

**EXPLORING THE BRUSSELS EFFECT: THE EUROPEAN UNION'S IMPACT ON BRAZILIAN FORESTRY POLICIES | EXPLORANDO O EFEITO BRUXELAS: O IMPACTO DA UNIÃO EUROPEIA NAS POLÍTICAS FLORESTAIS BRASILEIRAS**

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**ABSTRACT** | The European Union (EU) wields significant influence over global markets through a phenomenon known as the Brussels Effect. This strategy involves aligning EU standards with regulations, effectively positioning the EU as a key driver of environmental and climate trade standards. Within the realm of trade in forest products, the EU has implemented instruments such as the Timber Regulation (EUTR), which was succeeded by Deforestation Free (EUDR) in 2023, and the EU Forest Law, Governance, and Trade Action Plan (FLEGT). These regulations have exerted considerable pressure on Brazil to embrace best practices for timber extraction, primarily by adhering to the Forest Stewardship Council (FSC) and other private initiatives. The implications of EU influence in this context give rise to both positive and negative consequences, underscoring its significance in shaping global forest policies.

**KEYWORDS** | European Policy. Regulation on deforestation-free products. Timber.

**RESUMO** | A União Europeia (UE) possui o poder de exercer influência sobre os mercados globais por meio do fenômeno conhecido como Efeito Bruxelas. Essa estratégia envolve o alinhamento dos padrões da UE com as regulamentações, estabelecendo de fato a UE como impulsionadora essencial dos padrões de comércio ambiental e climático. No âmbito do comércio de produtos florestais, a UE implementou instrumentos como o Regulamento sobre Madeira (EUTR), substituído pelo regulamento livre desmatamento (EUDR), e o Plano de Ação sobre Legislação, Governança e Comércio Florestal da UE (FLEGT). Essas regulamentações exerceram uma pressão considerável sobre o Brasil para que adotasse as melhores práticas de extração de madeira, principalmente por meio da adesão ao Forest Stewardship Council (FSC) e a outras iniciativas privadas. As implicações da influência da UE nesse contexto geram consequências positivas e negativas, ressaltando sua importância na formação de políticas florestais globais.

**PALAVRAS-CHAVE** | Política Europeia. Regulamento sobre produtos livres de desmatamento. Madeira.

## 1. INTRODUCTION

According to the United Nations (UN), addressing climate variation and extreme events necessitates the adoption of cross-sectoral measures with the involvement of stakeholders at all levels (FAO, 2018; IPCC AR6, 2022). One of the challenges lies in consolidating global policy strategies into various documents. Therefore, the United Nations Convention on Climate Change and the 2015 Paris Agreement address climate change, the Sendai Framework for Disaster Risk Reduction focuses on disaster risk reduction, and the 2016 World Humanitarian Summit and subsequent discussions tackle the relationship between humanitarian aid, development, and comprehensive resilience-building (WORLD HUMANITARIAN SUMMIT, 2016). This scenario highlights international, national, and state initiatives aimed at combating extreme climate change and the degradation of the planet's resources in terms of both quality and quantity. This scenario highlights international, national, and state initiatives to combat extreme climate change and the degradation of the quality and quantity of the planet's resources.

The European Union (EU), as a regulatory body and a pioneer in climate diplomacy, has been at the forefront of efforts to become a leading player in climate change mitigation and financing (MINAS; NTOUSAS, 2018), as explained in Section 3. Among the measures adopted, a series of internal regulations have been created that, in alignment with the principles of Sustainable Development, the European Green Deal, forestry policies, and the precautionary principle outlined in Article 191(1) of the Treaty on the Functioning of the European Union and Agenda 2030's "Leave No One Behind" (EUROPEAN COMMISSION, 2021; EUROPEAN UNION, 2016; UNITED NATIONS, 2022), establish standards that extend beyond the borders of the countries within the bloc.

This mechanism is referred to as the Brussels Effect (Section 5) and translates into the ability, or even unilateral power, that the European Union possesses to influence global markets, compelling foreign companies to align

their production practices with European norms and countries to adapt their legislation to such normative standards (BRADFORD, 2020).

The trade in forest products is one area where the EU has implemented significant measures. Through instruments such as the Timber Regulation (EUTR), Regulation on Deforestation-free Products (EUDR), and the EU Forest Law, Governance, and Trade Action Plan (FLEGT), the EU has exerted pressure on countries like Brazil to adopt sustainable practices in timber regulation (Section 4).

This work explores the EU's impact on global forest policies, analyzing the influence of the Brussels Effect on Brazil. By conducting a bibliographic analysis of Brazil and Europe's doctrine and legislative basis regarding forest products, the study aims to clarify the specific requirements associated with the Brussels Effect. While an examination of European forestry policies in Brazil did not reveal such requirements, alternative mechanisms of regulatory influence, such as treaties and agreements similar to the FLEGT-Voluntary Partnership Agreement (VPA), may be applicable.

The EU's influence in shaping global forest policies carries both positive and negative consequences, as discussed in Section 6. On the one hand, the EU's efforts to promote sustainable practices through initiatives like the Forest Stewardship Council (FSC) and private initiatives can lead to improved environmental outcomes and responsible forest management. On the other hand, the pressure exerted by the EU may lead to increased bureaucracy and trade impediments, generating uncertainty in the forest product market.

Overall, the EU's role as a critical driver of environmental and climate trade standards in the trade of forest products underscores its significance in global forest policies. Understanding the dynamics of the Brussels Effect and its implications can provide valuable insights into the complex relationship between regulatory influence, sustainability, and global trade within the context of forests.

## 2. MATERIAL AND METHODS

This article aimed to establish, through an exploratory and descriptive bibliographical survey (DIASCÂNIO, 2021) of legal and social doctrine studies, as well as other multidisciplinary areas relevant to the fields of sociology, anthropology, and statistical content (including books, theses, dissertations, and scientific articles), the theoretical foundation required to comprehend the subject matter of the study. This involved defining what the Brussels Effect is, its modalities, and primary characteristics concerning the trade in forest products between the EU, Brazil, and the state of Mato Grosso.

The bibliographic information was complemented with research conducted on official websites of national and international organizations, publications, studies, articles, documents, and the technical, quantitative, and qualitative data needed to support the study and ensure an up-to-date perspective. The criteria for evaluating the existence of the Brussels Effect in timber trade legislation will be assessed in alignment with the theory and research on the Brussels Effect.

## 3. THE EUROPEAN REGULATORY POWER

The Court of Justice established the “direct effect” in 1963, which defined how community rules

The Court of Justice established the concept of "direct effect" in 1963, defining how community rules would be directly applicable in member states. The principle of the primacy of Community law over national law was established in 1964, a principle that has been upheld over time and has become irreversible with the progress of the bloc's integration (COHEN-TANUGI, 2002).

The European regulatory market is a response to internal challenges stemming from an internal political agenda. Its external influence emerged as a byproduct of its internal motivations (BRADFORD, 2020).

According to the same author, if each member state were to establish independent environmental protection standards, the effectiveness of the common market would be compromised due to the inherent challenges that companies would face in navigating diverse regulatory landscapes across different countries. Furthermore, companies would be compelled to adapt their production and business practices to comply with the specific requirements of each state with which they engage in commercial relations. In other words, the common market has served to standardize European rules, a factor that characterizes indivisibility.

In this context, regulatory harmonization becomes a goal for European integration, encompassing substantive aspects such as environmental protection, economic and political objectives in line with the progress of market integration.

While European standards play a significant role in the Brussels Effect, many regulations have originated from legislative initiatives within member states. Thus, countries like Germany, the Netherlands, and the Nordic countries have been pioneers in environmental regulation, leading the European Union to pursue a normative ascent by adopting rigorous regulatory standards, ensuring that economic objectives align with the protection of the quality of life of European citizens (KELEMEN, 2004; VOGEL, 2003).

Treaties allowing for the adoption of regulations and directives by a qualified majority in the Council, requiring the support of at least 55% (fifty-five percent) of member states representing at least 65% (sixty-five percent) of the European Union's population, have facilitated the trend of raising regulatory standards (MILLER, 2004).

The European Commission is ideologically and institutionally committed to integration, operating on the principle that more regulation leads to greater integration in the common market. The regulatory agenda has become a growing goal, and the Brussels Effect itself supports the Commission internationally by reducing European companies' concerns about their global competitiveness (BRADFORD, 2020).

Although the European regulator's influence initially emerged from domestic concerns, it has expanded to an external agenda, complementing the domestic regulatory agenda. This expansion aligns with global developments since the early 1990s when countries' regulatory policies gained prominence on the global trade agenda (BRADFORD, 2020).

Consequently, regulation has become imperative for the European Union, which has made it a stated objective to promote its regulatory preferences through trade agreements. Additionally, the Council views an essential aspect of the European Union's trade policy as transcending the protection of its businesses and consumers to promote European principles and values (EUROPEAN COUNCIL, 2020). The Lisbon Treaty (2007) explicitly states the intention to project internal norms and values in the European Union's external relations with other international actors (EUROPEAN UNION, 2007).

The Brussels Effect is one of several paths to regulatory convergence. Depending on the political-economic environment, each mechanism can be effectively deployed, and they can also work concurrently or consecutively, as the courts do. Courts enhance the Brussels Effect by increasing the EU's regulatory power. They also interpret the content of European rules, making them more understandable and accessible for dissemination. The fact that the Brussels Effect facilitates normative dissemination through international agreements and organizations. However, the European Union may occasionally use treaty-based methods when it is practical or desired in a specific situation (BRADFORD, 2020). In addition to being a trading power, the European Union has evolved into a power through trade, using access to its market as leverage to influence changes in the domestic legislation of its trading partners (MEUNIER; NICOLAÏDIS, 2006).

The Brussels Effect refers to the unilateral regulatory power derived from the European Union's market. Nevertheless, the use of techniques such as extraterritoriality and territorial extension is not the sole manifestation of unilateral influence (BRADFORD, 2020). The European Union legislation, considered under territorial extension, indicates that the bloc engages in

"action-forcing contingent unilateralism" rather than exporting norms (SCOTT, 2014). According to this concept, while the European Union rarely exports norms, it employs a mechanism known as "territorial extension" to shape and regulate activities beyond its territory, placing them within the purview of third countries and international law. This same work defines extraterritorial as "the application of a measure triggered by something other than a territorial connection with the regulating state"; a measure will be considered to generate territorial extension when its application depends on a relevant territorial link that is "territorial connection but in applying the measure the regulator is required, as a matter of law, to take into account conduct or circumstances abroad".

Furthermore, territorial extension of regulation can be exemplified by considering regulations controlling aviation emissions. For the EU to establish such regulation, it must consider conduct and circumstances outside its territory, determining whether, when granting concessions to airlines, it will restrict emissions beyond European territory. It also evaluates whether it will withdraw the obligation if third countries establish their own emission control rules and whether the aviation directives align with global emission reduction targets set out in treaties to which the EU is bound (SCOTT, 2014).

In other environmental contexts, such as the trade in forest products, similar circumstances arise when the EU prohibits the importation of illegally harvested timber and other forest products. However, the legality of the harvest is determined by the legislation of the third country from which the commodity originated. The EU's regulatory territorial extension influences individual transactions with companies, countries, or the world (Scott, 2014). Consequently, the territorial extension of the EU's forestry policies directly impacts Brazilian forestry trade, necessitating the certification of the timber's legality before export to the EU. Certification began in Brazil in 2001 due to international pressure, including pressure from Europe, to curb deforestation. It gained traction with the Coordinating Commission of the National Forest Program (Conaflor) and the working group established in 2003 to "evaluating



measures for the fulfillment of the principles and guidelines of the public policy of the forest sector" (PINTO, 2005).

#### 4. EUROPEAN FORESTRY REGULATIONS

The European normative influence extends beyond economic aspects and has strengthened considerably since the 20th century. It has surpassed North American influence in the areas of human rights and the defense of individual liberties (GRÁINNE DE BÚRCA, 2011). With the two World Wars, Europe embarked on the establishment of fundamental rights and their enforcement through judicial actions (COHEN-TANUGI, 2002).

During the 1990s, the European Union solidified fundamental rights norms, incorporating them into the preambles of the Maastricht and Amsterdam Treaties (EUROPEAN UNION, 1997; European Union, 1992) and the Charter of Fundamental Rights of the European Union (European Union, 2012).

Concerning Sustainable Development, the European Union has explicitly expressed its commitment to taking a global leadership role in implementing the 2030 Agenda – Leave No One Behind - and the Sustainable Development Goals in collaboration with its member states. This allows for a unified approach to the European Union's external policies and actions.

The European Green Deal has been a critical tool for the European Union to address the challenges posed by climate change and environmental issues. This strategy outlines a growth plan aimed at transforming the European Union into a prosperous and equitable society with an optimized economy and competitiveness, while concurrently focusing on efficiency (RODRIGUES, 2022). In this way, economic growth by 2050 should be dissociated from the exploitation of natural resources (DRUMMOND *et al.*, 2021).

The European Union aspires to achieve significant resource efficiency, carbon neutrality, harmonize internal regulations, and intensify engagement in bilateral dialogues with partner countries. The European Commission considers ecological transition and alignment with the Paris Agreement as essential



elements of all trade agreements, making them crucial for the European Union's trade policy (EUROPEAN COMMISSION, 2019b).

The European Green Deal also has a significant impact on forest ecosystems, aiming to prevent fires and invest in carbon storage. It sets priorities such as reducing the European Union's consumption-related footprint, promoting products from supply chains unrelated to deforestation and forest degradation, supporting forest restoration, re-directing funding to encourage sustainable land use practices, and enhancing the availability and quality of information on forests and commodity supply chains, as well as access to this information. It also promotes research and innovation (EUROPEAN COMMISSION, 2019a).

The European Parliament and the European Council have enacted Regulation (EU) No 2020/852 to define sustainable economic activities. This regulation imposes transparency obligations on companies regarding their financial and environmentally sustainable activities (EUROPEAN UNION, 2020). Companies must adhere to minimum safeguards in line with the guidelines set by the OECD (Organization for Economic Cooperation and Development) for multinational companies and those of the UN (United Nations), particularly regarding human rights.

The European Union has enacted relevant regulations concerning forest products. The first one is the Timber Regulation (EU) No 995/2010 (EUTR), which imposes obligations on companies and operators involved in the trade of timber and timber products. However, on June 9, 2023, Regulation 2023/1115 was officially published, repealing the EUTR and establishing rules for placing products made from timber, soy, cocoa, coffee, and other commodities on the European market to prevent deforestation (EUROPEAN UNION, 2023). This regulation necessitates that market operators adhere to a Due Diligence system consisting of three key elements: information, risk assessment, and risk mitigation. A significant innovation is the obligation of geo-location (Article 9), enabling the tracking of illegal deforestation. Another notable innovation is the interpretation of "deforestation-free" in Article 2, setting December 31, 2020, as the reference date. From that date onwards, products

linked to deforested or degraded lands in their supply chain will be considered illegal.

The regulatory framework aims to promote the responsible sourcing of timber and timber products, ensuring they originate from legal and sustainable sources. The adjustments in the new Regulation aim to improve its effectiveness and address any identified shortcomings in its implementation. This regulation will come into effect 20 days after publication, at the end of June 2023.

Companies can obtain certification through the PEFC (Programme for the Endorsement of Forest Certification Schemes) scheme, which has evolved into an international program with over 83 members, including 53 national entities and various international stakeholders. It has certified over 325 million hectares of forests worldwide (PEFC, 2023). Brazil, through its INMETRO (National Institute of Metrology, Quality, and Technology), joined the PEFC in 2002 and received approval in 2005 through its Brazilian Forest Certification Program (CERFLOR) (PEFC, 2022).

As a result, numerous countries and companies have embraced the regulatory standards set by the European Union for timber commerce within its market. These entities have individually, collectively, by company, or by region adopted the standards, striving to meet the established criteria and obtain the necessary certification to demonstrate adherence to Due Diligence requirements, thereby enabling them to participate in the European timber market.

The European Union, through the European Forest Institute, has initiated the Forest Law Enforcement, Governance, and Trade (FLEGT) program. FLEGT's primary objective is to combat illegal logging by promoting sustainable and legal forest management, enhancing governance, and facilitating trade in legally sourced timber. FLEGT employs various measures, including providing financial and technical support to timber-producing countries interested in combating illegal logging, fostering trade in legally produced timber through engagement with key stakeholders, promoting environmentally

beneficial public procurement policies, supporting private sector initiatives to ensure legally supply chains through technical and financial assistance, and implementing verification measures for timber and forest products through the Due Diligence system (EUROPEAN COMMISSION, 2003).

The FLEGT initiative has introduced a certification system known as FLEGT Licensed Timber (FLEGT LICENSED TIMBER, [s.d.]). This certification system confirms that the timber or timber products have been legally produced under the exporting country's laws and comply with the European Union Timber Regulation (EUTR) requirements, enabling them to trade within the European market.

However, the primary mechanism within the FLEGT framework is the Voluntary Partnership Agreements (VPAs), which governments, civil society organizations, and the private sector can enter into. These agreements aim to ensure that timber or timber products from partner countries meet the requirements of national legislation. The partner country's government identifies the domestic legislation that operators must observe, aligning with the provisions outlined in the FLEGT. Stakeholders work collaboratively to reach a consensus on standards that meet both the partner country and European Union requirements (EU FLEGT Facility, [s.d.]).

In addition to internal licenses, the European Union has established partnership agreements with countries like Cameroon, in force since December 1, 2011, and the Central African Republic, in force since July 1, 2012. Negotiations or finalization of partnership agreements are ongoing with countries including Côte d'Ivoire, the Democratic Republic of Congo, Gabon, Ghana, Guy-ana, Honduras, and Liberia (EU FLEGT Facility, [s.d.]).

## 5. BRUSSELS EFFECT

The Brussels Effect is a concept that refers to the European Union's "unilateral power to regulate global markets. Without the need to use international institutions or seek other nations' cooperation". It refers to the EU's

ability to establish regulations that have a substantial impact on the global trade landscape, effectively leading to the "Europeanization" of critical aspects in international trade (BRADFORD, 2020).

The Brussels Effect demonstrates a form of unilateral regulatory globalization, where regulations originating from a single jurisdiction significantly influence economic activities worldwide. This effect can manifest in two primary forms: the de facto and the de jure. De facto Brussels Effect occurs when large corporations voluntarily adjust their production and operational practices to align with the regulatory standards set by the European Union. Conversely, de jure Brussels Effect takes place when foreign governments willingly adopt and implement European regulations, often due to the lobbying efforts of major corporations that have adjusted their practices to meet European standards.

According to this concept, there are five elements underlying the Brussels Effect: 1.) market size; 2.) regulatory capacity; 3.) stringent standards; 4.) inelastic targets; and 5.) indivisibility.

Regulations result from state authority, and their efficacy is contingent how extensive and diverse the internal market is.

Larger markets have a substantial pull, attracting producers towards adhering to the regulatory norms imposed by the governing authority. The attractiveness of a market is relative, and a state's influence is heightened when companies see a high value in accessing it (BRADFORD, 2020).

In this sense, regulatory capacity pertains to a jurisdiction's ability to establish and enforce regulations. It necessitates technical expertise, allocation of resources, a proclivity for formulating stringent rules, and an effective mechanism for sanctions that ensures compliance.

In stringent standards, a jurisdiction must not only have regulatory capacity but also the determination to enforce stringent standards globally to achieve the Brussels Effect.

Inelastic targets denote products or producers that are unresponsive to regulatory changes and are closely tied to a specific regulatory framework.

Consumer markets often fall into this category, compelling producers to adhere to established rules if they wish to access these markets (BRADFORD, 2020).

Finally, indivisibility emerges when multinational companies adapt their products and practices to comply with strict regulatory standards and subsequently apply these standards globally. This extension of standards can be either technical, where it's not feasible to separate production or services due to technical reasons, or economic, indicating that adapting to multiple markets, although possible, proves economically unsustainable.

It's essential to underline that the Brussels Effect differs from territorial extension and extraterritoriality as it necessitates the simultaneous presence of all the five requirements mentioned above. It transcends simple legislative or diplomatic influence, illustrating the complex mechanism underpinning the European Union's unilateral regulatory power. In the context of forestry, adopting the Brussels Effect, instead of relying on bilateral or multilateral agreements and treaties, may seem attractive due to its potential for lower contracting and implementation costs, exemption from consent requirements, the avoidance of unsuccessful negotiations, and the elimination of diplomatic efforts (BRADFORD, 2020).

Nevertheless, it is imperative to consider potential negative aspects and other relevant factors when contemplating such a transition. The Brussels Effect provides unique insights into the unilateral power wielded by the European Union, demonstrating its capacity to enact global change through effective regulations.

## 6. DISCUSSION

The Brussels Effect can manifest in two forms: de facto and de jure. A prime example of the latter is the influence exerted by European companies, such as Keflico, Global Timber, Vandecasteele, and BioMaderas, all of which are signatories to the Forest Stewardship Council (FSC). These companies have pressured Brazil to adopt better forest management practices, driven by

their need to meet the stringent standards established by the European Green Deal.

In this context, the five fundamental requirements of the Brussels Effect will be analyzed: market size, regulatory capacity, stringent standards, inelasticity, and indivisibility.

Market size, in this context, is linked to the attractiveness of the market rather than its sheer size. Within the forestry sector, the EU has been a significant player, importing and consuming approximately one-third of globally traded agricultural products linked to deforestation between 1990 and 2008 (EUROPEAN COMMISSION, 2021). Therefore, it's evident that the EU represents a substantial market.

Moreover, regulatory capacity and stringent standards are undeniably present, given that the European Union has established itself as an arbiter of exacting forestry standards and wields coercive mechanisms to ensure compliance. It has previously established the infrastructure necessary to enforce these regulations effectively. When it comes to environmental regulations, inelasticity prevails, as it leaves market operators with no alternative but to adhere to the legislation in order to participate in the European market.

The final requirement, indivisibility, is contingent on companies adopting European standards and applying them to their global operations. Consequently, the de facto Brussels Effect materializes when companies worldwide adopt European standards. On the Other hand, the de jure Brussels Effect would emerge if Brazil modified its management practices and legislation to align with the requirements set by companies in the European timber market.

It is important to note that Brazil has obtained PEFC (Programme for the Endorsement of Forest Certification Schemes) certification under the EUTR. Regulatory bodies in Brazil have adhered to the practices for the legal operation of timber products, in accordance with European Union standards. Certifications such as PEFC and FSC serve to bridge gaps that public policy alone has not been able to address. When clear tax obligations were lacking, interrelated

stakeholders and lawmakers collaborated to establish sustainable criteria through institutionalized rules. This was notably seen in the context of deforestation concerning trade (LYTTON, 2017). Subsequently, private entities stepped in to certify sustainability in the production chain, thereby enhancing acceptance among consumers.

The precise impacts of the EUTR on Brazil's policies and practices remain unknown (ITUARTE-LIMA; DUPRAZ-ARDIOT; MCDERMOTT, 2019). However, it might have served to enhance the legality requirements for timber in international trade. It could be argued that adherence to forestry certifications under the EUTR, which requires countries to adapt their management practices and policies to meet European certification standards, does not constitute a de facto Brussels Effect, as the indivisibility requirement cannot be definitively proven.

Following the FLEGT proposal, the establishment of a working group within CONAFLO contributed to bolstering forest certification in Brazil. This, in turn, led to the formulation of forest policies, exemplified by the Action Plan for the Prevention and Control of Deforestation in Legal Amazon (PPCDAm) in 2004. These developments underscore Europe's influence, if not pressure, on Brazilian legislation. However, even during these legislative negotiations, the de jure Brussels Effect remains elusive, even if there is a discernible European regulatory influence through territorial extension.

It is important to acknowledge that the Brussels Effect represents just one of the several mechanisms of normative influence wielded by the European Union, and it can be combined with other mechanisms. The European Union seldom exports norms directly; instead, it primarily leverages a mechanism known as "territorial extension," whereby its regulatory power is closely linked to the adoption of its normative instruments by other global actors (LYTTON, 2017).

The primary instrument within the framework of FLEGT is the Voluntary Partnership Agreements (VPAs), involving bilateral negotiations with the private sector and organized civil society in partner countries. Moreover, norms are



developed through deliberative processes, which contradict the unilateral nature of the Brussels Effect as originally conceptualized. Consequently, agreements, treaties, partnerships, and cooperation measures stand apart from the Brussels Effect.

Nevertheless, the influence of FLEGT on other countries is evident. FLEGT and EUTR, and the current Regulation on deforestation-free products (EUDR), have played a pivotal role in fostering a cohesive and coordinated transnational bilateral relationship with other countries that will come under the influence of European standards (ZEITLIN; OVERDEVEST, 2021).

However, Brazil has yet to engage in VPA negotiations with Europe, possibly due to political reasons and its robust environmental legislation. The prospect of a future VPA partnership remains plausible, involving engagement with state governments. It suggests that the nine Amazonian states, with the support of companies and non-governmental organizations, may be open to direct negotiations with the EU on sustainable trade policies (SOTIROV *et al.*, 2022).

The House of Representatives from Mato Grosso has signaled interest in the Voluntary Partnership Agreement (VPA) in 2012 and 2013. The minutes of the eighty-seventh ordinary session of this Assembly duly recorded Mato Grosso's intention to sign a VPA with the EU, further affirming the success of the VPA inked with Liberia, a country known for its humid forest (ASSEMBLEIA LEGISLATIVA DE MATO GROSSO, 2012, 2013). Another significant event occurred in November 2018, focusing on fostering dialogue on the VPA with Brazilian entities, such as the Center of Timber Producers and Exporters Industries of the State of Mato Grosso (CIPEM) (FORUMFLORESTAL, 2018).

The rationale behind the introduction of Federal Bill No. 3,102 of 2019 is underpinned by the analysis of statistical data obtained through FLEGT monitoring (CÂMARA DOS DEPUTADOS, 2019). FLEGT monitoring specifically tracks the importation of tropical timber by the European Union. The integration of FLEGT data into the decision-making process and the efforts to

establish a potential VPA with the state of Mato Grosso indirectly influence Brazilian policies and corporate entities.

A decade after the inception of FLEGT, these developments reveal a trend towards state governance in environmental matters, regionalizing the agenda. The outcomes also reflect the interest of Mato Grosso and forestry sector entrepreneurs in internalizing forestry policies aligned with European standards.

More recently, in 2021, discussions have emerged surrounding the Regulation of deforestation-free products, also known as EUDR, and they were published in the Official Journal of the European Union in June 2023. This Regulation aims to reduce the consumption of products associated with deforestation or environmental degradation throughout their supply chains [28]. It addresses a gap in the FLEGT system, which did not specifically address deforestation, and represents an essential update to European forestry policy. It aligns with internal policies and aims to replace the existing EUTR, deriving its legal foundation from Article 191(1) of the Treaty on the Functioning of the European Union. As a result, Brazilian stakeholders, both in the legislative and business realms, have already initiated discussions and preparations to address the requirements imposed by this potential Regulation (CLIMAINFO, 2022; ORLANDINI, 2022).

The exportation of a rule exclusively developed in Europe, unilaterally focused on its forestry policy, has raised concerns about the disregard for the realities of other countries and blocs. The methods established to assess the legality of products may only sometimes be practical, leading to reduced interest in maintaining commercial relationships, creating legal uncertainties, and distorting the market (SOTIROV *et al.*, 2022).

Non-compliance with legislation can result in various options, ranging from commercial boycotts to import interruptions. These instruments create trade barriers and may not consistently achieve the intended legal objective of sustainability. If it becomes impossible to trade with a particular economic bloc,

there is a potential shift of imports to less demanding partners in terms of environmental legality, triggering a rebound effect.

Furthermore, with the introduction of the EUDR, considerations have arisen regarding technological aspects such as georeferencing and satellite tracking systems. These tools will significantly enhance supply chain monitoring. However, Brazil's cooperation in this process is crucial for their effectiveness.

The involvement of public authorities, cross-sectorial authorities, and environmental non-governmental organizations plays a significant role in fostering international pressure and attention to sustainability, which serves as a warning to companies regarding their reputation. Ensuring coherence among partners by aligning market logic with consistent measures is of utmost importance. Extending European forestry standards to Brazil without considering the country's organizational structure, operational capacity, and legislative framework is insufficient. The dismantling of Brazilian environmental agencies between 2019 and 2022 significantly impacted them, resulting in a shortage of personnel and physical infrastructure to effectively implement reliable certification measures throughout the supply chain. Addressing these challenges will require careful consideration of agency restructuring or the establishment of financial support to enable the effective discharge of new obligations. At the governance level, incentivizing sustainability through positive and coercive measures can stimulate commercial activities (SOTIROV *et al.*, 2022).

Another point relates to the private aspect of certification. In some cases, conflicts may arise (PARTITI, 2022). The limited certification coverage is evident regarding geographical application, addressing concerns about protected ecosystems, and the safeguarding of indigenous rights. Human rights are mainly viewed from the perspective of health and safety at work, with traditional communities often not adequately covered. The introduction of mandatory due diligence measures in timber trade legislation involves two additional criteria: deforestation-free production and compliance with local legislation. Implementing these requirements may increase bureaucracy and

potentially lead to trade disruptions for European markets. Moreover, these mandatory measures may encounter resistance during implementation due to their unilateral imposition. From a practical standpoint, current forestry measures can be interpreted as protectionist measures designed to safeguard the internal market of the European Union (EU) against potential trade threats. However, addressing and minimizing the North-South gap is essential to establishing a transnational forest regime (OVERDEVEST; ZEITLIN, 2014).

Another aspect to consider is the potential trade expansion and its associated implications, such as increased greenhouse gas emissions (ANSARI; HAIDER; KHAN, 2019), and the potential opening of new cultivation areas. From a positive standpoint, the aspects mentioned earlier become more prominent, including adapting the global market to meet new European environmental requirements, the acceptance of forestry certifications, compliance with due diligence, and the emergence of an internationally structured forestry policy. The involvement of multiple states in this endeavor strengthens its effectiveness and gains prominence due to the EU's regional success and well-established free trade area. Furthermore, the development of products with technological innovations focused on mitigation efforts can contribute to reducing greenhouse gas (TITIEVSKAIA, 2020).

## 7. CONCLUSION

Over the course of its development and consolidation, the European Union (EU) has evolved and refined its regulatory framework to become a prominent economic bloc and unified market. The EU's influence extends beyond the Brussels Effect, encompassing various legislative mechanisms such as extraterritoriality, territorial extension, and cooperation through treaties and bilateral or multilateral agreements.

While the Brussels Effect is subject to specific requirements, whether de facto or de jure, the EU has employed a range of legislative instruments to assert its normative influence. These efforts have led to the creation of

agreements and ongoing negotiations, exemplified by the Forest Law Enforcement, Governance, and Trade (FLEGT) program. Multiple countries have aligned with certifications under the EU Timber Regulation (EUTR), and discussions within Brazil regarding the EU regulation on products free of deforestation (EUDR) are already in progress.

A noteworthy observation is the trend towards regionalization in international environmental law. The federal sphere is increasingly ceding its role to engage in direct cooperation with states, with the state of Mato Grosso serving as an example. Mato Grosso's expressed interest in the Voluntary Partnership Agreement (VPA), evident in legislative bills, legislative assembly session minutes, and meetings with the forestry business sector, demonstrates this shift.

Cooperation also extends to the implementation of Brazilian policies and structural mechanisms. In some cases, these mechanisms may require additional funding to effectively address the de jure effect of Brussels. The complex nature of the Brussels Effect, with its five requirements, makes it challenging to definitively prove its presence in the forest products policy.

Negative consequences of this influence include market uncertainty, trade disruptions due to new bureaucratic requirements, the displacement of non-certified forest products, exacerbation of the North-South disparity, the potential opening of new areas, and an increase in greenhouse gas emissions. However, concurrently, a global forestry order is gradually emerging, highlighting the importance of establishing legal standards that align trade with the sustainable practices of this system. Changes in production and consumption patterns underscore the impact of this system, as evidenced by the federal bill's reference to the FLEGT monitoring system. The success of policy implementation hinges on extensive cooperation among the involved countries during the policy structuring process.

## REFERENCES

ANSARI, M. A.; HAIDER, S.; KHAN, N. Does trade openness affects global carbon dioxide emissions: evidence from the top CO2 emitters. **Management of Environmental Quality: An International Journal**, 2019.

ASSEMBLEIA LEGISLATIVA DE MATO GROSSO. **Ata da octogésima sétima sessão ordinária**. 14 ago. 2012. Available online: [http://www.al.mt.gov.br/docs/doc\\_1349.pdf](http://www.al.mt.gov.br/docs/doc_1349.pdf). Accessed on: 12 Jun. 2023.

ASSEMBLEIA LEGISLATIVA DE MATO GROSSO. **Ata da vigésima nona sessão ordinária**. 9 abr. 2013. Available online: [http://www.al.mt.gov.br/docs/doc\\_1474.pdf](http://www.al.mt.gov.br/docs/doc_1474.pdf). Accessed on: 12 Jun. 2023.

BRADFORD, A. **The Brussels Effect: How the European Union Rules the World**. [s.l.] Oxford University Press, 2020.

CÂMARA DOS DEPUTADOS. **Projeto de Lei nº 4.017-D.**, 7 Ago. 2019. Available online: [https://www.camara.leg.br/proposicoesWeb/prop\\_mostrarintegra?codteor=1786073](https://www.camara.leg.br/proposicoesWeb/prop_mostrarintegra?codteor=1786073). Accessed on: 01 Jun. 2023.

CLIMAINFO. **Nova lei europeia anti desmatamento abrange 80% das exportações agrícolas do Brasil**. 2022. Available online: <https://climainfo.org.br/2022/09/15/nova-lei-europeia-anti-desmatamento-abrange-80-das-exportacoes-agricolas-do-brasil/>. Accessed on :12 Jun. 2023.

COHEN-TANUGI, L. **L'influence normative internationale de l'Union européenne: une ambition entravée**. [s.l.] IFRI, 2002. v. 3.

DIASCÂNIO, J. M. **Etapas da pesquisa científica**. [s.l.] Autografia, 2021.

DRUMMOND, P., P., SCAMMAN, D., EKINS, P., PAROUSSOS, L., & KEPPO, I. Growth-positive zero-emission pathways to 2050. **Sitra Studies**, 2021.

EU FLEGT Facility **VPA processes | FLEGT**. Available online: <https://vpaunpacked.org/www.vpaunpacked.org/en/vpa-processes.html>. Accessed on: 11 Jun. 2023.

EU FLEGT Facility. **VPA negotiating and implementing countries**. Available online: <https://flegtvpafacility.org/countries/>. Accessed on: 11 Jun. 2023.

EUROPEAN COMMISSION. **A European Green Deal**. Available online: [https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/european-green-deal\\_en](https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/european-green-deal_en). Accessed on: 11 Jun. 2023.

EUROPEAN COMMISSION. **Communication from the Commission to the Council and the European Parliament - Forest Law Enforcement, Governance and Trade (FLEGT) - Proposal for an EU Action Plan.** 2003.

EUROPEAN COMMISSION. **Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the regions stepping up EU action to protect and restore the world's forests.** 2019a.

EUROPEAN COMMISSION. **Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions the European Green Deal.** 2019b.

EUROPEAN COMMISSION. **Proposal for a regulation of the European Parliament and of the Council on the making available on the Union market as well as export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010.** 2021. Available online: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52021PC0706>. Accessed on: 11 Jun. 2023.

EUROPEAN COUNCIL. **EU trade policy.** Available online: <https://www.consilium.europa.eu/en/policies/trade-policy/>. Accessed on: 11 Jun. 2023.

EUROPEAN UNION. **Charter of Fundamental Rights of the European Union. OJ C**, 26 out. 2012. Available online: [http://data.europa.eu/eli/treaty/char\\_2012/oj/eng](http://data.europa.eu/eli/treaty/char_2012/oj/eng). Accessed on: 11 Jun. 2023.

EUROPEAN UNION. **Consolidated version of the Treaty on the Functioning of the European Union. OJ C**, 7 Jun. 2016. Available online: [http://data.europa.eu/eli/treaty/tfeu\\_2016/art\\_191/oj/eng](http://data.europa.eu/eli/treaty/tfeu_2016/art_191/oj/eng). Accessed on: 11 Jun. 2023.

EUROPEAN UNION. **Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (Text with EEA relevance). OJ L**, 18 jun. 2020. Available online: <http://data.europa.eu/eli/reg/2020/852/oj/eng>. Accessed on: 11 Jun. 2023.

EUROPEAN UNION. **Regulation (EU) 2023/1115 of the European Parliament and of the Council of 31 May 2023 on the making available on the Union market and the export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010 (Text with EEA relevance). OJ L**, 31 maio 2023. Available online: <http://data.europa.eu/eli/reg/2023/1115/oj/eng>. Accessed on: 10 Jun. 2023.



EUROPEAN UNION. **Treaty of Amsterdam amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts - Final Act.** OJ C, 2 out. 1997. Available online: [http://data.europa.eu/eli/treaty/ams/fna\\_1/sign/eng](http://data.europa.eu/eli/treaty/ams/fna_1/sign/eng). Accessed on: 11 Jun. 2023.

EUROPEAN UNION. **Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, signed at Lisbon, 13 December 2007.** OJ C, 13 dez. 2007. Available online: <http://data.europa.eu/eli/treaty/lis/sign/eng>. Accessed on: 11 Jun. 2023.

EUROPEAN UNION. **Treaty on European Union.** OJ C, 7 fev. 1992. Available online: <http://data.europa.eu/eli/treaty/teu/sign/eng>. Accessed on: 11 Jun. 2023.

FAO. **Hunger increases in the world and in Latin America and the Caribbean for the third consecutive year | FAO.** Available online: <https://www.fao.org/americas/noticias/ver/en/c/1152157/>. Accessed on: 11 Jun. 2023.

FLEGT LICENSED TIMBER. **About the FLEGT licence - FLEGT.** Available online: <https://flegtlicence.org/www.flegtlicence.org/th/about-the-flegt-licence.html>. Accessed on: 11 Jun. 2023.

FORUM FLORESTAL. **Fórum Florestal e União Europeia conversam sobre acordo de parceria comercial.** Available online: <http://www.forumflorestal.org.br/2018/11/27/forum-florestal-participa-de-reuniao-com-representantes-da-uniao-europeia-sobre-acordos-de-parceria/>. Accessed on: 12 Jun. 2023.

GRÁINNE DE BÚRCA. THE ROAD NOT TAKEN: THE EUROPEAN UNION AS A GLOBAL HUMAN RIGHTS ACTOR. **The American Journal of International Law**, v. 105, n. 4, p. 649–693, 2011.

ITUARTE-LIMA, C.; DUPRAZ-ARDIOT, A.; MCDERMOTT, C. L. Incorporating international biodiversity law principles and rights perspective into the European Union Timber Regulation. **International Environmental Agreements: Politics, Law and Economics**, v. 19, p. 255–272, 2019.

KELEMEN, R. D. Environmental Regulation in the EU. Em: **The Rules of Federalism**. [s.l.] Harvard University Press, 2004. p. 23–53.

LYTTON, T. D. The taming of the stew: Regulatory intermediaries in food safety governance. **The ANNALS of the American Academy of Political and Social Science**, v. 670, n. 1, p. 78–92, 2017.

MEUNIER, S.; NICOLAÏDIS, K. The European Union as a conflicted trade power. **Journal of European public policy**, v. 13, n. 6, p. 906–925, 2006.

MILLER, V. **The extension of qualified majority voting from the Treaty of Rome to the European Constitution.** [s.l.] House of Commons Library, 2004.

MINAS, S.; NTOUSAS, V. **EU Climate Diplomacy: Politics, Law and Negotiations**. [s.l.] Routledge, 2018.

ORLANDINI, R. L. **União Europeia aprova proposta para nova “lei antidesmatamento”**. 2022. Available online: <https://www.migalhas.com.br/depeso/375735/uniao-europeia-aprova-proposta-para-nova-lei-antidesmatamento>. Accessed on: 12 Jun. 2023.

OVERDEVEST, C.; ZEITLIN, J. Assembling an experimentalist regime: Transnational governance interactions in the forest sector. **Regulation & governance**, v. 8, n. 1, p. 22–48, 2014.

PARTITI, E. Private processes and public values: Disciplining trade in forest and ecosystem risk commodities via non-financial due diligence. **Transnational Environmental Law**, v. 11, n. 1, p. 141–172, 2022.

PEFC. **PEFC no Mundo**. 2023. Available online: <https://www.pefc.pt/sobre-o-pefc/pefc-no-mundo>. Accessed on: 11 Jun. 2023.

PEFC. **Public consultation: Brazilian forest certification system**. 2022. Available online: <https://www.pefc.org/news/public-consultation-brazilian-forest-certification-system>. Accessed on: 11 Jun. 2023.

PINTO, L. Brasil certificado: a história da certificação florestal no Brasil. **Piracicaba: IMAFLORA**, 2005.

PÖRTNER, H.-O., D.C. ROBERTS, H. ADAMS, I. ADELEKAN, C. ADLER, R. ADRIAN, P. ALDUNCE, E. ALI, R. ARA BEGUM, B. BEDNARFRIEDL, R. BEZNER KERR, R. BIESBROEK, J. BIRKMANN, K. BOWEN, M.A. CARETTA, J. CARNICER, E. CASTELLANOS, T.S. CHEONG, *et al.* **Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change**. Cambridge University Press, 2022. Available online: doi:10.1017/9781009325844.002. Accessed on: 11 Jun. 2023.

RODRIGUES, A. A. **O Desenvolvimento Sustentável e a Sustentabilidade na União Europeia**. Lisboa: AAFDL Editora, 2022.

SCOTT, J. Extraterritoriality and territorial extension in EU law. **The American Journal of Comparative Law**, v. 62, n. 1, p. 87–126, 2014.

SOTIROV, M., AZEVEDO-RAMOS, C., RATTIS, L., & BERNING, L.. Policy options to regulate timber and agricultural supply-chains for legality and sustainability: The case of the EU and Brazil. **Forest Policy and Economics**, v. 144, p. 102818, 2022.

TITIEVSKAIA, J. International trade and sustainability: EU trade policy options to tackle climate change. **Schwerpunkt Außenwirtschaft 2019/2020**, p. 207, 2020.

UNITED NATIONS. **UNSDG - Leave No One Behind**. Available online:  
<https://unsdg.un.org/2030-agenda/universal-values/leave-no-one-behind>,  
<https://unsdg.un.org/2030-agenda/universal-values/leave-no-one-behind>.  
Accessed on: 11 Jun. 2023.

VOGEL, D. The Hare and the Tortoise Revisited: The New Politics of Consumer and Environmental Regulation in Europe. **British Journal of Political Science**, v. 33, n. 4, p. 557–580, 2003.

WORLD HUMANITARIAN SUMMIT. **Natural Disasters and Climate Change: Managing Risks & Crises Differently**. 25 abr. 2016. Available online:  
[https://agendaforhumanity.org/sites/default/files/resources/2017/Jul/NATURAL\\_DISASTERS\\_AND\\_CLIMATE\\_CHANGE-\\_MANAGING\\_RISKS\\_&\\_CRISES\\_DIFFERENTLY.pdf](https://agendaforhumanity.org/sites/default/files/resources/2017/Jul/NATURAL_DISASTERS_AND_CLIMATE_CHANGE-_MANAGING_RISKS_&_CRISES_DIFFERENTLY.pdf). Accessed on: 11 Jun. 2023.

ZEITLIN, J.; OVERDEVEST, C. Experimentalist interactions: Joining up the transnational timber legality regime. **Regulation & Governance**, v. 15, n. 3, p. 686–708, 2021.

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