

THE FOSTERING OVERSEAS RULE OF LAW AND ENVIRONMENTALLY SOUND TRADE (FOREST) ACT OF 2021

SECTION BY SECTION

Section 2: Findings and Sense of Congress

Section 3: Prohibition on importation of covered commodities produced on illegally deforested land

- Import declarations
 - One year after enactment, importers will have to certify they have exercised reasonable care to ensure that certain products made of covered commodities were not produced on illegally deforested land.
 - One year after a country has been identified as being high-risk for illegal deforestation and an action plan has been put in place, importers of certain products made of covered commodities from that country will need to provide information documenting their full supply chain and measures taken to ensure the commodity was not produced on illegally deforested land.
- Lists of covered commodities and covered products
 - Thirty days after enactment, the U.S. Trade Representative will publish an initial list of covered commodities that includes: palm oil, soybeans, cattle, rubber, pulp, and cocoa. They will also publish an initial list of covered products, as defined in the bill according to the Harmonized Tariff Schedule of the United States.
 - These lists will be updated at least annually to ensure their scope is sufficient to deter illegal deforestation and ensure covered commodities produced on illegally deforested land do not enter the United States.
- Identification of countries and the development of action plans
 - Within 180 days of enactment, the U.S. Trade Representative, in consultation with Department of State and USAID, will identify countries without adequate and effective protection against commodity-driven illegal deforestation.
 - Not later than three years after enactment, the U.S. Trade Representative will develop an action plan for each country identified with the goal of implementing:
 - new laws, rules, enforcement procedures, or agreements to ensure that illegal deforestation is no longer occurring in the country
 - sufficient capacity to enforce relevant laws
 - processes to remedy or adjudicate previous illegal deforestation activities;
 - comprehensive monitoring and data sharing related to deforestation and potential impacts to other ecosystems
 - transparency and accessibility of information with respect to land tenure and land-use decisions
 - traceability, transparency, and data sharing for commodity supply chains
 - the incorporation of forest protection into the country's nationally determined contribution and deforestation into the country's greenhouse gas reporting
 - Once a country has adequately achieved the goals and benchmarks outlined in the action

Senator Brian Schatz ■ Congressman Earl Blumenauer

plan, they will no longer be identified as being at high-risk of illegal deforestation and can be removed from the list.

- Consultation and coordination for developing action plans
 - The U.S. Trade Representative will establish a process for receiving input from U.S. federal, state, and local agencies, industry, labor, and the public when identifying countries, developing the action plans, determining when action plans have been completed, and updating the commodity and product lists.
 - The bill creates an interagency working group to coordinate data sharing and implementation on the bill.
 - The bill also creates an external advisory committee comprised of outside experts from NGOs, academia, labor, and industry.
- Enforcement
 - CBP will share declarations and other information with relevant agencies to ensure effective enforcement.
 - 180 days after enactment, CBP will establish a process for outside sources to submit evidence of possible violations of this law.
 - Two years after enactment (and annually thereafter), CBP will submit a report to Congress detailing its enforcement efforts.
 - Existing Tariff Act civil and criminal penalties apply.

Section 4: Foreign assistance for countries committed to eliminating illegal deforestation and limiting all deforestation

- The Treasury will establish a fund from the fines accrued from the penalties portion of this bill, as well as additional appropriations as needed.
- The State Department, USAID, and other appropriate agencies will use these fund to provide financial and technical assistance to countries and implementing partners that are working to meet the benchmarks set for them in the action plans.
- CBP, USTR, and other appropriate agencies will also use these funds to support bill implementation and enforcement.

Section 5: Inclusion of illegal deforestation as a specified unlawful activity

- Includes illegal deforestation as an unlawful activity under Title 18 – Crimes and Criminal Procedures.

Section 6: Federal procurement preference for deforestation-free products

- If a contractor shows evidence of having a ‘no deforestation, no peat, no exploitation policy,’ and has data on monitoring and enforcement of that policy that is publicly available and updated at least annually, federal agencies may reduce the bid price of that contractor by 10 percent when comparing bids.