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Bridging sustainable finance and sustainable land use initiatives to reduce deforestation:

An overview of EU and Brazilian legislation

A COLLABORATIVE ANALYSIS BY CLIMATE & COMPANY, CLIMATE FOCUS, AMIGOS DA TERRA – AMAZÔNIA BRASILEIRA AND THE TROPICAL FOREST ALLIANCE

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SUMMARY

This technical document provides an overview of **key legislation** in the areas of **sustainable finance** as well as **sustainable land use, including reducing and halting deforestation**, currently in development and implemented in the **European Union (EU) and Brazil**. It aims to provide support for **regulatory cooperation** to increase coherence, compatibility and thus higher impact of policy and legislation.

To achieve **transformational impact**, we consider it crucial to think sustainable land use and sustainable finance together. In brief, **sustainable finance** is about “**shifting the trillions**” from unsustainable towards sustainable economic activities. In this context, **financial institutions and non-financial corporates** currently face several changes in legal (especially concerning transparency) requirements. Deciding early to actively play a driving role for transformation towards a sustainable economy and investing in transparency and responsible supply-chains are expected to reduce financial risks and bring additional benefits for private actors.

On the **EU**: this document presents 5 important legislations that are – as part of the European Green Deal - currently being developed. Two of them directly aim to prevent deforestation by imposing traceability and due diligence obligations for companies trading certain commodities. The others are sustainable finance approaches that intend to have high impact on different environmental objectives – among them biodiversity protection including reducing and halting deforestation.

On **Brazil**: this document provides a panorama from long established sustainable agricultural and forest protection policies and laws, over more recent governmental and non-governmental supply-chain traceability as well as sub-national initiatives to sustainable finance, transparency, and the new Green Growth Plan.

A thorough assessment on how effective each of the presented policies and regulations has been or can be for reducing or halting deforestation and promoting sustainable land use falls outside the scope of this document. We believe that **bridging sustainable land use and sustainable finance measures bears high potential for transformational change**. For such change to become reality, strong political will to drive ambition, technical and financial resources for effective implementation schemes, and **close cooperation** among all involved stakeholders within and across jurisdictions are needed.

We are **available for further questions and support** on the contents presented here to interested stakeholders.

WHY READ THIS?

This technical document provides an **overview of key legislation** in the areas of sustainable land use, including reducing and halting deforestation, and sustainable finance, currently in development and implementation in the **European Union (EU) and Brazil**. It aims to provide support for **regulatory cooperation** initiatives between Brazil and the EU.

Regulatory frameworks across the world are fast evolving to support the **transition towards a green economy** and give clarity on what is needed in business and trade relationships for both companies and stakeholders along supply chains. **In the EU**, the most important strategic policy for sustainability is the *European Green Deal*. It operates as an umbrella framework for several emerging sustainable finance regulatory instruments. **In Brazil**, supervisory authorities are putting in place an ESG risk-management and reporting framework for financial institutions, and the country recently added new impetus for a low-carbon transition through the launching of the Green Growth Plan.

Due to the **close** economic and commercial **relations** between these jurisdictions, several of these laws are relevant for public and private actors in both **Brazil** and the **EU**. Brazil plays an important role in the successful implementation of the European Green Deal. At the same time, it is necessary for public and private actors in the EU to have a good understanding of existing and proposed regulatory frameworks and initiatives in Brazil, as one of the most important countries in which high-deforestation risk commodities are produced. An intensive exchange of information and knowledge between the EU and Brazil on sustainable finance regulations and how it impacts the production of forest-risk commodities can lead to greater **cooperation and integration** between these jurisdictions and facilitate effective implementation by market actors.

Box 1: What is Sustainable Finance and why is it relevant for sustainable land use and reducing deforestation?

To achieve transformational impact, it is crucial to think ‘sustainable land use’ and ‘sustainable finance’ together. In brief, **sustainable finance** is about “**shifting the trillions**” from unsustainable towards sustainable economic activities, thus facilitating the transformation to a climate-resilient economy, in alignment with the Paris agreement.

Sustainable finance instruments¹ can be used by policy makers and financial actors to redirect private and public capital flows towards more sustainable options. More specifically, sustainable finance refers to taking environmental, social and governance (ESG) considerations into account when making investment decisions. Environmental considerations include climate change mitigation and adaptation, the preservation of biodiversity, pollution prevention, water protection and circular economy, among others. Sustainable finance encompasses transparency (disclosure) as a key element.

Land use change contributes to 23% of global emissions², leading to high biodiversity loss³. However, finance for sustainable land use pales in comparison to financial flows towards harmful agricultural and logging activities⁴. To meet internationally agreed-upon climate, biodiversity, and land use targets and Action 6 of the Glasgow Leaders’ Declaration on Forests and Land Use⁵, financial flows need to be aligned to reverse forest loss and degradation⁶.

CONTEXT

Brazil and the EU are important players in **global commitments** that include key goals on sustainable land use, such as the United Nations Framework Convention on Climate Change (UNFCCC), the Paris Climate Agreement, the UN Agenda 2030, the New York Declaration on Forests (NYDF), the Glasgow Leaders’ Declaration on Forests and Land Use, and the Convention on Biological Diversity. **The specific objectives, means and instruments Brazil and the EU** have developed **naturally differ** due to **different contextual conditions**.

Brazil is the world’s **largest tropical forest** country with around one third of the world’s remaining rainforests⁷. In 2020, 4.97 million km² (almost 60%) of Brazil’s land area was covered by forests (of which around two third are primary forests)⁸. In the decade of the millennium, Brazil had substantially reduced deforestation - in 2012, deforestation was reduced by 84% (4,571 km²) in the Amazon compared to the peak of 2004, when 27,772 km² were lost⁹. Since 2013, deforestation rates have gradually increased again, accelerating further in the past 3 years. From 2017 to 2021, roughly 48,000km² have been cleared¹⁰. The year 2022 will likely reach the highest deforestation rates since 2008¹¹.

Most forests in Europe are actively managed (only around 2% of them are considered undisturbed)¹². At 2.27 million km² (1.59 km² in the EU)¹³, forests cover over one third of Europe’s land surface. In terms of protecting crucial ecosystems, the EU therefore also needs to focus on the **impacts supply chains** driven by European consumption are causing in other parts of the world, especially in highly biodiverse areas such as (tropical) rainforests.

Consequently, also in **economic and trade relations between the two countries**, environmental and sustainability matters have become increasingly important. The EU is Brazil’s second-largest trading partner,

accounting for more than 15% of its total trade¹⁴, and the biggest foreign investor in Brazil. In 2021, the EU imported EUR 33 billion worth of products from Brazil¹⁵, many of which are deforestation-risk commodities. Soy and soybean by-products make up the largest component of EU imports from Brazil at USD 7.8 billion in 2021, followed by ore, slag and ash (USD 6.38 billion) and meat (USD 1.4 billion)¹⁶. In the end of 2019, after more than 20 years of negotiation, Mercosur and the EU reached a Free Trade Agreement (FTA) that has not yet been ratified by the EU due to concerns about environmental and social impacts. Since 2021, the EU is working on a supplementary instrument to the trade agreement to include safeguards. Thus, the FTA shall contribute to improving the environmental situation and human rights. A proposal prepared by the EU might soon be discussed.

EU POLICIES AND LEGISLATION

The European Green Deal – strategic policy framework for sustainability

The **European Green Deal**¹⁷ was introduced by the European Union in 2019. This strategy aims to make **Europe climate neutral by 2050**. The ambition was further raised with the binding **target of 55%** reduction of GHG emissions by 2030 compared to 1990 levels¹⁸. In July 2021, the European Commission released the **Fit-for-55 package**¹⁹, a set of proposals to revise and update EU legislations and to put in place new initiatives to achieve the binding EU GHG targets.

Regarding finances, the European Commission aims, as part of the Green Deal, to mobilise at least EUR 1 trillion in **sustainable investments** from private and public actors between 2020 and 2030. The Renewed Sustainable Finance Strategy²⁰, adopted in 2021, aims to create an enabling framework for the private and public sectors to facilitate sustainable investment.

Regarding sustainable land use and forests, the European Green Deal reinforced the 2019 commitments on **Stepping up EU Action to Protect and Restore the World's Forests**²¹. Its priorities are to: (1) reduce the footprint of EU consumption of land and encourage the consumption of products from deforestation-free supply chains; (2) work in partnership with producer countries to reduce pressures on forests and to “deforest-proof” EU development cooperation; (3) strengthen international cooperation to halt deforestation and forest degradation; (4) redirect finance to support more sustainable land use practices; (5) support the availability and quality of information on forests and commodity supply chains. Further relevant EU strategies of the European Green Deal are the **Farm to Fork Strategy**²², the **Biodiversity Strategy for 2030**²³ and the **new EU Forest strategy for 2030**²⁴.

Box 2: Basics of EU Policymaking

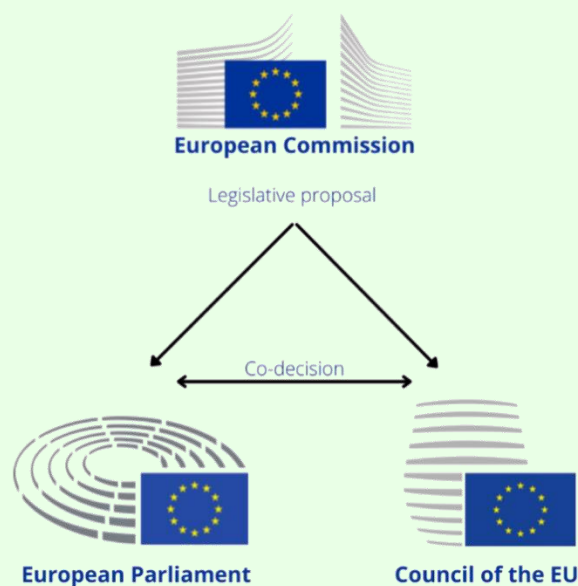


Figure 2: The institutional triangle ([link](#))

EU policymaking is shaped around 3 EU institutions: the European Commission, the European Parliament (composed of directly elected members from each EU country) and the Council of the European Union (composed of EU countries' government ministers). In the Ordinary Legislative Procedure, the EU legislation process starts with a legislative proposal by the European Commission which is then discussed simultaneously within the European Parliament and the Council of the European Union. For each EU legislation to be adopted, the European Parliament has at least one responsible Committee in charge of proposing amendments to the Commission's proposal. The same holds for the Council, which designates a lead Working Party to negotiate proposals.

The **Trilogue**²⁵ is the process where the three co-legislators start negotiating amendments to the proposal. This negotiation will either result in an agreement by all co-legislators and thus the approval of the law, or by a disagreement taking place through a rejection through vote, by either the Parliament or the Council, or both, and thus resulting in no law. If approved, the law enters into force 20 days after being published in the Official Journal of the European Union.

Regarding **legislations**, a distinction can be made between **Regulations**, which are directly binding legislative acts which must be applied in its entirety across the EU, and **Directives**, which set out detailed goals that EU countries must achieve within their national laws. The European Commission may also adopt **Delegated Acts**²⁶.

5 important EU legislations in the making related to sustainable finance and sustainable land use, including deforestation

As part of the EU strategic policy framework for sustainability, there are currently five important legislations being developed (one of them already adopted) in the EU that affect land use and deforestation topics²⁷.

The Proposal for a regulation on deforestation-free products

What is it? The Commission's proposal for a regulation on deforestation-free products aims to minimise the EU's contribution to global deforestation, as existing voluntary and market-based measures at national and regional levels in the EU have failed to shift EU consumption away from products linked to deforestation²⁸. The definition for forests to be applied is still under debate. Basis is the FAO definition ("*an area of land greater than 0.5 hectare on which there are trees higher than five metres with a canopy cover of more than 10%*")²⁹.

How does it address deforestation?³⁰ The proposal, in its current draft, targets 6 forest-risk commodities³¹: cattle, cocoa, coffee, palm oil, soy, and wood³² and certain derived products. These can only be placed on the EU market or exported from the EU to third countries if:

i) they are deforestation-free according to Article 2(8), which means produced on land that has not been deforested (legally or illegally) after 31 December 2020 (cut-off date in debate between 2019 and 2021). The date is aligned with the UN SDG 2030 Target 15 and the New York Declaration on Forests;

ii) they have been produced in compliance with relevant legislations of the producer country; and

iii) the operators and traders (excluding SMEs) submit a due diligence statement to customs authorities when placing their products on (or exporting from) the EU market. Exercising due diligence includes collecting and reporting geo-location coordinates of all plots of land where the relevant products were produced, the date or time range of production and conducting a risk assessment and adopting risk mitigation measures where necessary.

Target group and relevance for the Brazilian private sector: This regulation will affect both EU and non-EU operators, the entities which first place goods on the EU market or exports it from the EU, and large traders. The regulation is expected to impact companies and producers in producing countries through the traders.

Indigenous peoples' rights: The Commission's proposal mentions in Article 28 that partnerships and cooperation should allow for the full participation of all stakeholders, including Indigenous peoples. The EU Council's amendment refers additionally to the United Nations Declaration on the Rights of Indigenous Peoples³³. Furthermore, the Council's general approach foresees an impact assessment on (amongst others), Indigenous Peoples after 2 years of the Regulation entering into force³⁴. The European Parliament's position additionally contains the right to free, prior, and informed consent of Indigenous and local communities. Definitions for "human rights defenders" and "environmental human rights defenders" were also added. The Parliament's position also clarifies that goods or products must not come from land associated with land rights claims or land disputes.

What stage is it at? The EU Council and the EU Parliament already presented their proposed amendments on the Commission's legislative proposal. The Czech government aims to conclude the Trilogue by the end of their Council Presidency in December 2022.

Timeline for entering into force and application: The current proposal indicates that operators need to apply the law 12 months after the regulation enters into force (24 months for microenterprise operators) for non-wood commodities. For wood commodities, the current EU Timber Regulation (Regulation (EU) 995/2010) already prohibits operators from placing illegally harvested timber and timber products on the EU market. This Regulation will be repealed as of the first day of application of the new Regulation on deforestation-free products.

Legislative expansion into different ecosystems and forest-risk products: The proposal includes a planned review within two years after the regulation enters into force to assess the need and feasibility of extending the regulation to cover other ecosystems and more forest-risk commodities, such as rubber, maize, and others.

Enforcement/Proof schemes: Member States will be obliged to carry out annual checks by their competent authorities, covering at least 5% (in debate) of operators for each commodity and 5% of each commodity volume (Art. 14). For commodities and products produced in high-risk countries or regions³⁵, the annual check should cover at least 15% of operators and of commodity volumes (Art. 20) and include unannounced controls. Penalties will be established by Member States but should include as a minimum: fines (of up to 4% of annual turnover), confiscation of materials, and temporary exclusion from public procurement.

Cooperation partnerships: In its proposal, the Commission committed to engage with producer countries in view of developing partnerships and cooperation to halt deforestation. Such mechanisms could for example include structured dialogues, support programmes and actions, as well as administrative arrangements. These mechanisms should enable full stakeholder participation (e.g., from civil society, Indigenous people, local communities, and smallholders).

The Corporate Sustainability Due Diligence Directive (CSDDD)

What is it?³⁶ The CSDDD, also called the EU's "supply chain law" aims to stimulate and advance sustainable corporate behaviour and to ensure that companies consider human rights and environmental norms in their operations and overall governance. The overall objectives of the proposed Regulation on deforestation-free products (see above) and the CSDDD are mutually supportive; the CSDDD introducing value chain due diligence also related to activities that are not covered by the Regulation.

How does it address deforestation? The Commission's proposal for the CSDDD contains the necessity to implement due diligence to avoid any *measurable environmental degradation* that affects human's health and safety (through reduced access to food, water, sanitary facilities, etc.) or affects ecological integrity, such as deforestation³⁷. In its list of environmental violations, it contains the duty to take the necessary measures related to the use of biological resources to avoid or minimize adverse impacts on biological diversity³⁸.

Indigenous Peoples' rights: "Violations of the Indigenous Peoples' rights to the lands, territories, and resources which they have traditionally owned, occupied or otherwise used or acquired" in accordance with the United Nations Declaration on the Rights of Indigenous Peoples is an integral part of the Commission's proposal³⁹.

Target group: The Commission's proposal covers EU companies with more than 500 employees and a global net turnover of >EUR 150 million, smaller companies (>250 employees and EUR 40 million turnover) if they operate in a high-impact sector (i.e., textiles, agriculture, forestry, fisheries and food production, and extractives), and non-EU companies active in the EU with a turnover generated in the EU aligned with the first two groups of companies. SMEs, while not directly included in the scope of the Directive, could be impacted as contractors or subcontractors to companies in the scope.

Scope of the value chain: The proposal defines obligations for companies regarding adverse impacts on the environment and human rights stemming from their own operations, those of their subsidiaries, and operations across the value chain carried out by entities with which the company has an *established business relationship*⁴⁰.

Compliance instructions: In order to comply with their duty to apply due diligence throughout their value chains, companies will need to integrate due diligence into their policies; identify actual or potential adverse human rights and environmental impacts; prevent or mitigate *potential* impact; end or minimise *actual* impact; establish and maintain complaints procedure; monitor the effectiveness of their due diligence policy and measures; and publicly communicate on their due diligence (Art. 5-11).

What stage is it at? The proposal was presented by the European Commission in February 2022 and is now waiting for amendments by the European Parliament and the Council (expected before the end of the year 2022 and at beginning of 2023) before moving into Trilogue.

Timeline for entering into force and application: EU Member States need to adopt regulations and administrative provisions necessary to comply with the CSDDD two years after the Directive enters into force.

Reporting requirement: To be delivered through the Corporate Sustainability Reporting Directive (CSRD, see below), unless the company is not covered by that Directive (Art. 11).

Enforcement/Proof-schemes: If the obligations are not followed, the proposal instructs EU Member States to apply penalties and liability to companies. As this is a Directive, EU countries will have to decide nationally how exactly they plan to implement its objectives. Impartial supervisory authorities are to be designated by EU countries. The second potentially important pillar of enforcement is to hold companies which have breached their due diligence duties civilly liable in case the breach has resulted in harm. The proposal establishes civil liability for companies, which means affected persons must be able to sue the responsible companies in European courts, if certain conditions are fulfilled.

Partnerships and support: The proposal contains measures to support all companies which might be indirectly impacted, such as the development of information platforms and potential financial support. The preamble states that the Commission and EU Member States should pursue partnerships with third countries to build their capacity to apply due diligence towards human rights and environmental impacts, especially regarding the challenges faced by smallholders.

The Taxonomy Regulation for Sustainable Investment

What is it?⁴¹ The EU Taxonomy for sustainable activities is at the heart of the EU's sustainable finance agenda. It is a definition framework that sets out clear criteria for an economic activity to be considered sustainable in the EU. It contains a catalogue of economic activities that make (i) a substantial contribution to one of the six environmental objectives,⁴² (ii) Do Not Significant Harm (DNSH) the other five objectives and (iii) meet minimum and explicitly listed social safeguards. The Taxonomy aims to “*create security for investors, protect private investors from greenwashing, help companies to become more climate-friendly, mitigate market fragmentation and help shift investments where they are most needed*”⁴³. Since the EU Taxonomy is linked to disclosure regulations that oblige entities to disclose sustainability information, it is expected and intended to increase transparency for investors.

How is the EU Taxonomy linked to disclosure obligations? Article 8 of the EU Taxonomy regulation⁴⁴ requires entities covered by the Non-Financial Reporting Directive (NFRD)⁴⁵ (see below) to disclose the extent to which their activities qualify as environmentally sustainable according to EU Taxonomy criteria. Under this Article, entities must disclose the percentage of their turnover, as well as their proportion of capital expenditure and operating expenditure aligned with EU Taxonomy criteria. The proposal for the Corporate Sustainability Reporting Directive

(CSRD) increases the scope of the NFRD from ~11,000 companies to ~50,000 companies⁴⁶. The Sustainable Finance Disclosure Regulation (SFDR) imposes disclosure obligations for financial institutions (see below).

What stage is it at? The Taxonomy Regulation entered into force in July 2020. A first delegated act⁴⁷ setting up the activities which substantially contribute to climate change adaptation and mitigation was published in December 2021 and is applicable since January 2022. The delegated act for the other four environmental objectives (water, circular economy, pollution, biodiversity and ecosystems) is expected at the earliest by the end of 2022⁴⁸. The EU Platform on Sustainable Finance⁴⁹ is an expert group appointed by the European Commission to draft the criteria which define economic activities as sustainable. The Platform published in March 2022 its recommendations⁵⁰ of criteria for most remaining activities and is currently finalizing their input for some further activities.

The Corporate Sustainability Reporting Directive (CSRD) and the European Sustainability Reporting Standards (ESRS)

What is it? The CSRD⁵¹ is the new EU directive on sustainability reporting. It expands significantly (as compared to the 2014 Non-Financial Reporting Directive⁵² (NFRD)) what companies need to disclose in terms of sustainability information regarding a wide array of ESG issues. Specific novelties such as the obligation for companies to provide “forward-looking” (as well as retrospective) information and plans compatible with the Paris Agreement’s 1.5°C goal. The European Sustainability Reporting Standards (ESRS) are (in their current draft version)⁵³ evolving to form a set of cross-cutting standards, including 11 topical standards on environmental, social and governance (ESG) objectives and around 40 sector standards. Company reporting shall be guided by a materiality assessment based on a double-materiality perspective⁵⁴. The private association EFRAG⁵⁵ is tasked with developing the ESRS standards through the involvement of external experts and a series of consultation processes.

How does it address deforestation? Deforestation is addressed in several of the standards, most comprehensively in the (draft) topical standards ESRS E4 on Biodiversity and ecosystems⁵⁶. Whenever deforestation (or other sustainability matters) is assessed as material (relevant) in a company’s own operations or value chain, detailed self-reporting will be required. Relevant sector standards (Agriculture, Food, Forestry, Mining among others) are expected to set more specific reporting requirements regarding deforestation (in elaboration).

Target group and relevance for Brazilian private sector: EU-based large companies⁵⁷ as well as SMEs listed in regulated markets fall under the scope of the CSRD. Separate, proportional standards for smaller companies are to be developed in the next step. Credit institutions and insurance companies are also in the scope of the CSRD. For non-European companies, sustainability reporting is mandatory when they have substantial activity in the EU market and have at least one subsidiary or branch in the EU (with further detailed qualifications and conditions applicable). EU-based companies with economic activities or business relations with companies and actors in non-European countries are expected to request information from their suppliers and counterparts on the relevance and handling of certain ESG issues, among them deforestation.

What stage is it at? A provisional political agreement between EU legislative bodies was made in June 2022⁵⁸; formal completion of the legislative process is expected before the end of 2022⁵⁹. The detailed reporting rules in the “ESRS standards” are scheduled for a phased completion in 2023 (cross-cutting and topical standards) and 2024 (sector standards).

Timeline for entering into force and application: EU Member States must transpose the Directive into national law within 18 months after its entry into force. Application of reporting rules: 2024 for large companies already reporting under NFRD rules, 2025 for other large companies, 2026 for listed SMEs (with exemption option until 2028), 2029 for non-EU companies.

Enforcement/Proof schemes: Enforcement and penalties are in the responsibility of the EU Member States. They are expected to adopt penalties that are effective, proportionate, and dissuasive; i.a. there will be pecuniary sanctions and penalties that apply to other accounting rules violations.

The Sustainable Finance Disclosure Regulation (SFDR)

What is it?⁶⁰ This legislation aims to bring higher transparency to sustainability-related disclosures in the financial services sector, including financial market participants (FMP) and financial advisors. This regulation requires entity-level (organizational) disclosures and financial product-level disclosures for all EU financial institutions and financial advisors.

Covered entities should publish their policies on the integration of sustainability risks into their investment decision-making and how they integrate sustainability risks into the returns of the financial products they advise on for their customers to see. Additionally, the methodologies and evaluation of financial products advertised for sustainability aspects should be clearly disclosed to prevent *greenwashing* of financial products. Depending on the perspective and the scope (entity versus product/service-level), the information must be disclosed on websites, pre-contractual documents, periodic reports or in the marketing communication. FMPs should publish on: (1) at the entity level: sustainability risk policy, principal adverse impacts, alignment of remuneration policy with sustainability objectives; (2) at the product level: classification of financial products, sustainability risk policy, principal adverse impacts, special disclosure for ESG products, EU Taxonomy disclosure.

How does it address deforestation? This regulation does not have deforestation impacts as its most prominent objective. However, through mandatory disclosure, it will expose financial products which invest in companies with harmful land use, (for example, illegal logging or harmful agricultural practices) which ultimately contribute to deforestation. If these products can no longer be classified under an environmental label, this would be considered a win for eliminating greenwashing claims at the European level. Firms would get lower access for green financing, which is expected to encourage them towards higher sustainability (and less deforestation).

Target group and relevance for Brazilian private sector: All EU FMPs and financial advisors (e.g., asset managers, insurance undertakings, occupational and other pension providers, investment firms providing individual portfolio management). Indirectly, this Regulation could affect financial institutions outside the EU as all financial products with an ESG label sold within the EU will have to be evaluated and explained how they meaningfully contribute to ESG claims.

What stage is it at? This regulation first entered into force in March 2021 and is partially applicable at this time. The regulation will be evaluated by the EU Commission at the end of 2022, where adjustments and improvements will be made to further strengthen the regulation and its implementation of it in the future.

Enforcement/Proof schemes: Enforcement and compliance monitoring of this law is the responsibility of competent Member State authorities responsible for entity and product-level supervision under EU sectoral rules.

BRAZILIAN POLICIES AND LEGISLATIONS

Basics of Policymaking in Brazil

The **Federative Republic of Brazil** is comprised of the Union (represented by the Federal Government), the Subnational States, the Federal District, and the Municipalities. According to the Brazilian constitution, both the Union, as well as the Subnational States and the Municipalities are competent to legislate over environmental matters in Brazil. The Union regulates over more general and national environmental aspects, whereas Subnational States and Municipalities are responsible for local and regional environmental laws. They have the so-called predominance of interest⁶¹.

For a federal bill to become **law in Brazil**, it must go through a series of steps in Congress in both the upper and lower houses: proposal, analysis by permanent commissions, analysis of admissibility, voting in plenary, and final presidential sanctioning.

All bills of law are open to input from **civil society** through online public consultations⁶². Contributions to public consultations are facilitated by an e-citizenship portal through which any citizen may vote on bills being debated in Congress⁶³. Civil society is also called to discuss bills of law through public hearings. Public hearings can happen at the federal, state, or municipal levels and are intended to capture the different societal views and demands. Civil society actors are also sometimes invited to discuss the results of a public policy, laws, projects, or services already implemented or in effect⁶⁴. Once an environmental law comes into effect, it will often require further regulatory action by the federal and/or subnational governments to become fully operational and enforceable.

Notably, as a substantial portion of the lands for example in the Amazon region is designated as public land⁶⁵, **close coordination between the Union and Subnational level** is also crucial for the formulation and implementation of complementary regulations that can effectively increase sustainable land use and reduce deforestation in Brazil. Different actors and mechanisms play a role in furthering cooperation and coherence between the political and institutional levels. Examples include: the Brazilian Association of State Environmental Entities (ABEMA), which seeks to facilitate discussion and collaboration between state environmental agencies with the aim of strengthening environmental governance⁶⁶; the Interstate Legal Amazon Consortium, created in 2017 and which congregates all nine Brazilian Amazon Subnational States⁶⁷, and the Governors' Climate and Forests Task Force created in 2008 to support jurisdictional approaches for low-emissions rural development and reducing deforestation⁶⁸.

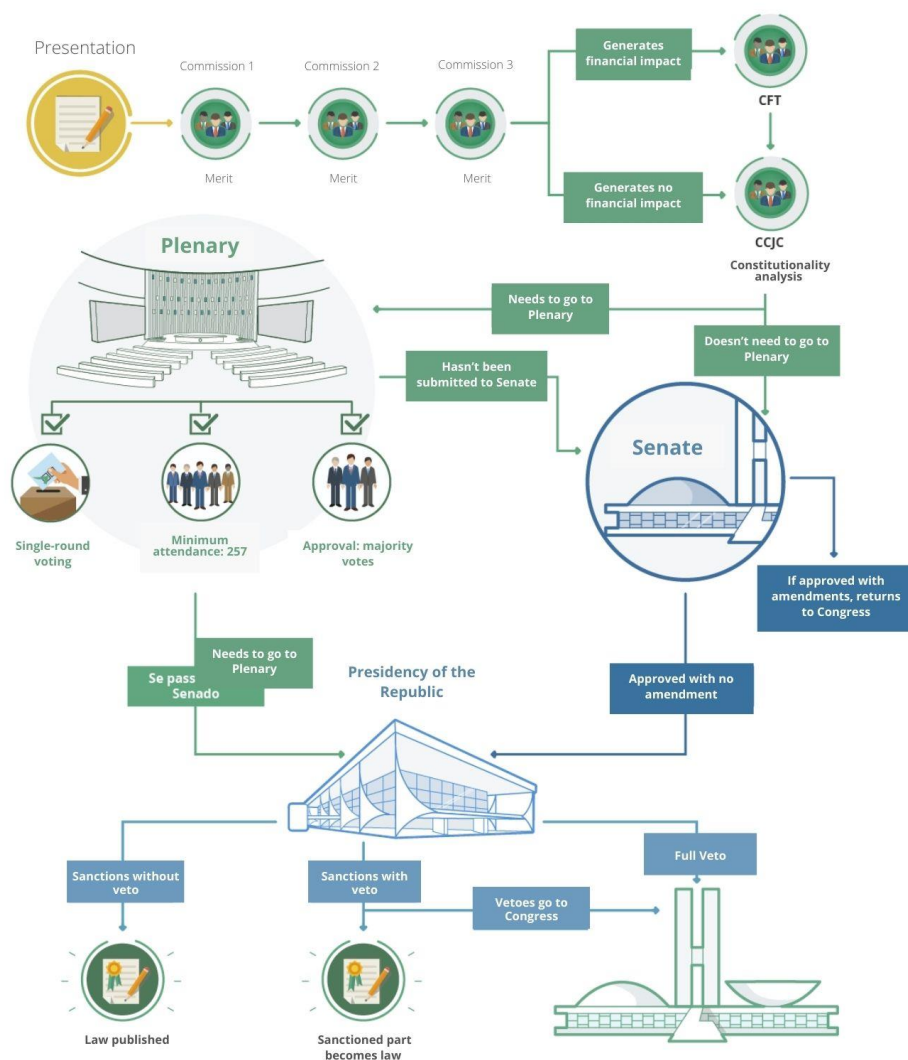


Figure 3: Ordinary legislative procedure in Brazil ([link – in Portuguese](#))

Important laws and initiatives related to sustainable finance and sustainable land use, including deforestation

Brazil has long established a set of laws dedicated to more sustainable agricultural practices and technologies. The country's **National Agricultural Policy** created in 1991 already referred to the need to ensure soil quality and conservation, as well as to restore natural resources⁶⁹. **The Action Plan for the Prevention and Control of Deforestation in the Legal Amazon** (PPCDAM) (launched in 2004) introduced a set of deforestation control measures and collaboration among 13 ministries of the Federal Government. The PPCDAM has been a driver of improving satellite-based monitoring, the “blacklisting” of municipalities, the expansion of protected areas, land tenure regularization, credit access restrictions, and various other initiatives⁷⁰.

In parallel, important **multistakeholder initiatives** have been formed in Brazil with the purpose of reducing deforestation in the Amazon region, including the **Amazon Soy Moratorium** and the **Cattle Agreements**. Signed in

2006, the Soy Moratorium was the product of the *Grupo de Trabalho da Soja* (GTS), a working group that brought together NGOs, government bodies, and private sector firms involved in the production of soy⁷¹. As of 2008 the Federal government became a signatory of the GTS and key actor in the initiative. Under this framework, major soy buyers pledged not to purchase or finance soybeans planted in areas in the Brazilian Amazon deforested after July 2008⁷².

Similarly, in 2009, 11 of Brazil's largest meat packers signed an agreement to move to zero-deforestation beef production following increased civil, state, and corporate pressure⁷³. See References for further reading on the Soy Moratorium⁷⁴, Cattle Agreements, and other relevant voluntary initiatives in Brazil, such as the *Grupo de Trabalho da Pecuária Sustentável* (GTPS)⁷⁵ and the *Coalizão Brasil Clima, Florestas e Agricultura*⁷⁶.

In 2010, Brazil launched the **Low-Carbon Agricultural Plan (Plano ABC)**, offering subsidized credit lines for producers implementing certain low-carbon agricultural techniques. The Low-Carbon Plan has now moved to a new cycle, known as ABC+⁷⁷. Further, in 2013, the **National Policy for Integrated Crop-Livestock-Forest Systems** was introduced, seeking to enhance agricultural productivity via sustainable techniques that diversify crop production, promote rotation, and better integrate forests to promote carbon sequestration and restore ecological corridors⁷⁸.

The Forest Code

A central piece of legislation for environmental and forest conservation in Brazil is the **revised Brazilian Forest Code**⁷⁹, enacted in **2012**. The two main mechanisms of the revised Forest Code for the protection and regulation of native vegetation in private properties are '**legal reserves**' and '**areas of permanent protection**' (**APPs**). Legal reserves correspond to a percentage of any rural property that must be kept free of intensive agricultural practices and partially or totally covered by native vegetation, but that can be economically explored through low environmental impact activities. APPs are areas that require prioritized environmental protection to preserve critical ecosystem services, such as water regulation and maintenance, or sensitive areas that are very susceptible to degradation if intensively used. It is estimated that the Forest Code could prevent a net loss of 534,000km² of forest and native vegetation by 2050⁸⁰. This includes the prevention of illegal deforestation and the mandatory restoration of previously deforested land.

Relevant regulatory instruments established by the Forest Code currently being implemented in Brazil:

- The **Rural Environmental Registry (CAR)**, national public electronic registry which all rural properties are required to register to. The CAR integrates environmental information from rural properties and possessions, and provides a database for control, monitoring, environmental and economic planning, and combating deforestation. Both APPs and legal reserve areas are recorded directly by landowners into the CAR⁸¹. The complete implementation of these systems still requires considerable effort and resources⁸². The verification of data registered by landowners in the CAR remains a challenge⁸³;
- The **Environmental Regularization Program (PRA)**, which comprises a set of actions and initiatives that must be developed by landowners to adjust and promote the environmental regularization of their land. Landowners who have environmental liabilities related to the irregular suppression of native vegetation must join the PRA (in their respective state) to pursue the environmental regularization of their property⁸⁴;

- The **Environmental Reserve Credits (CRAs)**, which are market instruments representing an area with existing native vegetation or in the process of recovery, surplus to the rural property. It offers an environmental trading system where each CRA is equivalent to 1 hectare of protected forest or native vegetation. Through CRAs, it is possible for a landowner who has an area with forests above the legal requirements to receive resources from other landowners who are not complying with the requirements of the law⁸⁵.

Supply chain traceability

Several Brazilian and international private **initiatives and tools** have been developed to provide transparency and readily available information on deforestation, and link with commodity trade and finance. These include Brazil's National Institute for Space Research's (INPE) Deforestation Detection in Real Time (DETER)⁸⁶ and Measurement of Deforestation by Remote Sensing (PRODES)⁸⁷ systems, which use satellites to monitor deforestation of the Amazon; MapBiomass⁸⁸ is a network of NGOs, universities and tech startups producing annual land cover and land use maps; and TRASE⁸⁹, a transparency initiative using supply chain mapping to connect consumer markets to deforestation.

Traceability-related regulations and enforcement face opportunities and challenges. For instance, in the cattle supply chain, both the Brazilian System of Identification and Certification of Cattle and Buffalo (SISBOV) and the Animal Transit Guide (GTA) could be adjusted or refined to track deforestation or forest conversion associated with beef production. However, SISBOV has had limited environmental application so far, as the cost of tracking (which must be paid by ranchers) has outweighed the benefits that owners can derive from the system⁹⁰. The GTA was originally intended as a health control measure only. Attempts to include environmental attributes into the GTA system have been deflected so far. Privacy concerns also meant that the full set of GTA data could not be made public⁹¹.

In addition, as part of the implementation of the revised Forest Code, in 2017 Brazil launched **SINAFLOR – the National System for Controlling the Origin of Forest Products from source to sale**. SINAFLOR seeks to integrate the federal electronic traceability system for timber – known as “Declarations of Forest Origin” (DOF) – developed by the Brazilian Institute of the Environment and Renewable Natural Resources (IBAMA)⁹² and the existing Subnational States' traceability systems. IBAMA also makes lists of environmental infractions and embargoed areas available online for public access⁹³. The system has the potential to offer a consolidated database for overseeing and monitoring deforestation-related activities.

Sustainable finance measures

Brazilian supervisory authorities are spearheading **ESG-related measures** in the context of sustainable finance in Brazil. In particular, the **Central Bank** and the **National Monetary Committee (CMN)** have established several norms and measures focused on increasing transparency of financing institutions' lending activities and associated land use impacts, as well as on promoting sustainable agriculture⁹⁴. In 2014, a CMN resolution established governance requirements for environmental and social risk management by banks in Brazil, including the need for these to formulate their ESG policies⁹⁵.

This regulatory requirement has been further strengthened through the formal establishment of the **Central Bank's sustainability agenda**. In 2020 the concept of sustainability was officially included as part of the Brazilian Central Bank's agenda and the Bank became an official supporter of the *Task Force on Climate related Financial Disclosures (TCFD)*⁹⁶. The sustainability dimension covers the Central Bank's own financing operations and its broader financial supervisory activities. A dedicated set of measures were launched requiring financial institutions in Brazil to further develop and report on their internal and management control systems regarding ESG and climate-risk assessment, scenario analysis, and reporting mechanisms. Brazilian banks must also develop and make public their own ESG and Climate Policy (PRSAC)⁹⁷.

In 2021 Central Bank has also revisited the **Rural Credit Operations System (SICOR)**⁹⁸, creating a '**Green Rural Bureau**' as an open-data platform accessible by all financial institutions to monitor deforestation and related social risks. The Green Rural Bureau defines specific procedures for classifying agricultural credit operations according to: (i) projects that cannot be financed due to pre-existing violations, such as illegal deforestation and encroaching into indigenous land; (ii) projects that can be financed with rural credit but entail relevant socio-environmental risks; or (iii) projects qualifying for further incentives due to their level of ESG compliance⁹⁹.

In addition, through the work of the **Brazilian Federation of Banks (FEBRABAN)**¹⁰⁰, Brazilian banks are voluntarily engaging with evolving **guidelines for greening finance**. FEBRABAN has published several guidance documents covering topics such as climate risk sensitivity assessment, carbon pricing, and sustainable forest management¹⁰¹. These guidelines are typically based on the work of international standard-setting bodies and frameworks, most notably the TCFD and CDP (formerly, the Carbon Disclosure Project). FEBRABAN is currently revising its green economy methodology to produce a more holistic green taxonomy, which is in its final stages of design¹⁰². FEBRABAN's green taxonomy is based on UNEP's Green Economy definition¹⁰³.

Green Growth Plan and SINARE

In 2021 Brazil launched the Green Growth Plan through Decree 10,846/2021¹⁰⁴. Under this new overarching program, green growth is to be achieved through **financing and subsidies to encourage sustainable economic activities**¹⁰⁵. Among its core objectives are the promotion of conservation of forests and biodiversity, the transition to a low-carbon economy and improvement in governance of natural resources to increase innovation and competitiveness. The planning, execution, and monitoring of results of the program will be undertaken by the **Inter-ministerial Committee on Climate Change and Green Growth**, composed by members of 11 government ministries.

More recently, in May 2022, the Federal Government has set up the **national system for reducing GHG emissions (SINARE)**, along with dedicated sectoral plans. Federal Decree No. 11,075/2022 establishes that the Ministry of the Environment and the Ministry of the Economy in conjunction with related sectoral ministries are to develop **sector-specific plans** for the mitigation of climate change¹⁰⁶. These plans will then be assessed and approved by the Inter-ministerial Committee on Climate Change and Green Growth. Sectoral plans for emissions reductions must be in line with Brazil's NDC. The SINARE is also intended as the basis for a future centralized Brazilian Emissions Trading System.

Subnational State's initiatives

Subnational States also play a critical role in reducing deforestation and promoting enforcement of forest laws in Brazil. States are responsible for assessing and validating all land and forest attributes recorded by landowners in the CAR. Subnational States also developed and implemented their own state action plans¹⁰⁷ to combat deforestation on the basis of – and in alignment with – the Federal Action Plan for the Prevention and Control of Deforestation in the Legal Amazon (PPCDAm). In addition, several states have been advancing with relevant landscape interventions on the ground. Notably, several states have introduced jurisdictional program¹⁰⁸ to coordinate support from multiple stakeholders to reduce deforestation. These programs often include the development of legal frameworks for payment for ecosystem services and the promotion of sustainable agriculture coupled with enforcement mechanisms such as CAR validation. The table below provides a non-exhaustive list of jurisdictional programs in Subnational States in Brazil.

State	Example of jurisdictional program or initiative
Mato Grosso	Developed the jurisdictional Produce, Conserve and Include (PCI) strategy. The PCI is a landscape intervention to curb deforestation, which brings together and coordinates efforts from civil society, private sector, and enforcement agencies ¹⁰⁹ .
Pará	Launched the Green Municipalities Program in 2011. The Program focuses on promoting local action to prevent deforestation, strengthening of the local government's management capacity, and developing a forest-based economy through sustainable intensification of production methods ¹¹⁰ . Launched the Green Seal Platform (Plataforma Selo Verde) ¹¹¹ in 2021, during COP26. It aims at transparency in the supply chain for products from the region. The platform has been developed in partnership with the Federal University of Minas Gerais (UFMG) and is used by the state government of MG as well.
Amazonas	Passed state law 4,266/2015 creating a framework for the monetization of environmental services and integrating potential new revenue streams into Bolsa Floresta, a state program for the provision of financial assistance to conservation efforts ¹¹² .
Minas Gerais	Created the PRA Sustainable Production Program, which seeks to promote environmental compliance of CAR-registered lands through conservation and restoration measures. It also includes technical and awareness-raising dialogues with farmers, local communities, and civil society stakeholders to assist producers in achieving compliance. Minas Gerais also implemented the Green Seal Platform (or <i>Plataforma Selo Verde</i>) to increase supply chain transparency and integrate different databases related to supply chains in the state.

SOME CONSIDERATIONS ON EFFECTIVENESS AND THREATS

A thorough assessment on how effective each of the presented policies, initiatives and regulations has been or can be for reducing deforestation and promoting sustainable land use falls outside the scope of this document. It has been shown in the past that well established policies and non-governmental initiatives, together with considerable financial and technical investments in implementation schemes (including support programs as well as command and control measures), can be leveraged to establish control over deforestation drivers and protect forests and other natural resources.

In recent years, however, **new threats** to meeting these important objectives have become more prevalent. Rising energy needs and protein-based consumption patterns in the EU and globally continue to increase demand for forest-risk commodities. The fear of additional costs for companies to track their supply-chains and increase transparency may lead to watered-down ambition for urgently needed regulatory frameworks.

In Brazil, challenges are associated with implementing regulatory instruments defined in the Forest Code, especially regarding the validation of information and the development of subsequent environmental compliance programs for landowners¹¹³. Additionally, several bills of law currently being discussed in the Brazilian Congress may, if passed, compound additional deforestation pressures. One such bill proposes that Indigenous lands opened for resource extraction operations¹¹⁴. Another proposes removing the state of Mato Grosso from the area recognized as the Legal Amazon, thereby removing the associated protections¹¹⁵. Other laws are being considered that would reduce environmental impact assessment requirements and lower protection thresholds in critical Brazilian biomes¹¹⁶.

CONCLUSIONS

This document aims to provide a **general overview of the most relevant legislations and initiatives** related to sustainable finance as well as sustainable land use (including reducing and halting deforestation) in **Brazil and the EU** to support **regulatory cooperation**. The list is not exhaustive but gives insights on the progress being made in past years as well as current developments aiming for facilitating transformational change. To achieve such high impact, we consider it crucial to think sustainable land use and sustainable finance together and to work towards inter-jurisdictional coherence and complementarity of policies and legislations.

We currently see much potential **for strengthening coherence and complementarity** between the proposed Regulation on Deforestation-Free Products and the Brazilian Forest Code, at national and sub-national level. This includes the implementation of effective verification and control measures as well as support programs for local communities, small and medium-sized landholders, and companies/operators. There is also much potential to work towards coherence and complementarity between Brazilian and European initiatives on reporting standards, taxonomies, and effective implementation of ESG standards by financial institutions. Both sides can strongly benefit from exchange and mutual learning.

Transparency has been in scope of several governmental and non-governmental initiatives for several years. More recently, the **legal demands** for transparency and sustainability disclosure have been increasing globally. In this context, financial institutions and non-financial corporates need to decide how fast they invest in transparency of their operations and responsible supply-chains. Doing so early they can play a driving role for transformation towards a sustainable economy while reducing financial risks of their operations.

We are **available for further questions and support** on these presented contents to any interested stakeholders.

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³⁰ Further reading: [Client Earth](#) clarifies the traceability requirements in the proposed EU deforestation regulation; [Trase](#) on strengthening the EU regulation on deforestation-free products.

³¹ product range in debate: the Council and the Parliament could, through amendments, propose for more or less commodities to be covered.

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³⁴ (Art. 32 - Review)

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⁹⁸ The SICOR registers, processes and verifies credit operations in real time, cross-referencing databases and consulting other systems outside the Central Bank. It also blocks operations that are not in conformity from being formalized as rural credit. See [link](#)

⁹⁹ Banco Central do Brasil (2021), Report on Social, Environmental and Climate-related Risks and Opportunities, [link](#)

¹⁰⁰ FEBRABAN is a non-profit organization which represents the Brazilian banking sector before all levels of Brazilian government and develops core initiatives for the financial sector, [link](#)

¹⁰¹ Rohla & Mao (2021), Green Finance in Brazil and Prospects for Sino- Brazilian Cooperation, [link](#)

¹⁰² FEBRABAN (2021), Explanatory Guide to FEBRABAN Green Taxonomy, [link](#)

¹⁰³ This methodology provides a consistent means for participating financial institutions to categorise and assess their activities from a sustainability perspective, [link](#). Through their work tracking and analysing green finance in Brazil on a major scale since 2015, their work mapping these into prior frameworks, and positive reception during public consultations, their green taxonomy is a solid Brazilian adaptation of international green taxonomies. [link](#)

¹⁰⁴ Gov.br (2021), Decreto No. 10.846, de 25 de Outubro de 2021, [link](#)

¹⁰⁵ Gov.br (2021), Programa Nacional de Crescimento Verde, [link](#)

¹⁰⁶ Jusbrasil (2022), Decreto 11075/22, [link](#)

¹⁰⁷ e.g.: [Plano Estadual de Prevenção e Combate ao Desmatamento e Queimadas do Amazonas](#)

¹⁰⁸ CDP has published [a policy brief](#) that focuses on jurisdictional approaches in Brazil and analyses Brazil's states and companies' contribution.

¹⁰⁹ PCI has elaborated on the [Produce, Conserve, Include Program in Mato Grosso](#)

¹¹⁰ Costa & Fleury (2015), The 'Green Cities' Program: Strategies for enhancing space in the municipalities of Pará', [link](#)

¹¹¹ [link](#)

¹¹² Governo do Estado do Amazonas (2015), LEI no 4.266, de 1 de Dezembro de 2015, [link](#)

¹¹³ [Link](#); and Where Does Brazil Stand with the Implementation of the Forest Code? A Snapshot of the CAR and PRA in Brazilian States - 2021 Edition - CPI (climatepolicyinitiative.org) [Link](#)

¹¹⁴ Câmara dos Deputados (2020), PL 191/2020, [link](#)

¹¹⁵ Infoamazonia (2022), Proposal to remove Mato Grosso from the Legal Amazon allows deforestation of an area the size of Pernambuco, [link](#)

¹¹⁶ Reuters (2021), Brazil's lower house passes bill to ease environmental permits, [link](#) and Câmara dos Deputados (2020), PL2633/2020, [link](#)