

Progress on U.S. regulatory measures to tackle deforestation and environmental crime

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About EIA

- ▶ Non-profit organization founded in 1984 with offices in Washington, DC and London
- ▶ Employs pioneering investigative techniques to document and expose environmental crimes and human rights abuses
- ▶ Strengthens intelligence-led law enforcement
- ▶ Promotes innovative legal and policy solutions

Existing and proposed U.S. federal supply chain due diligence laws

- ▶ Existing U.S. laws requiring supply chain due diligence to address human rights, environmental and governance issues through trade
 - ▶ Tariff Act prohibition on products made wholly or in part with forced labor
 - ▶ Magnuson-Stevens Act prohibition on imports of illegal fish and Seafood Import Monitoring Program
 - ▶ Dodd-Frank Section 1502 amendment requiring disclosure in SEC filings of corporate due diligence on certain minerals associated with financing of armed conflict
 - ▶ Lacey Act 2008 plant amendment
- ▶ In March, Senator Schatz and Representative Blumenauer announced their intention to introduce a bill to tackle global deforestation; introduction expected this year
- ▶ “Foreign Corrupt Practices Act for Human Rights” bill being discussed by civil society groups and members of Congress

Key elements of Schatz/Blumenauer bill

- ▶ Import prohibition
 - ▶ Prohibits imports of products made wholly or in part from commodities sourced from illegally deforested land
 - ▶ Violations of FPIC and land tenure rights of indigenous peoples and local communities under producer country laws included in definition of 'illegal'
- ▶ Due diligence obligation
 - ▶ Import declarations would require importers to document supply chain traceability and other steps taken to comply with the prohibition, as appropriate to the level of supply chain risk
- ▶ Product scope
 - ▶ Initial list of commodities, subject to regular review, to include cattle, soy, palm oil, cocoa, rubber and pulp
 - ▶ Key deforestation-risk products subject to import declaration requirements; bill to include initial list, subject to regular review

Key elements of Schatz/Blumenauer bill

- ▶ Engagement with producer countries
 - ▶ Creates new avenues of foreign assistance and engagement with producer countries, including civil society, to support efforts to reduce deforestation and improve governance and supply chain traceability and transparency
- ▶ Enforcement
 - ▶ Civil and criminal penalties for non-compliance
 - ▶ Third party complaint mechanism for providing evidence of non-compliance to U.S. authorities
- ▶ Strengthen tools to tackle deforestation-related financial crimes
- ▶ Federal government procurement preference for zero deforestation products

State bills on deforestation

- ▶ California public procurement bill
 - ▶ Bill (AB 416) passed the state Assembly this month and will be considered by the state Senate beginning next month
 - ▶ The law would require suppliers to have in place policies to exclude products made wholly or in part of commodities “grown, derived, harvested, reared, or produced” on land subject to deforestation or intact forest degradation in tropical or boreal forests, and publically report on implementation
 - ▶ Supplier due diligence policies must also include full supply chain traceability, FPIC of indigenous peoples and local communities, and compliance with producer country laws
- ▶ NY public procurement bill
 - ▶ Bill (S5921) was introduced in the State senate this year but did not progress; reintroduction is expected next year
 - ▶ Similar to CA bill, but would also strengthen an existing prohibition under state law on the use of products containing tropical hardwoods from natural forests

Thank you!

