirements and closing loopholes that could be exploited by unethical practices. The predictability and consistency provided by EU-wide regulations will enhance legal certainty for companies, which is clearly advantageous for coffee companies. Adopting a unified EU jurisdictional framework – as opposed to disparate national systems – significantly reduces legal risks for companies. It also makes sustainability easier to operate at scale and ensures consistent practices across various stakeholders within the supply chain.

Regulatory measures aimed at safeguarding environmental and human rights elevate the viability of the coffee industry. Regulatory frameworks provide essential clarity and establish an enabling environment for the coffee sector to address its most pressing sustainability challenges.

DUBIOUS CLAIM 2

"Voluntary standards ensure compliance"

More than half of coffee's global production volume is certified by voluntary sustainability standards (VSS's), like 4C, Rainforest Alliance, Fairtrade, and Organic. Companies have frequently cited these certifications as proof of their sustainability efforts over the years. Furthermore, the coffee sector has seen a shift from external VSS to in-house company standards, which are essentially voluntary standards but managed internally rather than by third parties. Many large coffee roasters now claim that they either source 100% of their green coffee 'sustainably'' or 'responsibly' already, or will do so in the near future.

Some VSSs and company programs can guide companies toward sustainability and help them align with emerging social and environmental regulations. VSS and other sustainability programmes have a crucial role to play. They can help build the necessary infrastructure, assist farmers in organising, and lay the groundwork for strengthening traceability. These initiatives can also provide the means to cover the costs of compliance, support farmer empowerment, and promote the implementation of regenerative agroforestry practices.[28]

Current VSS frameworks and company programmes do not achieve traceability down to farm and plot levels, or ensure compliance with legality and due diligence. Furthermore, VSS's so far have not demonstrated being able to increase farmer income and worker wages, or even eliminate slavery or child labour. Some VSS's and company programmes can put companies on a path toward sustainability in a way that strengthens companies' journeys towards compliance with sustainability regulations. Most standards are taking steps to recalibrate their criteria.

However, this can only be one of the steps, and much more is needed, as a VSS and company programmes alone cannot ensure sustainability, nor can it ensure compliance to the upcoming regulatory frameworks. Industry is aware that it should be doing more, but the pressure is simply not there; VSS are relatively inexpensive, and compliance alone is often sufficient to deflect the harshest criticism. VSSs often speak out against this, but the dominant narrative from industry remains strong.

However, the rules of the game are changing with the new regulations. For the CSDDD, a VSS will never be sufficient, as the CSDDD requires corporations to have process-based compliance, not a product-based compliance. It is not the role of a VSS to meet the new regulatory demands- even though some companies may be expecting this. VSS are voluntary tools to be used on top of compliance with legislation.

A farm-based standard will simply not be sufficient for a law requiring multinationals to have internal systems in place. For product-based regulatory compliance, companies must at the very least embrace a 'VSS plus' approach, while at the same time collaborating with VSS's to strengthen the standards and auditing procedures.

DUBIOUS CLAIM 3

"Territorial approaches can ensure compliance"

Similarly to VSS, there are some initiatives to set up 'territorial approaches' to comply with regulations, particularly the EUDR. Currently, Enveritas is offering standard territorial packages to comply to the EUDR.[29] However, these territorial claims of jurisdictional traceability will not be sufficient to comply with EUDR requirements. For such an approach to be legally sufficient, it will have to include traceability to the plot level. Furthermore, such an approach should be inclusive of smallholders and offer support so that they can become compliant if they are not now.

The current territorial approaches focus solely on the deforestation aspect of the EUDR, neglecting the legality requirements and other laws such as the CSDDD and related regulations. As a result, these approaches are not future-proof for compliance and remain incomplete.

If territorial approaches are to be adopted, it is essential to underscore that these can only serve as temporary measures during the initial implementation phase, unless they can ensure legality and include smallholders. Furthermore, they must also be directly linked to plot-level traceability. While it is understandable that service providers are looking to profit from these regulatory changes, territorial approaches can only be credible if they are established by a transparently and inclusively governed multi-stakeholder institution, rather than driven by commercial interests.

DUBIOUS CLAIM 4

"Smallholders will be disproportionately affected by new compliance demands."

Coffee companies often assert that their opposition to new compliance regulations is intended to protect and support smallholders in their supply chains. They argue that these regulations could force them to terminate contracts with suppliers who fail to meet the EUDR and other new regulatory requirements.

While it is true that smallholders will face significant challenges in adapting to these new requirements and will need support (see Part Three for further details), many farmer organizations view the EUDR as an opportunity to improve farmers' livelihoods. Although traceability may be challenging, it is also seen as a crucial element in reducing supply chain complexity and ensuring that purchase prices are respected.

Additionally, the new regulations could encourage the development of better digital solutions for cooperatives, improving daily management and payment methods, thereby strengthening the position of smallholders in the supply chain and streamlined internal procedures.

The primary reason smallholders might be severely impacted by these compliance demands is if coffee companies decide to discontinue their trade relations with them. This risk is particularly acute for smallholders located near forests, where compliance requirements may be more stringent than for those not in such areas. However, this risk would be the result of company's decisions, not of the regulations themselves. As such, it is entirely up to the companies whether they will expose the smallholders – whom they claim to care so much about – to this risk. Company purchasing practices – unlike many of the enabling environment requirements – fall squarely within the sphere of control of companies.

PART THREE

Recommendations and challenges

It is clear that we are entering a new era where sustainability is no longer a nice-to-have – it is now a mandatory part of every coffee company's operation. The suite of European and other regulations signifies a commendable and crucial advance in addressing the urgent global issues related to environmental sustainability and human rights. For far too long, these issues have been the subject of voluntary efforts, that have consistently fallen short. Establishing a mandatory level playing field is an urgent necessity, and regulators are finally recognizing this need.

In the short term, adjusting to this new reality will present challenges.[30] And, as with any complex new instrument, ongoing calibration will be required; regulations will likely require regular revisions in the coming years to ensure their effectiveness and desired impact. The EUDR, for example, has a built-in review period of several years. Furthermore, the significant changes that are introduced to global trade must be carefully managed to avoid harming vulnerable groups and preventing the powerful from exploiting the situation to further strengthen their position.

As the EUDR is the first regulation to take effect, the challenges discussed in this chapter may seem focused on the EUDR; however, they are also highly applicable to the CSDDD, and somewhat applicable to the French 'Devoir de Vigilance' law, the German 'Lieferkettengesetz' and other similar regulations. Both the Commission and the EU Member State governments, as they draft their national regulations to comply with the CSDDD, should consider these challenges from the outset.

Small-scale farmer support

At the heart of almost all sustainability challenges in the coffee sector is the issue of smallholder poverty.

If implemented wisely, these new regulations (particularly the CSDDD) present a great opportunity for the sector to tackle the huge issue of farmer poverty. This would be beneficial for everyone – producers and industry alike – and would help solve many of the related problems facing the coffee sector, such as child labour, deforestation, and gender inequality.

However, regulations that attempt to enforce sustainability compliance without addressing the root causes of poverty can create problems for poor and vulnerable small-scale farmers. For example, cracking down on child labour or deforestation without ensuring farmers and workers have a living income, is unlikely to succeed and may become dangerously punitive for some desperate farmers who lose access to markets.

Therefore, any regulatory environment that demands compliance must provide financial and technical support to enable smallholders to comply.[31] Companies could, for example, cover the costs of geomapping the IT systems used to demonstrate compliance, and other compliance costs of farmers and cooperatives in origin countries.

An important part of this support should also be provided by the regulators in the form of financial assistance. Regulations must clearly stipulate that small-scale farmers cannot bear the cost of compliance without adequate compensation. However, regardless of the actions of regulators, companies have the responsibility to provide a key part of this support.

In this regard, the EU has committed supporting funds to help farmers comply to the regulation.[32] However, the EUDR itself has significant gaps, and needs the Living Income provisions of the CSDDD to ensure farmers are compensated for the costs of regulatory compliance.[33] Until the CSDDD comes into force, companies should transparently communicate how they are ensuring that costs of compliance are not passed down to farmers.

The EU should also proactively support small-scale farmers as well as governments of producing countries, by providing substantial financial and technical support packages to coffee farmers in all major coffee growing regions, with special regard for the farmers that need it the most.[34] It should also be very clear in the guidance for the implementation of the EUDR to avoid pushing compliance costs onto farmers or disengaging from high-risk areas.

Digitalisation dependencies

Compliance with the EUDR requires digital data management across various stakeholders and countries, primarily due to the regulation's demands for traceability to specific plots of land, as well as additional information to verify legality and deforestation-free production. Presently, a range of approaches and tools are under development, each differing in terms of business model, ownership, and organization.

While data management systems can benefit coffee cooperatives, compliance with the EUDR mandates their ability to share data with buyers. Given that many smallholders still lack the technical capacity to handle the geolocation data required by the EUDR, they rely on the systems provided by the buyers. Consequently, shifting from one buyer to another may pose difficulties. One of the primary hurdles in the current digital landscape is interoperability between systems. This situation risks locking smallholders into relationships with specific buyers, limiting their freedom to operate in the market and deepening existing power imbalances.

There is also a serious concern of inadequate data protection, which could lead to violations of smallholders' personal rights. Moreover, the question of data ownership and how farmers might benefit from it must be addressed. Without this, the power imbalances in the sector could widen further, leaving smallholders vulnerable to exploitation.

Support will be needed for farmers to address these risks, both financial support and capacity building. Furthermore, multilateral and multistakeholder processes should be started to support producers in producing countries in challenges around data collection.[35] These processes should be coupled with clear commitments of companies and strong transparency and accountability mechanisms.

Besides being a responsibility of each company, interoperability, as well as more open traceable systems, also provide significant benefits to the private sector, both in affordability and credibility.

In the medium to long term, processes of digitisation could be supported by the setting up of a credible national traceability system. In that light, there is a real role for producing governments to play in this.[36] Ideally, these national traceability systems would feed into an interactive geolocation system at EU level, which could monitor real-time deforestation and provide alerts for competent authorities.

Regulator reliability: missing tools

When implementing new regulations, the regulator must be a reliable actor, providing sufficient support, clear timelines, and the necessary tools to comply. In this sense, the EU has been lacking.

Although the EU has committed to financial and technical support for compliance to the EUDR (i.e., through embassy funding in producing nations, direct support from Brussels, and the Team Europe Initiative), this support is insufficient to be able to support all small-scale farmers in all sectors. Furthermore, key EUDR implementation tools, such as the Information System for due diligence statements was very late in being rolled out, and clarity on the obligations of downstream operators, remains unclear until today.

One way of ensuring this reliability and necessary dialogue is by setting up national multi-stakeholder networks in the same vein as the Voluntary Partnership Agreements were set up for the Timber Regulation. These allow smallholders, civil society, industry, and governments to convene with the EU to discuss support packages as well as ongoing issues related to compliance. This could also include innovative ideas such as developing national traceability systems. Such steps would enable regulations to become more owned within producer countries, provide more insight into legality within the country (including which laws are important to monitor for the legality clauses, especially for the EUDR), and could even encourage producer countries to enact mirror legislation, which could help them in the long run and reduce their risk rating worldwide.

Recent pushback in Brussels has led to reviews and sometimes complete shelving of key environmental requirements within the Green Deal by the European Commission. If similar steps are taken regarding the EUDR and CSDDD, investments that have been made by companies and farmers would be in vain and would also diminish the credibility of the EU regulatory system.[37]

PART FOUR

The way forward

In the current landscape, the policies and investments of many coffee companies fail to address the pressing needs facing the coffee sector. As a result, many coffee farmers find themselves ill-prepared to meet new regulatory standards, placing them at risk of marginalization from the EU and other key coffee markets.

The key lies in a scenario where private sector commitments, international policies, multi-stakeholder collaboration, and financial assistance converge to embrace smallholder coffee producers.

Regulations will never be the full answer, but without regulations for a mandatory level playing field, sustainability will remain on the fringes of global commodity markets.

Solutions are never one-size-fits-all and addressing deeply ingrained structural issues demands tailored solutions.

Regulations are here to stay. It is up to the coffee sector to work hard to catch up on its late start and to make good on its environmental and human rights promises and potential.

By implementing sustainability regulations, consuming governments are starting to pressure companies to take greater responsibility for their supply chains, pushing them to support sustainable practices on the ground.

Governments of producing countries need to move their stance from pushing back against the regulations to creating an enabling environment for all actors that facilitates compliance.

Traders and roasters, the powerhouses of the coffee industry, must actively demonstrate their commitment by ensuring that the benefits of the coffee trade extend beyond financial gains. They need to take the lead in promoting environmental stewardship and review their purchasing practices to improve the income of the farmers who sustain the sector. For these industry leaders, sustainability must evolve from a buzzword into a core business imperative.

Furthermore, collective efforts to scale-up coffee sector wide interventions will better position the sector for the transition from voluntary to mandatory coffee sustainability.

In the coming years, sustainability in the coffee sector will transform from a 'nice to have' attribute to a license to operate. The sector needs to act with all the urgency that this sea change requires.

ENDNOTES

1. Climate models and field evidence reveal that climate change will gradually push coffee production into new areas, threatening some of the planet's last remaining primary forests along with their rich ecosystems and biodiversity.

2. This set of EU regulations builds upon and aligns with the international soft laws mentioned earlier, including the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct.

3. Forced labour has not received much attention in the coffee sector so far, the possibility of its presence in coffee regions suggests that the EU's Forced Labour Directive could soon become a significant regulation for the industry. For instance, forced labour has been repeatedly documented in Brazil, see: SOMO and Conectas (2024). Bitter brew. Modern slavery in the coffee industry.

4. Several institutions and individuals have started offering overviews of the various legislative developments, including the Legislative Database of the ICO.

5. Other commodities covered by the EUDR include cattle, cocoa, palm oil, soy, timber, and rubber, as well as derived products such as leather, furniture and chocolate.

6. If national governments legalise deforestation after the 2020 cut-off date, the EUDR's date will still apply. Conversely, if stricter national rules exist, such as an earlier cut-off date, those more stringent requirements will take precedence. However, there is real risk that national regulators might weaken national legal standards to make compliance easier. This has happened in Peru, where amendments to the Forestry and Wildlife Law were weakened to align with EUDR requirements, see: Peña Alegría, P. (2024). (Mis) Adapting Domestic Law to Meet New International Environmental and Trade Rules: How Peru Changed Its Environmental and Land Use Rights Laws in Response to the European Union Deforestation Regulation.

7. Including the rights of indigenous people and laws prohibiting child labour and slavery.

8. While the EUDR will target deforestation from 2020 onwards, it will not tackle the damage caused before that cut-off. This does not suggest deforestation did not happen before, nor does it offer solution for the environmental harm already done, see: Weisse, M., Goldman, E., and Carter, S. (April 4, 2024). Forest Pulse: The latest on the world's forests.

9. The EUDR regulation supersedes the rules to fight global illegal logging and associated trade, the EU Timber Regulation (EUTR) came into force back in 2013.

10. This is largely –though not entirely– in line with the recently updated OECD Due Diligence Guidance for Responsible Business Conduct.

11. A second joint position paper by the VOCAL Alliance on 'living income and purchasing practices in coffee' is also planned, likely to be released in the first half of 2025.

12. Including this study on the benefits in the palm oil sector, and this one on the benefits for the timber sector.

13. In the EU, a Regulation is a single law that applies uniformly across all member states, while a Directive requires member states to create their own national laws that meet the Directive's requirements. The EUDR is a Regulation because deforestation falls under the EU's direct regulatory powers. In contrast, regulating business behaviour in social and environmental areas falls under national sovereignty, which is why the CSDDD is a Directive. This means it will lead to 27 different national laws, all of which need to be aligned.

14. While the CSRD and the CSDDD are not directly linked, the CSDDD has been drafted to align closely with the CSRD. Additionally, the transparency required by the CSRD will clearly impact the risks identified in the CSDDD.

15. The text of the Green Claims Directive is still under negotiation and is expected to enter trilogue negotiations once the new European Parliament is installed. Therefore, the final details of this Directive remain uncertain.

16. Even within the EU, there are national regulations on this topic, such as Germany's Lieferkettensorgfaltspflichtengesetz (LkSG) and France's Loi relative au devoir de vigilance.

17. The ICO Taskforce Global Knowledge Hub maintains a database that includes many regulations already in force. However, many of the regulations discussed in this paper are not yet featured in that overview.

18. Forest Trends (September 14, 2022). Ten things companies and investors can do to meet no-deforestation commitments.

19. Examples can be found in an op-ed by the founder of CoffeeWatch, a participant in VOCAL, see: E. Higonnet (April 25, 2024). EU law to reduce deforestation is on a knife's edge, will leaders act?

20. See for example the ECF reactive statement to the EC proposal of regulation on deforestation-free commodities and the ECF position paper on the EC proposal for a directive on corporate sustainability due diligence.

21. Such as Accountability Framework's Operational Guidance document.

22. Since 2019, a group of cocoa companies and civil society organisations have been working together to think about and shape the regulatory landscape for cocoa, through the Cocoa Coalition. This Coalition includes several companies that also trade in coffee, such as Nestlé. Furthermore, the cocoa sector's umbrella organisation, ECA, is working with its members to develop guidance on how best to comply with the regulatory changes.

23. Roundtable on Sustainable Palm Oil (RSPO) (April 26, 2023). Gap analysis between RSPO principles and criteria and EUDR.

24 Listen to episode 67 and 68 of the Forest for the future podcast of FSC, see: How FSC is aligning with the EUDR.

25 Brown, N. (August 20, 2024). Opinion: Large roasters urge EUDR delay, but where's the culpability? Daily Coffee News.

26 Several sector and countries have called for a postponement of the EUDR, with the coffee industry raising specific concerns in multiple letters to the European Commission:

Deutscher Kaffeeverband (DKV) (February 18, 2024). Subject: Application of the EUDR planned for the end of the year is not possible; Delay of application and debureaucratisation urgently required.

European Coffee Federation (ECF) (February 20, 2024). Subject: The reality of EUDR implementation in the coffee supply chain: a call to reconsider the implementation and timeline.

EU Coalition of industry associations (signed by ECF) (May 17, 2024). Subject: EUDR information system not yet on track to meet requirements of properly functioning supply chains.

International Coffee Partners (ICP) (June 5, 2024). Smallholder coffee farmers need adequate structures, enough time, and financial resources to comply with EUDR.

ECF, GCP, WCPF and others (August 14, 2024). Subject: Call for urgent action for effective EUDR implementation.

27 Grüter, R., Trachsel, T., Laube, P. and Jaisli, I. (2022). Expected global suitability of coffee, cashew and avocado due to climate change. PLoS ONE 17.

28 For more information on the key constraints and strengths of VSS in delivering on sustainability and compliance commitments, see: Voice Network (2019). Certification is not the systemic solution to unsustainable cocoa.

29 More details on how the system works can be found in this explainer by Algrano. While the plan may not be perfect, it is still a plan -unlike many industry actors who have no plans at all. Similarly, the Ugandan Coffee Development Authority, in collaboration with the Uganda Coffee Platform, is implementing a territorial approach as a short-term compliance strategy, see: Agrospecials (2024). Uganda wrestles with EUDR compliance amidst coffee trade challenges.

30 It is of paramount importance to stress that this is not criticism of the regulations themselves. In recent years, opponents have frequently seized on any criticism of the regulations, often distorting it. Any publications that cite this chapter without acknowledging VOCAL's explicit support for regulation should be regarded as a disingenuous misuse. This paper represents a sincere effort to enhance a much needed and largely positive process.

31 Oger, A. (2023). Environmental and social impacts embedded in EU trade policies. The case of EU trade-related autonomous measures in Vietnam. IEEP.

32 European Commission (December 12, 2023). COP28: EU steps up cooperation with partner countries on deforestation-free supply chains and outlines further support measures.

33 The EUDR mentions in Recital 50 that "reasonable efforts should be undertaken to ensure that a fair price is paid to producers, in particular smallholders, so as to enable a living income and effectively address poverty as a root cause of deforestation." While this is not a strict requirement to pay fair prices, it is a clear recommendation that has not received enough attention in the EUDR discussions. Coffee companies can use this guidance to proactively avoid negative consequences of EUDR, such as market exclusion of smallholders.

34 Especially smallholder farmers, farmers in marginalised communities, women headed households, etc.

35 A good example of such a process is the recent platform for data interoperability that was initiated by INA and GIZ, see: Digital integration of agricultural supply chains alliance (DIASCA).

36 Key recommendations for national traceability systems are detailed in this paper, see: FERN (2024). Transformative traceability. How robust traceability systems can help implement the EUDR and fight the drivers of deforestation.

37 The incredibly ugly horse-trading over the CSDDD – even after it had cleared the trilogue stage – is a stark example of the shaky credibility of the EU Parliament, see: European Coalition for Corporate Justice.

Colophon

This paper is the first publication of the Voice of Organisations in Coffee Alliance (VOCAL). It is the result of several rounds of consultation with VOCAL participants and other stakeholders in the coffee sector in the period May – September 2024.

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