Gelen Evrak Kayıt: 02.05.2025 - 2216

# TÜRKİYE ODALAR VE BORSALAR BİRLİĞİ

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**Sayı** : E-34221550-045.99-4890 **Tarih:** 30.04.2025
**Konu** : AB Ormansızlaşmanın Önlenmesi Tüzüğü (EUDR) – Yeni Rehber Belge ve Görüş Bildirme Süreci Hakkında

**TÜM ODALAR**
**(Genel Sekreterlik)**

Ticaret Bakanlığı tarafından Birliğimize iletilen yazıda, Avrupa Birliği'nin Ormansızlaşmanın Önlenmesi Tüzüğü (EUDR) kapsamında 15 Nisan 2025 tarihinde yayımlanan yeni Rehber Belge ile güncellenmiş Sıkça Sorulan Sorular (FAQ) dokümanında, uygulamanın sadeleştirilmesine yönelik açıklamalara yer verildiği ifade edilmiştir.

Söz konusu taslak düzenlemeye aşağıda yer alan bağlantı üzerinden erişim sağlanabilmekte olup,13 Mayıs 2025 tarihine kadar görüşlerinizin link üzerinden iletilmesinden memnuniyet duyulacaktır.

Bağlantı Linki: https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/14655

Saygılarımla,

*e-imza*
Cengiz DELİBAŞ
Genel Sekreter Yardımcısı

EK:
1- Ormansızlaşmanın Önlenmesi Tüzüğü - Sadeleştirme (3 sayfa)
2- Document 1 (45 sayfa)
3- Document 2 (80 sayfa)

Gelen Evrak Tarih Sayı: 24.04.2025 - 18947
Gelen Evrak Kayıt: 02.05.2025 - 2216

**T.C.**
**TİCARET BAKANLIĞI**
**Uluslararası Anlaşmalar ve Avrupa Birliği Genel Müdürlüğü**

Sayı : E-79668890-749-00108447272
Konu : Ormansızlaşmanın Önlenmesi Tüzüğü - Sadeleştirme

**DAĞITIM YERLERİNE**

AB'nin Ormansızlaşmanın Önlenmesi Tüzüğü (European Union Deforestation Regulation-EUDR) kapsamında, mevzuatın uygulanmasını kolaylaştırmak için sadeleştirilmesi amacıyla 15 Nisan 2025 tarihinde yeni bir Rehber Belge (Ek 1) ve güncellenen Sıkça Sorulan Sorular (Ek 2) belgesi yayınlanmıştır.

2025 yılı sonunda yürürlüğe girecek olan Tüzük öncesinde, uluslararası ortaklarından ve Avrupalı sektör temsilcilerinden gelen geri bildirimler çerçevesinde hazırlanan öneriyle, mevzuattaki bazı noktalara açıklık getirilmesi, uygulamanın netleştirilmesi ve idari yükün azaltılması amaçlanmaktadır.

Bu kapsamda, sadeleştirme önerileri çerçevesinde özen yükümlülüğü beyanları;

- Büyük şirketlerce, daha önce AB pazarında bulunmuş ürünler yeniden ithal edildiğinde yeniden kullanılabilecektir.
- Yetkilendirilmiş temsilci aracılığıyla bir şirketler grubunun üyeleri adına sunulabilecektir.
- Her bir sevkiyat veya parti yerine yıllık olarak sunulabilecektir.
- Büyük şirketler için daha basitleştirilmiş hale getirilecek; örneğin, yalnızca tedarikçilerinin sunduğu beyanların referans numaralarının toplanması ve bu referansların kendi beyanlarında kullanılması gibi asgari yasal yükümlülüklerin yerine getirilmesi yeterli görülecektir.

Bu kapsamda, firmaların sunması gereken beyan sayısının önemli ölçüde azaltılması, tüm kullanıcılar açısından kolay ve verimli bir veri girişi süreci sağlanması hedeflenmektedir.

Bahse konu belgelere ilaveten, ülke derecelendirme sistemine ilişkin bir Uygulama Tüzüğü hazırlanmakta olup en geç 30 Haziran 2025 tarihine kadar kabul edilmesinin öngörüldüğü açıklanmıştır.

Öte yandan, Komisyon tarafından, anılan Tüzüğün Ek 1'ini tadil eden bir yetki tüzüğü kabul edilmesine yönelik bir kamu istişaresi başlatıldığı duyurulmuştur. Bu kapsamda, ormansızlaşmaya yol açmayan ve özen yükümlülüğü gerekliliklerine tabi olan ürünlerin netleştirilmesi amacıyla, Tüzük kapsamına girmeyen ürünler listesinin kapsamı açıklanmakta ve böylelikle gümrüklerde yaşanabilecek sıkıntıların önüne geçilmesi planlanmaktadır.



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Bu bağlamda, istişare sürecine ilişkin ayrıntılı bilgilere aşağıdaki linkten ulaşılması mümkün olup, söz konusu taslak mevzuata 15 Nisan 13 Mayıs 2025 tarihleri arasında görüş verilmesi mümkün olacaktır:

https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/14655-Delegated-Regulation-amending-Annex-I-of-Regulation-EU-2023-1115-EU-Deforestation-Regulation-_en

Bilgilerini ve kamu danışma sürecine görüş bildirilmesi durumunda koordinasyonu sağlamak üzere tarafımıza bilgi verilmesi hususunda gereğini rica ederim.

**Fatma Canan NİLÜFER DORA**
**Bakan a.**
**Genel Müdür Yardımcısı**

Ek:
1- C_2025_2485_F1_ANNEX_EN_V3_P1_4056628
2- FAQ-UPDATE-4th-Iteration_APRIL25



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**Dağıtım:**

Türkiye Odalar ve Borsalar Birliği Genel Sekreterliğine (TOBB)
Türkiye İhracatçılar Meclisine (TİM)
Deik Dış Ekonomik İlişkiler Kuruluna (DEİK)
Türk Sanayici ve İşadamları Derneği Genel Sekreterliği (TÜSİAD)
Müstakil Sanayici ve İşadamları Derneği Genel Sekreterliğine (MÜSİAD)
Türkiye İşveren Sendikaları Konfederasyonuna (TİSK)
Türkiye Müteahhitler Birliğine (TMB)
Uluslararası Yatırımcılar Derneğine (YASED)
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EUROPEAN
COMMISSION

Brussels, 15.4.2025
C(2025) 2485 final

ANNEX

**ANNEX**

***to the***

**Communication to the Commission**

**Approval of the updated content of a draft Commission Notice on the Guidance Document for Regulation (EU) 2023/1115 on Deforestation-Free Products (C/2024/6789)**

ANNEX

Draft Commission Notice on the Guidance Document for Regulation (EU) 2023/1115 on Deforestation-Free Products

# GUIDANCE DOCUMENT[1]

# FOR REGULATION (EU) 2023/1115 ON DEFORESTATION-FREE PRODUCTS[2]

## Table of contents



[1] Nothing in this guidance document either replaces or substitutes direct reference to the instruments described and the Commission does not accept any liability for any loss or damage caused by errors or statements made in it. Only the European Court of Justice can make final judgments on the Regulation's interpretation.

[2] OJ L 150, 9.6.2023, p. 206–247. ELI: http://data.europa.eu/eli/reg/2023/1115/oj

## INTRODUCTION

Article 15(5) of Regulation (EU) 2023/1115 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 (hereinafter referred to as EUDR) sets out that the Commission may develop guidelines in order to facilitate harmonized implementation of the Regulation.

This guidance document is not legally binding; its sole purpose is to provide information on certain aspects of the EUDR. It does not replace, add to or amend the provisions of the EUDR, which establishes the legal obligations. This guidance document should not be considered in isolation; it must be used in conjunction with the legislation and not as a 'stand-alone' reference.

This guidance document is, however, useful reference material for anyone who must comply with the EUDR as it further clarifies dedicated parts of the legislative text, meaning it can guide operators and traders. It can also guide national competent authorities and enforcement bodies as well as national courts in the process of implementing and enforcing the EUDR.

The issues addressed in this document were discussed and developed in cooperation with designated representatives of the Member States. Additional issues can be addressed once there is more experience in applying the EUDR, and in this case the guidance document would be revised accordingly.

For all issues addressed in this guidance document it should be noted that in accordance with Recital (43) the definitions of the Regulation build on the work of the Food and Agriculture Organization of the United Nations (FAO), the Intergovernmental Panel on Climate Change (IPCC), the United Nations Environment Programme (UNEP), and the International Union for the Conservation of Nature (IUCN).

The second edition of the guidance document improves clarity, including on application timelines, precision of the provisions for operators and traders, facilitating simple and efficient due diligence and traceability.

The principle of proportionality is one of the general principles of Union law which applies to the interpretation and enforcement of Union legislation[3], which includes the enforcement of the provisions of Union acts by the Member States, taking also into account the relevant provisions of the Treaty.

## 1. DEFINITIONS OF 'PLACING ON THE MARKET', 'MAKING AVAILABLE ON THE MARKET' AND 'EXPORT'

**Relevant legislation:** ***EUDR – Article 2 – Definitions; Article 4 – Obligations of operators***

***The obligations on operators that apply under Article 4 come into play when relevant products are intended to be or are 'placed on the market' or 'exported'. The obligations on traders that apply under Article 5 come into play when relevant commodities or relevant products are intended to be or are 'made available on the market' (see also Chapter 4 c) of this Guidance document).***

***An overview of scenarios, explaining the obligations which SME and non-SME operators and traders are under when placing or making available on or exporting relevant products from the Union market is provided in Annex I of this Guidance document. The scenarios also demonstrate the modifications of obligations for SME operators further down the supply chain (Article 4(8)) and for non-SME operators and traders (Article 4(9)).***

[3] For further details related to the implementation, please refer also to the Frequently Asked Questions which are available here: Deforestation Regulation implementation - European Commission (europa.eu).

### a) Placing on the market

Under Article 2(16), a relevant commodity or relevant product is 'placed on the market' if it is made available on the Union market **for the first time**. Relevant commodities or relevant products that have already been placed on the Union market are not covered here. The concept of 'placing on the market' refers to each individual relevant commodity or product, not to a type of product, irrespective of whether it was manufactured as an individual unit or a series.

### b) Making available on the market

Under Article 2(18), a relevant product is 'made available on the market' if it is **supplied**:

- **on the Union market for distribution, consumption, or for use** – this means that the relevant product or commodity must be physically present in the EU, having been either harvested or produced in the EU, or imported into the EU and placed under the customs procedure 'release for free circulation'. As regards relevant products imported into the EU, they do not acquire the status of 'Union goods' before they have been brought into the customs territory of the Union and released for free circulation by customs. Relevant products placed under other customs procedures than the 'release for free circulation' (e.g. customs warehousing, inward processing, temporary admission, transit) are not considered to be placed on the market under the EUDR; ***and***
- **in the course of a commercial activity** – this means an activity taking place in a business-related context. Commercial activities may be in return for payment or free of charge. Supply to non-commercial consumers and activities where there is no payment made in return are both within the scope of the EUDR (e.g. for donation or pro bono activities). The Regulation does not impose requirements on non-commercial consumers, as private use and consumption are outside of the scope of the EUDR.

"**Making available on the market"** should therefore be understood as occurring when a trader supplies relevant products on the Union market both (i) for distribution, consumption or for use and (ii) in the course of its commercial activity.

**"Placing on the market"** should therefore be understood as occurring when an operator makes a relevant product available on the Union market (i) for distribution, consumption or use, (ii) for the first time, and (iii) in the course of its commercial activity.

The combined definitions of "operator" (Art. 2(15) EUDR) and of 'in the course of a commercial activity' (Art. 2(19) EUDR) imply that any person which places a relevant product on the market

a) for distribution to commercial or non-commercial consumers, meaning for example for selling or free of charge,
b) for the purpose of processing, or
c) for use in its own business

will be subject to the due diligence requirements and needs to present a due diligence statement, unless a simplification applies (see Art. 4(8), 4(9) EUDR).

**"Relevant products entering the market"** should therefore be understood as occurring when relevant products are simultaneously:

- declared to be placed under the customs procedure 'release for free circulation' which are intended to be placed on the Union market. Only products released for free circulation by customs are considered placed on the Union market. Other customs procedures than the 'release for free circulation' (e.g. customs warehousing, inward processing, temporary admission etc.) are not within the scope of the EUDR.
- and

- are not intended directly for private use or consumption within the customs territory of the Union. Products intended for private use or consumption (e.g. by individual bringing such products from a trip outside the EU for his private use or consumption) are not subject to EUDR.

**c) Export**

Under Article 2(37), 'export' refers to the customs export procedure as laid down in Article 269 of Regulation (EU) No 952/2013[4] and refers to Union goods to be taken out of the customs territory of the Union.

Article 269 of Regulation 952/2013 states that the export procedure shall not apply to: (a) goods placed under the outward processing procedure; (b) goods taken out of the customs territory of the Union after having been placed under the end-use procedure; (c) goods delivered, VAT or excise duty exempted, as aircraft or ship supplies, regardless of the destination of the aircraft or ship, for which a proof of such supply is required ; (d) goods placed under the internal transit procedure; (e) goods moved temporarily out of the customs territory of the Union in accordance with Article 155 of Regulation 952/2013.

Re-export as laid down in Article 270 of Regulation 952/2013 is not within the scope of the EUDR. Re-export in this regard means, that the relevant commodity or relevant product has not acquired 'Union goods' status and is taken out of the customs territory of the Union after lodging e.g. re-export declaration.

"Relevant products leaving the market' should therefore be understood as occurring when relevant products are declared to be placed under the customs procedure 'export' in the course of a commercial activity.

*Annex I of this guidance includes examples of how the interpretation of the terms 'placing on the market', 'making available' and 'export' works in practice.*

## 2. DEFINITION OF 'OPERATOR'

**Relevant legislation:** ***EUDR – Article 2(15) – Definitions; Article 7 – Placing on the market by operators that are established in third countries***

Under Article 2(15) an **operator** is a natural or legal person *who*

- places relevant products on the market or exports them
- in the course of a commercial activity.

To make it possible to consistently identify operators, one can distinguish their roles according to how their relevant products are placed on the Union market, which varies depending on whether they are produced inside or outside the EU.

- For relevant products produced according to Article 2(14) **within the EU**, the operator is usually the person that distributes or uses them in the course of commercial activity once they have been produced; this may be the producer or manufacturer.
- A person that transforms a relevant product into another relevant product (new HS code according to the level of digits defined in Annex I of the Regulation) and places it on or exports from the market is an operator further down the supply chain.
- For relevant commodities or relevant products produced **outside the EU**:

[4] Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).

- the operator is the person acting as the importer when the relevant commodities or relevant products are declared to be placed under the customs procedure 'release for free circulation'. The importer is the person indicated in the relevant data element of the customs declaration, where applicable:
  - the "importer" in data element 13 04 000 000 (Annex B of Delegated Regulation 2015/24463[5])
  - data element DE 3/15 in a previous release of EU Customs Data Model (EUCDM)
  - the "Consignee" in box 8 of the Single Administrative Document
- where the person acting as the importer when the relevant commodities or relevant products are declared to be placed under the customs procedure 'release for free circulation' is not established in the EU, the first natural or legal person to make the relevant products available on the market is also deemed to be an operator, i.e. although it is not an operator pursuant to the definition laid down in Article 2(15), it is subject to the obligations of an operator pursuant to Article 7. This requirement comes on top of the normal obligation of the operator established outside the Union and aims at ensuring that there is always one responsible actor established in the EU.

- For relevant products **imported** into the EU, the definition of 'operator' is independent of the change of ownership of the product and of other contractual arrangements.
- In the case of a **domestic** product being placed on the market, the operator is normally the person that owns the commodity or product at the point of selling, however this may depend on the individual circumstances of the contractual agreement. In case a person concludes a contract by which it authorises the other party to the contract to produce a relevant commodity, the contracting party carrying out the production is considered the operator if it directly and automatically becomes the owner of the product by the mere act of production (e.g. by the harvesting of the trees or upon birth of the calf). This is not the case where the applicable national law or the contract foresee that the natural or legal person transfers, after production, the right of ownership to the other party of the contract (for reference see Judgment C-370/23 of 21 November 2024[6]).
- For relevant products **exported** from the Union, the operator is usually the person acting as the exporter when the relevant products are declared to be placed under the customs export procedure. The exporter is the person indicated in the relevant data element of the customs declaration, where applicable:
  - the "exporter" in data element 13 01 000 000 (Annex B of Delegated Regulation 2015/2446);
  - Data element DE 3/1 in a previous release of EU Customs Data Model (EUCDM);
  - the "Consignor/Exporter" in box 2 of the Single Administrative Document.

Service providers, who offer logistical or technical support services, for instance freight forwarders, shipping agents or customs representatives, who do not possess ownership or similar rights over the products they handle, are neither 'operators' nor 'traders' for the purpose of the Regulation, if they do not place or make available products on the market or export.

The role of operators is further explained with the help of the scenarios contained in Annex I of this Guidance document.

## 3. DATE OF EFFECT and TIME-FRAME FOR APPLICATION

[5] Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (OJ L 343, 29.12.2015, p. 1).
[6] ECLI:EU:C:2024:972

**Relevant legislation:** ***EUDR – Article 1(2) Subject matter and scope; Article 37 – Repeal; Article 38 – Entry into force and date of application***

The EUDR entered into force on 29 June 2023. Most obligations on operators and traders, as well as on competent authorities including those in Articles 3 to 13, Articles 16 to 24, Articles 26, 31, and 32, apply from **30 December 2025,** in accordance with Regulation (EU) 2024/3234[7] amending the provisions of the EUDR relating to the date of application.

For operators that were established as **micro-undertakings or small undertakings** by 31 December 2020 (in accordance with Article 3(1) or (2) of Directive 2013/34/EU, respectively) the obligations in Articles 3 to 13, Articles 16 to 24, Articles 26, 31 and 32, apply from **30 June 2026,** except as regards the products covered in the Annex of the Regulation No 995/2010 laying down the obligations of operators who place timber and timber products on the market[8] (EUTR). This means that there is a **transitional period** between the entry into force of the Regulation (29 June 2023) and the entry into application (30 December 2025, deferred to 30 June 2026 for small undertakings or micro-undertakings established by 31 December 2020) that exempts operators and traders placing or making available on or export from the Union market relevant commodities and products in the transitional period from the main obligations under the EUDR.

**The following rules apply** for all commodities and associated relevant products **with the exception of timber and timber products covered by the Annex of the EUTR**:

- if a relevant commodity or a relevant product is placed on the market during the transitional period applying to the respective operator, the obligations of the EUDR do not apply to the operator.

- Furthermore, any relevant product placed or made available on the market after the entry into application that is made entirely from commodities or products placed on the market during the transitional period will not be subject to the obligations of the EUDR. This means that the deferred entry into application for **small and micro enterprise operators** (30 June 2026) will, in cases of them placing or making available on the market, also exempt medium and large operators and traders further down the supply chain that are trading with these products or their derived products.

- In the cases described above, the obligation of the operators further down the supply chain (or traders making the relevant product which has been placed on the market in the transitional period available subsequently) will be limited to gathering adequately conclusive and verifiable evidence to prove that the relevant product was originally placed on the market before the (deferred) entry into application of the Regulation.

- For **parts of a relevant derived product** that have been produced with other relevant products placed on the market from 30 December 2025 (or from 30 June 2026 by a micro or small undertakings), the operators further down the supply chain placing on the market and the traders will be subject to the standard obligations of the Regulation notwithstanding that some other parts may fall into the transitional period.

According to **Article 1(2) EUDR**, the EUDR does not apply if relevant products were **produced** before 29 June 2023. The time and place of production refers to the production date and production place of the relevant commodity, this applies both for the commodities and the derived products. In most cases, the production date will be the time of harvest of the commodity, with the exception of **cattle products** in which case the relevant time of production starts on the date on which the cattle is born.

[7] OJ L, 2024/3234, 23.12.2024, ELI: http://data.europa.eu/eli/reg/2024/3234/oj.
[8] OJ L 295, 12.11.2010, p. 23, ELI: http://data.europa.eu/eli/reg/2010/995/oj.

The table below demonstrates the applicable legislation to relevant products falling within scope of the Regulation (EU) 2023/1115, with the exception of timber and timber products covered by the Annex of the EUTR:

| | | **Date of placing relevant commodity or relevant product on the EU market** | |
|---|---|---|---|
| **Relevant products** | **Date of production of relevant commodity** | **Before 30 December 2025, and before 30 June 2026 for micro- and small operators** | **From 30 December 2025 (inclusive) for large and medium enterprises, and from 30 June 2026 (inclusive) for micro- and small operators** |
| Cattle, Cocoa, Coffee, Oil palm, Rubber and Soya products listed in Annex I of Regulation (EU) 2023/1115 | Before 29 June 2023 | Regulation (EU) 2023/1115 (EUDR) is not applicable | Regulation (EU) 2023/1115 (EUDR) is not applicable |
| | From 29 June 2023 (inclusive) | Regulation (EU) 2023/1115 (EUDR) is not applicable | **Regulation (EU) 2023/1115 (EUDR) is applicable** |
| Wood products listed in Annex I of Regulation (EU) 2023/1115 and not listed in the Annex of Regulation No 995/2010 (EUTR) | Before 29 June 2023 | Regulation (EU) 2023/1115 (EUDR) is not applicable | Regulation (EU) 2023/1115 (EUDR) is not applicable |
| | From 29 June 2023 (inclusive) | Regulation (EU) 2023/1115 (EUDR) is not applicable | **Regulation (EU) 2023/1115 (EUDR) is applicable** |

For **timber and timber products** covered by the Annex of the EUTR, special rules apply, pursuant to Article 37(3) of EUDR:

- For timber and timber products produced (harvested) before 29 June 2023 and:
  - placed on the market before 30 December 2025, such products and their derived products must comply with the rules of the EUTR; if the derived products are not covered by the Annex of the EUTR, those products would be exempted from EUTR and EUDR;
  - placed on the market from 30 December 2025 until 31 December 2028: the rules of EUTR continue to apply to the products if covered by the Annex of the EUTR, (see above);
  - placed on the market from 31 December 2028, such products and their derived products shall comply with Article 3 of the EUDR.
- For timber and timber products produced from 29 June 2023 until 30 December 2025 and:
  - placed on the market before 30 December 2025, such products and their derived products must comply with the rules of the EUTR; if the derived products are not covered by the Annex of the EUTR, those products would be exempted from EUTR and EUDR;
  - placed on the market from 30 December 2025, such products and their derived products must comply with the rules of the EUDR .
- Timber and timber products produced (harvested) from 30 December 2025 must comply with the rules of the EUDR.

**Q1: Are paper products which are placed on the market from 30 December 2025 but that are manufactured from timber that was harvested and placed on the market between 29 June 2023 and 30 December 2025 required to have a Due Diligence Statement?**
In such cases the harvested timber and the products manufactured from such timber must comply with EUTR. They do not need a Due Diligence Statement, as this requirement applies to products in scope of EUDR.

The table below demonstrates the applicable legislation to timber products covered by the Annex of Regulation (EU) No 995/2010:

| | | **Date of placing relevant commodity or relevant product on the EU market** | | |
|---|---|---|---|---|
| **Relevant products** | **Date of production** | **Before 30 December 2025** | **From 30 December 2025 (inclusive) to 30 December 2028 (inclusive)** | **From 31 December 2028 (inclusive)** |
| Timber and timber products defined in the Annex of Regulation (EU) No 995/2010 (EUTR) | Before 29 June 2023 | Regulation (EU) No 995/2010 (EUTR) | Regulation (EU) No 995/2010 (EUTR) | **Regulation (EU) 2023/1115 (EUDR)** |
| | From 29 June 2023 (inclusive) | Regulation (EU) No 995/2010 (EUTR) | **Regulation (EU) 2023/1115 (EUDR)** | **Regulation (EU) 2023/1115 (EUDR)** |

## 4. DUE DILIGENCE AND DEFINITION OF 'NEGLIGIBLE RISK'

**Relevant legislation:** ***EUDR – Article 2(26) - Definitions; Article 4 – Obligations of operators, Article 8 – Due diligence; Article 9 – Information requirements; Article 10 – Risk assessment***

According to Article 4(1) operators shall exercise due diligence in accordance with Article 8 prior to placing relevant products on the market or exporting them in order to prove that the relevant products comply with Article 3. In order to do so, and in accordance with Article 12(1) of EUDR, operators shall establish and keep up to date a framework of procedures and measures – a 'due diligence system' in accordance with Article 12 (1) of the EUDR – to exercise due diligence in accordance with Article 8 to ensure that the relevant products they place on the market or export comply with Article 3 of the EUDR. Operators are responsible for a thorough examination and analysis of their own business activities, which requires the collection of relevant data, analysing it, and – as necessary – adopt risk mitigation measures, unless the risk of non-compliance is assessed as being negligible. The data collection, risk analysis, and risk mitigation must be causally related, and must reflect the characteristics of the operator's business activities and of the supply chains.

Operators have to specify the risk assessment criteria according to Article 10(2), which they consider in relation to the relevant products they intend to place on or export from the Union market. Therefore, the risk assessment criteria has to be tailored to the relevant products the operator intends to place on or export from the market.

### a) Risk assessment

The due diligence requirements set out in Article 8 requires the operator to:

- collect information, documents and data from each particular supplier about the relevant products which are subject to the EUDR (listed in Annex I) pursuant to Article 8 and 9,

- verify and analyse that information along with other contextual information and on that basis carry out a risk assessment pursuant to Article 10, and
- adopt risk mitigation measures pursuant to Article 11, unless the risk assessment carried out in accordance with Article 10 concludes that there is no or only negligible risk that the relevant products are non-compliant.

Article 9(1) specifies the product-related information that must be assessed, which includes information specific to the product and its supply chain. Article 10(2) identifies the additional contextual information needed to assess the level of risk, such as the state of forests within the country of production.

If the products are made with commodities that are derived from several sources or geolocations, it is necessary to assess the risk for each source or geolocation.

On the basis of the collected data, precisely defined risk analysis tasks must be performed and the risk categories must be determined, as well as the necessary risk mitigation measures related to them. The level of risk can only be assessed on a case-by-case basis by operators, as it depends on a number of factors.

There are various ways to conduct the risk assessment, but the operator has to address the criteria listed in Article 10(2) for each relevant product. This should include addressing the following questions and considerations:

- **Where was the product produced?**
  What is the assigned risk level of the country of production or parts thereof, in accordance with Article 29[9]? What is the rate of forest cover and what is the prevalence (rate) of forest degradation or deforestation in the country of production or parts thereof? How high is the prevalence (rate) of illegal production of the relevant commodity within the country/parts thereof?

- **What are the product-specific risks?**
  There are considerable differences in how the various relevant products listed in EUDR Annex I are produced, which will impact the risk of non-compliance. For example, some products contain raw material produced in hundreds of separate geolocations or undergo substantial chemical or physical procedures during the manufacturing.

- **Is the supply chain complex?**
  For clarification of the ‘complexity of supply chain’ concept, see Section 5.

- **Are there indications of a company in the supply chain being involved in practices related to illegality, deforestation or forest degradation?**
  There is a higher risk that relevant commodities or products purchased from a company that has been associated with illegal practices, deforestation or forest degradation will be non-compliant. Have any substantiated concerns been submitted regarding companies in the supply chain pursuant to Article 31? Have any companies within the supply chain breached relevant laws[10] and been sanctioned by the state for the breach of such laws?

- **Is there any complementary information on EUDR compliance of companies within the supply chain available from certification or third-party verification schemes?**
  For clarification of the role of third-party verification schemes, see Section 10.

[9] Note that if no specific risk level has been assigned, countries are considered standard risk.
[10] Those related to illegality, deforestation, and forest degradation.

- **Have the relevant products been produced in accordance with the relevant legislation of the country of production?**
  The relevant legislation of the country of production is defined in Article 2(40). For further information about legality requirements please see Section 6.

- **Is there concern in relation to the country of production and origin or parts thereof, such as level of corruption, prevalence of document and data falsification, lack of law enforcement, violations of international human rights, armed conflict or prevalence of sanctions imposed by the UN Security Council or the Council of the European Union?**
  These concerns might undermine the reliability of some documents showing compliance with applicable legislation. Therefore, the country's corruption level, business risk indices, and other relevant indicators should be considered.

- **Are all documents showing compliance with applicable legislation made available by the supplier, and are they verifiable immediately?**
  If all relevant documents are ready and available upon operators' request, then it is more likely that the supply chain is well established and the supplier is aware of the EUDR requirements.

### b) Negligible risk

The concept of negligible risk should be understood in accordance with Article 2(26) which means that on the basis of a full assessment of product-specific and general information pursuant to Article 10, and, where necessary, of the application of the appropriate mitigation measures pursuant to Article 11, the commodities or products show *no cause for concern* as being not in compliance with Article 3(a) (deforestation-free) or (b) (produced legally, in accordance with the applicable legislation in the country of production).

The list of risk assessment criteria in Article 10(2) is not exhaustive; operators may choose to apply further criteria if these would help determine the likelihood that a relevant commodity or product had been illegally produced or was not deforestation-free, or if it would help prove legal or deforestation-free production.

According to Article 13, SME and non-SME operators sourcing from low-risk countries are not required to fulfil the obligations under Article 10 and Article 11 in order to achieve a negligible risk, after, in accordance with Article 13(1) having (i) assessed the complexity of the relevant supply chain and the risk of circumvention or mixing with products of unknown origin and (ii) ascertained that all relevant commodities and products they place on the market or export have been produced exclusively in such countries or parts thereof that were classified as low risk in accordance with Article 29[11]. However, the steps described in Articles 10 and 11 apply if an operator sourcing from a low-risk country obtains or is made aware of any information that would point to a risk of non-compliance or circumvention, see Article 13(2). Without prejudice to the obligations the operator has under Article 13, for the information collection required by Article 9(1)(g) and Article 9(1)(h) of the EUDR, it is generally sufficient that the information is independently verifiable and conclusive in itself. The operator could do that for instance by ensuring that the product related information is internally consistent. No further steps of assessing the information are required unless, in the course of information collection or in the course of the assessment required by Article 13 of the EUDR itself, operators are made aware of relevant new information indicating that a relevant product that they intend to place on the market or export is at risk of not complying with the Regulation.

[11] According to Article 29(2), the Commission will present a list of countries or parts thereof that present a low or high risk by means of implementing acts.

For non-SME operators further down a supply chain, the simplification under Art. 4(9) can also apply, meaning the non-SME operators in this case merely have to ascertain that due diligence was properly carried out upstream. Ascertaining that due diligence was properly carried out may not necessarily imply having to systematically check every single due diligence statement submitted upstream. For example, the downstream non-SME operator could verify that upstream operators have an operational and up-to-date due diligence system in place, including adequate and proportionate policies, controls, and procedures to mitigate and manage effectively the risks of non-compliance of relevant products, to ensure that due diligence is properly and regularly exercised.

In case the risk assessment and risk mitigation exercise concludes that any of the risk criterion reveal a non-negligible level of risk, then the product should be deemed as carrying a non-negligible risk, therefore the operator shall not place it on or export it from the Union market.

### c) Role of SME and non-SME traders

Traders, according to Article 2(17) are persons in the supply chain other than operators who, in the course of a commercial activity, make relevant products available on the market.
Whether a trader is subject to due diligence obligations depends on whether the trader is an SME or not, which is determined according to the criteria set out in Article 3 of Directive 2013/34/EU of the European Parliament and the Council, see Art. 2(30) of the EUDR.

If the **trader** is a **non-SME**, according to Article 5(1), obligations and provisions for non-SME operators apply, meaning that the non-SME trader must ascertain that due diligence was exercised upstream (see the previous subchapter).

For **SME traders**, the applicable obligations are set out in Art. 5(2) to (6) of the Regulation. SME traders shall make available relevant products on the market only if they are in possession of the information required under Article 5 (3), essentially the identity of their suppliers and their corporate clients and the reference numbers of due diligence statements associated to the products. SME traders do not need to exercise due diligence and do not need to ascertain that due diligence was exercised upstream. Their obligation is to maintain traceability of the relevant products, meaning they must collect and keep information as well as make it available to competent authorities upon request to demonstrate compliance.

### d) Interplay with Corporate Sustainability Due Diligence Directive

The Directive 2024/1760 on corporate sustainability due diligence[12] (CSDDD) establishes a general horizontal framework for sustainability due diligence for very large EU and non-EU companies. The EUDR provides a sectoral framework for deforestation regarding certain aspects of due diligence for certain products. The CSDDD and EUDR have different scopes but are largely complementary, and both should be applied in a coherent manner to ensure effective due diligence. Where the specific due diligence rules under the EUDR conflict with the general rules of the CSDDD, the EUDR's provisions, being *lex specialis*, prevail over the general rules of the CSDDD (*lex generalis*) to the extent of the conflict, insofar as they provide for more extensive or more specific obligations pursuing the same objectives. This rule is set out in Art. 1(3) CSDDD and it follows the principles of EU law, which give precedence to *lex specialis* over *lex generalis* in such cases.

## 5. CLARIFICATION OF 'COMPLEXITY OF THE SUPPLY CHAIN'

[12] Directive (EU) 2024/1760 of the European Parliament and of the Council of 13 June 2024 on corporate sustainability due diligence and amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859, OJ L, 2024/1760, 5.7.2024, ELI: http://data.europa.eu/eli/dir/2024/1760/oj.

**Relevant legislation:** ***EUDR - Article 8 - Due diligence; Article 9 – Information requirements; Article 10 – Risk assessment; Article 11 – Risk mitigation***

'Complexity of the relevant supply chain' is explicitly listed as a risk assessment criterion in Article 10(2)(i) of the EUDR and is therefore relevant to the risk assessment and risk mitigation part of the due diligence exercise. It is one of several criteria of the risk assessment and risk mitigation part of the due diligence exercise set out in Article 10 and 11.

The rationale underpinning this criterion is that tracing relevant products back to the country of production and plots of land where the relevant commodities were produced may be more difficult if the supply chain is complex, and this is a factor which is associated with a greater risk of non-compliance. Inconsistency of the relevant information and data and problems obtaining the necessary information at any point in the supply chain can increase the risk of non-compliant commodities or products entering the supply chain. The main consideration is the extent to which it is possible to trace the relevant commodities found in a relevant product back to the plots of land where they were produced.

The risk of non-compliance will increase if the complexity of the supply chain makes it difficult to identify the information required under Article 9(1) and Article 10(2) of the EUDR. The existence of unidentified steps in the supply chain or any other finding indicating non-compliance can lead to the conclusion that the risk is non-negligible.

The complexity of the supply chain increases with the number of processors and intermediaries between the plots of land in the country of production and the operator or trader. Complexity may also increase when more than one relevant product is used to manufacture a new relevant product, or if relevant commodities are sourced from multiple countries of production. On the other hand, the due diligence exercise is likely to be simpler in short supply chains, and a short supply chain may, particularly in the case of simplified due diligence under Article 13, be one factor that helps to demonstrate that there is a negligible risk of circumvention of the Regulation.

In order to assess the complexity of the supply chain, operators and traders may use the following (non-exhaustive) list of questions for relevant products to be placed on, or made available on, or exported from the Union market:

- Were there several processors and/or steps in the supply chain before a particular relevant product was placed on, or made available on, or exported from the Union market?
- Does the relevant product contain relevant commodities sourced from several plots and/or countries of production?
- Is the relevant product a highly processed product (which may itself contain multiple other relevant products)?
- For timber,
    - does the relevant product consist of more than one tree species?
    - have the timber and/or timber products been traded in more than one country?
    - were any relevant processed products processed or manufactured in third countries before they were placed on, or made available on or exported from the Union market?

## 6. LEGALITY

**Relevant legislation:** ***EUDR – Article 2(40) – Definitions and Article 3(b) – Prohibition***

According to Article 3 of the EUDR, relevant commodities and relevant products shall not be placed or made available on the market or exported, unless **all** the following conditions are fulfilled:

a) they are deforestation-free,

b) **they have been produced in accordance with the relevant legislation of the country of production**, and
c) they are covered by a due diligence statement.

Relevant products must **meet all three criteria separately and individually**; otherwise, operators and non-SME traders shall refrain from placing or making them available on the market or exporting them.

### a) Relevant legislation of the country of production

The basis for determining whether a relevant commodity or relevant product has been produced in accordance with the relevant legislation of the country of production is the legislation of the country in which the commodity, or in the case of a product, the commodity contained in a relevant product was grown, harvested, obtained from or raised on relevant plots of land or, as regards cattle, in establishments.

The EUDR takes a flexible approach by listing a number of areas of law without specifying particular laws, as these differ from country to country and may be subject to amendments. However, only the applicable laws **concerning the legal status of the area of production** constitute relevant legislation pursuant to Article 2(40) of the EUDR. This means that generally the relevance of laws for the legality requirement in Article 3(b) of the EUDR is not determined by the fact that they may apply generally during the production process of commodities or apply to the supply chains of relevant products and relevant commodities, but by the fact that these laws specifically impact or influence the legal status of the area in which the commodities were produced.

Additionally, Article 2(40) of the EUDR must be read in the light of the objectives of the EUDR as laid down in Article 1(1)(a) and (b), meaning that legislation is also relevant if its contents can be linked to halting deforestation and forest degradation in the context of the Union's commitment to address climate change and biodiversity loss.

Points (a) to (h) of Article 2(40) further specify this relevant legislation. The following list gives some concrete examples which are for illustration purposes only and cannot be considered exhaustive:

- *Land use rights*, including laws on harvesting and producing on the land or on the management of the land; such as
  - legislation on land transfer in particular for agricultural land or forests,
  - legislation on land lease transaction.

- *Environmental protection*. A link to the objective of halting deforestation and forest degradation, the reduction of greenhouse gas emissions or the protection of biodiversity exists, for example, in
  - legislation on protected areas,
  - legislation on nature protection and nature restoration,
  - legislation on the protection and conservation of wildlife and biodiversity,
  - legislation on endangered species,
  - legislation on land development.

- *Forest-related rules, including forest management and biodiversity conservation, where directly related to wood harvesting*, such as
  - legislation on the protection and conservation of forests, and sustainable forest management,
  - anti-deforestation legislation,
  - rights to harvest timber within the legally gazetted boundaries.

- *Third parties' rights*, including rights to use and tenure affected by producing the relevant commodities and products, and traditional land use rights of indigenous peoples and local communities; this may include e.g. rights to land charge or usufructuary rights.

- *Labour rights* and *human rights protected under international law*, applying either to people being present in the area of production of relevant commodities to the extent relevant to the EUDR taking into account its objectives as enshrined in Article 1(1) of the EUDR, or to people with rights to the area of production of relevant commodities or products, including indigenous peoples' and local communities' rights, if they are applicable or reflected in the respective national legislation; for example rights to land, territories and resources, property rights, rights in relation to treaties, agreements and other constructive arrangements between indigenous peoples and States.

- *The principle of free, prior and informed consent (FPIC), including as set out in the UN Declaration on the Rights of Indigenous Peoples*. Further guidance as to the application of the FPIC principle can e.g. be found through the UN Office of the High Commissioner for Human Rights where it is noted that States must have consent as the objective of consultation before any of the following actions are taken:
  - the undertaking of projects that affect indigenous peoples' rights to land, territory and resources, including mining and other utilization or exploitation of resources,
  - the relocation of indigenous peoples from their land or territories,
  - restitution or other appropriate redressing if lands have been confiscated, taken, occupied or damaged without the free, prior and informed consent of indigenous people who possessed it.

- *Tax, anti-corruption, trade and customs regulations*.
  - Applicable laws concerning the relevant supply chains entering the Union market, or leaving it, if they have a specific link to the objectives of the Regulation, or, in the case of trade and customs laws, if they specifically concern the relevant sectors of agricultural or timber production.

**b) Due diligence regarding legality**

Operators must be aware of what legislation exists in each of the countries they are sourcing from as to the legal status of the area of production. The relevant legislation can, among others, consist of:

- National and regional laws, including relevant secondary legislation,
- International law, including multi- and bilateral treaties and agreements, as applicable in domestic law by codifying and implementing them, respectively.

Under Article 9(1)(h) of the EUDR, information, including documents and data showing compliance with applicable legislation in the country of production, must be collected as part of the due diligence obligation. This includes information related to any arrangement conferring the right to use the respective area for the purposes of the production of the relevant commodity. Whether a land title or other documentation of an arrangement is needed is dependent on the national legislation; if possession of a land title is not required under domestic law to produce and commercialise agricultural products, it is not required under the EUDR.

The obligation to collect documents or other information depends on the different regulatory regimes of countries, as not all of them require the issuing of specific documentation. Therefore, the obligation should be understood as including, where applicable:

- Official documents issued by countries' authorities, such as e.g. administrative permits,

- Documents showing contractual obligations, including contracts and agreements with indigenous peoples or local communities,
- Complementary information issued by public and private certification or other third-party verified schemes,
- Judicial decisions,
- Impact assessments, management plans, environmental audit reports.

The following additional documents can be also useful:

- Documents showing company policies and codes of conduct,
- Voluntary self-declaration of producers of relevant commodities in which a producer declares that the product was produced in compliance with the legislation of the country of production,
- Social responsibility agreements between private actors and third right holders,
- Specific reports on tenure and rights claims and conflicts.

Information, including documents and data, may be collected in hard copy or in electronic form.

It is important to note that the information, including documents and data, must be collected under Article 9(1)(h) of the EUDR also for the purposes of the risk assessment (Article 10 of the EUDR) and should not be viewed as an independent requirement, unless the product is sourced entirely from low-risk countries or parts thereof. In the case of sourcing entirely from low-risk countries or parts thereof[13], according to Article 13 of the EUDR, SME and non-SME operators must only carry out the following steps describing the risk assessment if the operators obtain or are made aware of information pointing to a risk of non-compliance or circumvention.

According to Article 10(1) of the EUDR, the information collected must be assessed as a whole to ensure traceability and compliance throughout the supply chain. All information must be analysed and verified, meaning operators must be able to evaluate the content and reliability of the documents they collect and to understand the links between the different information in different documents. Usually, the operator should check as part of the assessment:

- Whether the different documents are in line with each other and with other information available,
- What exactly each document proves,
- On which system (e.g. control by authorities, independent audit, etc.) the document is based,
- The reliability and validity of each document, meaning the likelihood of it being falsified or issued unlawfully.

Operators should take reasonable measures to satisfy themselves that such documents are genuine, depending on their assessment of the general situation in the country of production. In this regard, the operator should also take into account the risk of corruption (e.g. bribery, collusion, or fraud). Various sources provide generally available information about the level of corruption in a country or subnational region, for example Transparency International's Corruption Perceptions Index, or other similar recognised international indices or relevant information[14].

In cases where the level of corruption is considered high there might be an implication that documents cannot be considered reliable, and further verification may be required. In the occurrence of such cases

[13] According to Article 29(2), the Commission will present a list of countries or parts thereof, that present a low or high risk by means of implementing acts.
[14] For the use of such indices see also Chapter 4 of Commission Notice of 12.2.2016, C(2016)755 final (Guidance Document for the EU Timber Regulation).

special care is necessary when checking the documents as there might be reason to doubt their credibility.

Apart from relying on recognised international indices, operators could check lists of conditions and vulnerabilities, including previous evidence of corrupt practice, that point to a greater risk - and thus demand a higher level of scrutiny. Examples of such additional evidence may include third-party-verified schemes (see Section 10 of this guidance), independent or self-conducted audits, or the use of technologies/forensic methods tracking the relevant products which can help to reveal indications of corruptions or illegalities.

Downstream non-SME operators and non-SME traders are under the obligation to **ascertain** that due diligence, including on legality, has been exercised by the upstream operator, see Article 4(9) of the EUDR. When collecting information, documentation and data for this purpose, downstream operators and traders should respect the applicable data protection rules and competition rules.

## 7. PRODUCT SCOPE

### a) Clarification – Packing and packaging materials

**Relevant legislation:** ***EUDR - Article 2 -Definitions; Annex I to the EUDR***

Annex I of the EUDR sets out the list of relevant commodities and relevant products as classified in the Combined Nomenclature set out in Annex I to Council Regulation (EEC) No 2658/87[15].

HS Code 4819 covers: *'Cartons, boxes, cases, bags and other packing containers, of paper, paperboard, cellulose wadding or webs of cellulose fibres; box files, letter trays, and similar articles, of paper or paperboard of a kind used in offices, shops or the like'.*

- If any of the above articles are placed on the market or exported as products in their own right, rather than as packing for another product, they *are* covered by the Regulation and therefore the obligations set out in EUDR apply.
- If packing material, as classified under HS code 4819, is used to 'support, protect or carry' another product, it is *not* covered by the Regulation.

HS Code 4415 covers: *'Packing cases, boxes, crates, drums and similar packings, of wood; cable-drums of wood; pallets, box pallets and other load boards, of wood; pallet collars of wood'.*

- If any of the above articles are placed on the market or exported as products in their own right, they *are* covered by the Regulation and therefore the obligations set out in EUDR apply.
- Articles under 4415 used *exclusively* as packing material to support, protect or carry another product placed on the market *are not* covered by EUDR.

Within these categories, there is a further distinction between packing that is considered to give a product its 'essential character' and packing which is shaped and fitted to a specific product but is not an integral part of the product itself. General rule 5 on interpreting the Combined Nomenclature[16] of Regulation (EEC) No 2658/87 clarifies these differences, and examples are presented below. Containers with an 'essential character' are assigned their own HS code and are classified independently from the product they contain and are in scope of the Regulation, while containers specially shaped or fitted to contain specific articles are assigned the HS Code of the product they contain, if these containers are suitable for long-term use, presented with the articles for which they are intended and when of a kind normally sold therewith are not in scope of the Regulation (General Rule 5a). Ordinary packaging, such

[15] Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1)

[16] Explanatory notes to the Combined Nomenclature of the European Union (OJ C 119, 29.3.2019, p.1)

as packaging materials and packaging containers[7] presented with the goods therein shall be classified with the goods if they are of a kind normally used for packaging such goods, meaning they are not in scope of the Regulation (General Rule 5b). Paper or other materials of wrapping should be considered an integral part of a product if its purpose is to protect, carry or transport it.

However, these additional distinctions are only likely to be relevant to a small proportion of goods subject to the Regulation.

**In summary, the following is subject to the Regulation:**

- Packing material placed or made available on the market or exported as products in their own right;
- Containers which give a product its essential character.

**The following is not subject to the Regulation:**

- Packing material presented with goods inside and used exclusively to support, protect or carry another product.

### b) Clarification – Waste and recovered and recycled products

**Relevant legislation:** ***EUDR - Recital (40); Annex I to the EUDR; Directive 2008/98/EC - Article 3(1)***

Operators and traders handle during their economic activities used products that have completed their lifecycle, and which would otherwise be disposed of as waste. Waste means a substance or object which the holder discards or intends or is required to discard (Directive 2008/98/EC, Article 3(1)). Such products are excluded from the scope of the EUDR. This means that such operators and traders are exempted from the obligations of the EUDR in these cases.

This exemption applies to goods that have been produced entirely from a material that has completed its lifecycle and would otherwise have been discarded as waste (e.g. timber retrieved from dismantled buildings, or goods made from coffee chaff).
This exemption **does not** apply to by-products of a manufacturing process that involves material that is not waste in the sense of being a substance or object which the holder discards or intends or is required to discard.

**Q1: Are wood chips and sawdust produced as by-products of sawmilling subject to the Regulation?**
Yes, these are in scope under HS code 4401 which is subject to the EUDR. This is because wood chips and sawdust may be used as fuelwood and therefore have not completed their lifecycle. An exception would be wood chips/sawdust used exclusively as packing material to support, protect or carry another product.

**Q2: Is furniture made from timber recovered after the demolition of a house subject to the Regulation?**
No, if these products are made entirely from material that has completed its lifecycle and would otherwise have been discarded as waste, they are not subject to the Regulation. However, if the products contain any amount of non-recycled material, that part would be subject to the Regulation.

**Q3: Are products made from recycled or recovered material subject to the Regulation?**
No, if the relevant products are made entirely from recycled material, they are not subject to the EUDR. However, if the relevant products contain any amount of non-recycled or non-recovered material, that amount would be subject to the Regulation, such as virgin pulp use in paper production, and timber used to repair pallets.

**Q4: Are fuel pellets made from empty fruit bunches or palm kernel shells subject to the Regulation?**
Yes, where empty fruit bunches and palm kernel shells, even in pellet form, are classified as solid residue by-products of the palm oil extraction process, fuel pellets made from them are covered under HS code 2306 60 in Annex I of the EUDR. Fuel pellets are not subject to the Regulation if they are made entirely from materials classified as waste.

**Q5: Are products made from recycled cattle leather subject to the Regulation?**
No, if the leather within the product is entirely recycled then it is not subject to the EUDR. However, if the products contain any amount of non-recycled leather, that leather would be subject to the Regulation.

**Q6: Are used coffee grounds, for use in toiletries or fertiliser, subject to the Regulation?**
No, if the grounds are waste from a café, for example, and would otherwise have been discarded.

**Q7: Are relevant products covered by the EUDR in case they are produced from non-relevant commodities?**
The Regulation does not apply to products which are made of non-relevant commodities, even if those products present the same Combined Nomenclature as the relevant products made of relevant commodities. The Regulation only applies to relevant products made of relevant commodities.

That is the case for example:

i. palm oil from oil palm species of *Elaeis* spp. (including *Elaeis guineensis*) is in the scope of the EUDR, however babassu oil from genus *Attalea spp. (including Attalea speciosa)* and other vegetable oils from other palm tree species are not in the scope of the EUDR;

ii. rubber from *Hevea brasiliensis* is in the scope, but balata, gutta-percha, guayule, chicle and similar natural gums produced with other species are not in the scope of the EUDR, neither are synthetic rubber products;

iii. products of wood are in the scope, but the products made from rattan, bamboo, and other materials of woody nature are not in the scope of the EUDR.

## 8. REGULAR MAINTENANCE OF A DUE DILIGENCE SYSTEM

**Relevant legislation:** ***EUDR - Article 12 – Establishment and maintenance of due diligence systems, reporting and record keeping***

To exercise due diligence in accordance with Article 8, operators must establish and keep up to date a framework of documenting, analysing, verifying and reporting procedures and measures ('due diligence system'). The aim of due diligence under the EUDR is to achieve a required outcome by evidencing consistent processes in businesses operations. It is important that in accordance with Article 12(2) an operator shall **review its due diligence system at least once a year** to ensure that those responsible are following the procedures that apply to them, the processes in place are effective and the required outcome is being achieved. Operators should also update the due diligence system if during the review or at any other point they become aware of new developments which could influence the aims of the due diligence system, such as the effectiveness and comprehensiveness of steps or procedures within the system. Any updates to the due diligence system must be recorded and records kept for 5 years.

The review can be carried out by someone within the organisation of the operator (should be independent from those carrying out the procedures) or by an external body. It should identify any weaknesses and failures and the operator's management should set deadlines for addressing them.

In the case of a relevant product due diligence system, the review should for example check if there are documented procedures:

- For collecting and recording the information, data and documents necessary to demonstrate compliance.
- For assessing the risk of the relevant product or any component of the relevant product containing relevant products or relevant commodities that are not deforestation-free or have not been produced in accordance with the relevant legislation of the country of production.
- Describing proposed actions to take according to the level of risk.

The review should also check if those who are responsible for carrying out each step in the procedures both understand and are implementing each step, and that there are adequate controls to ensure that the procedures are effective in practice (i.e. that they identify and result in the exclusion of relevant product that pose a non-negligible risk of non-compliance). Good practice suggests that to evidence the review, the steps followed in, and outcomes of, the review are documented.

## 9. COMPOSITE PRODUCTS

**Relevant legislation:** ***EUDR – Article 4 – Obligations of operators; Article 9 – Information requirements; Article 33 – Information system***

Operators and traders may deal with relevant products, as listed in Annex I of the EUDR, that contain or are made partly from other relevant products or relevant commodities. In practice these are sometimes referred to as 'composite products' although this is not a legal term used in the EUDR.
The EUDR sets out rules to ensure that the relevant commodities and relevant products that are contained in relevant products, or from which relevant products are made, are properly identified in the course of the operator's due diligence pursuant to Article 8. This is necessary to ensure that all relevant products are in compliance with the Regulation.

Operators need to meet the information requirements listed under Article 9 as part of their due diligence for the relevant products they are placing on or exporting from the market. It may in some cases be complex to identify the species, origin and geolocations of relevant commodities contained in relevant products, particularly for reconstituted products such as paper, fibreboard and particleboard, or highly processed products, such as food preparations containing cocoa, but this information is required for the products to be placed on the market or exported. For further reference please see Annex II of this Guidance document.

In addition, when placing on the Union market or exporting relevant products, if these contain or are made from other relevant products (as listed in Annex I of the EUDR) that had not been subject to due diligence before, then the operator must conduct due diligence on those parts of the relevant product. This applies to both SME and non-SME operators (Article 4(8) and (9)).

Composite products may contain multiple relevant products under different commodities. For instance, a chocolate bar [HS 1806] may comprise derived products of cocoa (cocoa powder [HS 1805] and cocoa butter [HS 1804]) and oil palm (palm oil [HS 1511]). In such cases, the operator placing the product on the EU market or exporting from it will only be required to conduct due diligence on the relevant products listed under the commodity deemed relevant in Annex I of the EUDR. For instance, for chocolate bars [HS1806], the relevant commodity linked to it is cocoa. This means that the due diligence obligation and information requirements extend only to relevant products listed in the right column of Annex I under the relevant commodity which the chocolate bar contains or has been made using, which in this case is the cocoa powder and cocoa butter under the commodity cocoa.

### a) Information requirements

As part of their due diligence pursuant to Article 8, operators, when describing their relevant products, in accordance with the information requirements under Article 9, need to include the relevant commodities or relevant products that their relevant products contain or that are used to make those products.

This means that operators need to collect information about the presence of the relevant commodity within the relevant products that they are placing on the market or exporting. This information includes the geolocation of the plots of land where the relevant commodity contained in the relevant products, or used to make the relevant products was produced, along with further information in Article 9(1). Under Article 9, to meet the geolocation information requirements for their relevant products, operators shall include:

- the geolocation of all plots of land where the relevant commodity that the relevant products contain, or have been made using, were produced, *and*
- the date or time range of production.

Where a relevant product contains or has been made with a relevant commodity produced on different plots of land, the geolocation of all the different plots of land needs to be provided. For relevant products that consist of or have been made from cattle, according to Article 2(29) the geolocation requirement refers to all premises or structures associated with raising the cattle, encompassing the birthplace, farms where they were kept - in case of open-air farming, any environment or place, where livestock are kept on a temporary or permanent basis-, until the time of slaughtering.

If there is any deforestation or forest degradation on any of the plots of land that are identified for any of the relevant products within a relevant product that is a 'composite product', then that product cannot be placed or made available on the market or exported (Article 9(1)(d)).

In addition, Article 9 requires the common name and full scientific name of all species, for relevant products that contain or have been made using wood. This provision refers to all relevant products that are listed under commodity 'wood' in Annex I. It may in some cases be complex to identify all the species within each relevant component for highly processed composite products, such as particle boards, paper and printed books. However, if the species of e.g. wood used to produce the product varies, the operator will have to provide a list of each species of wood that may have been used to produce the wood product. The species should be listed in accordance with internationally accepted timber nomenclature (e.g. DIN EN 13556 of 1 October 2003 on 'Nomenclature of timbers used in Europe').

### b) Due diligence for composite products: using existing due diligence statements

Operators who are placing on the market or exporting 'composite products' (for example furniture made from other relevant timber products) can make reference to existing due diligence statements where applicable. When non-SME operators or non-SME traders are making a submission to the Information System (described in Article 33) they can refer to due diligence statements that have already been submitted to the Information System, but only in cases where they have ascertained that the due diligence for the products contained in or made from relevant products has been properly exercised, in accordance with Article 4(1) and (9).

Information contained in existing due diligence statements may be referred to in order to complete the information to be contained in a Due Diligence Statement set out in Annex II. For example, the geolocation information, scientific names may be identified in the due diligence statement of a relevant product contained in the relevant product that the operator is seeking to place on the market or export and will not have to be provided again if reference is made to the upstream due diligence statement. Reference can be made in the Information System by entering the reference number and verification

number of an upstream due diligence statement when a new statement is submitted. Operators and traders submitting due diligence statements will be able to decide whether the geolocation information contained in their statements submitted in the Information System will be accessible and visible for downstream operators via the referenced due diligence statements inside the Information System.
Overall, the development and functioning of the Information System is in line with the applicable data protection provisions. In addition, **the system is equipped with security measures that will ensure the integrity and confidentiality of the information that the Information System contains**[17]**.**

According to Article 4(7) the operators - including SMEs - shall provide all information necessary to demonstrate compliance of the product, including the due diligence reference numbers to operators and traders further down the supply chain. According to Article 4(8) the SME operators are not required to exercise due diligence for relevant products contained in or made from relevant products that have already been subject to due diligence according to Article 4(1) and where a due diligence statement has already been submitted in accordance with Article 33. SME operators need to provide the competent authorities with the reference number of the due diligence statement upon the request of the competent authority. SME operators **do** have to exercise due diligence and submit a due diligence statement for parts of relevant products that have not already been subject to due diligence or no due diligence statement was submitted in accordance with Article 4(8).

## 10. THE ROLE OF CERTIFICATIONS AND THIRD-PARTY VERIFICATION SCHEMES IN RISK ASSESSMENT AND RISK MITIGATION

**Relevant legislation:** ***EUDR – Recital (52); Article 10(2)(n) – Risk assessment***

Certification and third-party verified schemes are often used to meet specific customer requirements for relevant commodities and relevant products. This may include a standard that describes practices that must be implemented during production of the certified commodities, comprising principles, criteria and indicators; requirements for checking compliance with the standard and awarding certificates; and separate chain-of-custody certification to provide assurance along the supply chain that a product contains only (or in some cases a specified percentage of) certified or third-party verified material from identified and certified or third-party verified producers.

The EUDR acknowledges that certification and other third-party verified schemes may provide useful information on compliance with the Regulation in the risk assessment further to Article 10 by supporting evidence that products are legal and deforestation-free. This is subject to the condition that this information meets the relevant requirements set out in Article 9, as stipulated in Article 10(2)(n).

Indeed, certifications and third-party verified schemes are operated by an organisation that is not a participant in the production or the supply chain of the relevant commodity. Furthermore, some of these schemes are often used to verify that certain standards or rules are being followed, but do not necessarily go as far as certifying the product itself.

This guidance is directed primarily to stakeholders considering making use of certification or third-party verified schemes given their potential added value in providing complementary information, such as on geolocation coordinates and supporting the operators' risk assessment undertaken as part of their due diligence exercise that relevant products are legal and deforestation-free. The EUDR does not oblige: (1) operators to make use of such schemes, (2) producers to sign up to them, nor (3) producer countries to develop such schemes. Making use of third-party verification schemes is not a legal requirement, but a voluntary decision of the operator. If operators decide to make use of these schemes,

[17] OJ L, 2024/3084, 6.12.2024, ELI: http://data.europa.eu/eli/reg_impl/2024/3084/oj

this guidance is designed to help them assess the degree to which these schemes can support to meet the requirements of the EUDR.

Certification and third-party verified schemes can play an important role in promoting sustainable agricultural and forestry practices and responsible sourcing, in fostering supply chain transparency and in facilitating compliance. To note that self-declaration schemes that do not rely on third party attestation procedures are outside of the scope of this guidance and are, by definition, less robust because of the lack of independence and impartiality.

This guidance is also relevant for national competent authorities by underlining that while such schemes can be used in the risk assessment procedure under Article 10, they cannot substitute the operator's responsibility as regards due diligence further to Article 8. This means that the use of such schemes does not imply a "green lane", since the operator is still required to exercise due diligence and is held liable if it fails to comply with the due diligence requirements of the EUDR.

There is a great diversity of schemes in terms of their scope, their objectives, their structure and their operating methods. One important distinction is (1) whether or not they rely on a third-party attestation procedure, thereby grouping them into certification and third-party verified schemes on the one hand and (2) self-declaration schemes on the other. The latter are outside of the scope of this guidance document and are, by definition, less robust because of the lack of independence and impartiality.

**a) The role of certifications and third-party verification schemes**

In considering whether to make use of information supplied by a certification scheme or third-party verified scheme in the risk assessment procedure under Article 10 as supporting evidence that the product is legal and deforestation-free, an operator should, as a first step, determine whether the scheme's standards are in accordance with relevant provisions of the EUDR. In this regard, it should be pointed out that operators may also use third party verification schemes or certification schemes for compliance with only certain requirements of the Regulation.

Certification and third-party verification schemes generally require third-party organisations to be able to demonstrate their qualifications to perform assessments through a process of accreditation that sets standards for the skills of auditors and the systems that the certification organisations must adhere to. Certified or verified products generally carry a label with the certification or verification organisation's name and type as well as the requirements for the auditing process. The scheme may also require that partners have this information included in the formal documents accompanying the shipment. These organisations will normally be able to provide information on coverage of the certification and how it was applied in the country of production of the relevant products, including details about the nature and frequency of field audits.

Certification and third-party verification schemes can be assessed according to three main elements: 1) 'the relevant standards', i.e. operating requirement, scope, procedures, policies for companies adhering to these schemes, 2) 'the implementation by the schemes', i.e. the extent to which the standards are implemented, including by deploying the necessary measures to ensure compliance also via audits and 3) 'governance features'/credibility assessment of the schemes such as transparency, assurance processes, oversight etc. Such information should be regularly reassessed by the operator, especially in relation to the requirements of the EUDR.

Regarding EUDR requirements, insofar as this is relevant to the information provided by the certification or third-party verification scheme, for example operators should scrutinise the following aspects of the certification or third-party verification schemes under 1) 'the relevant standards':

- validity, authenticity, and inclusion within the scope of certification or third-party verification of the association of the certificate for a relevant commodity or product,

- inclusion and compliance with relevant legal requirements, such as the alignment with the definition of deforestation-free and the cut-off date of 31 December 2020, as stipulated in Articles 2 and 3 of the EUDR,
- assessment of the risk of non-compliance regarding legality and the deforestation-free requirements of the relevant product,
- traceability of the relevant products, including via geolocation back to the plot of land,
- possibility to mix known origin and unknown origin material within the chain of custody (CoC) model (which is not acceptable under the EUDR)[18]. A relevant product with CoC certification may also contain a mix of certified and non-certified material from a variety of sources, for which information about whether checks on the non-certified portion have been performed and whether those checks provide adequate evidence of compliance with the EUDR requirements must be obtained. The due diligence procedure must therefore be completed for the relevant product in entirety.
- possibility to use mass balance where compliant products are mixed with products of unknown origin (which is not acceptable under the EUDR)[19],
- ability of the scheme to provide required information accompanied by evidence that is "adequately conclusive and verifiable", as set out in Article 9.

Secondly, under 2) 'the implementation by schemes', operators should consider:

- accessibility of information regarding the scheme governance, engagement of stakeholders with the scheme, and summaries of audits,
- free and publicly accessible database about certification holders, their scope of coverage, validity, date of suspending or terminating certification status and related audit reports,
- transparent periodic, random and independent checks (including through audits) on compliance of the certification or third-party verification scheme with their own standards, rules and procedures,
- control of quantity and origin of certified materials across the supply chain, including for example use of anatomical, chemical or DNA analysis to verify information on product or supply chain traceability,
- effective controls for verification of volumes across supply chains[20],
- use of similar stamps/claims referring to different types of schemes,
- existing substantiated reports about possible shortcomings or problems of the certification or third-party verified scheme concerned in the countries from which the relevant commodities or products originate,
- existing substantiated reports concerning a given producer or trader using the certification or third-party verified scheme concerned.

[18] Some schemes allow certification when a specified percentage of the relevant product, usually stated on the label, has met the full certification standard. In such cases, it is important that the operator obtains information about whether checks on the non-certified portion have been performed and whether they provide adequate evidence of compliance with the geolocation and the deforestation-free element for the non-certified portion as well.

[19] Some schemes allow certification when mass balance chains of custody are used. Such mixed products are, however, not compliant with the EUDR. Only products fully compliant with the elements mentioned above are allowed under the EUDR, excluding mixed products based on certain percentages or mass balance chains of custody.

[20] Chain-of-custody certification may be used as evidence that no unknown or non-permitted commodity enters a supply chain. These are generally based on ensuring that only permitted commodities and products are allowed to enter the supply chain at 'critical control points', and a product can be traced to its previous custodian (who must also hold chain-of-custody certification) rather than back to the place of origin. A product with chain-of-custody certification may contain a mix of certified and other permitted material from a variety of sources. When using chain-of-custody certification, an operator should ensure that all materials comply with the requirements of the EUDR and that controls are sufficient to exclude non-compliant material.

Under 3) 'on the governance of schemes', operators should consider the following elements:

- potential conflicts of interests,
- extent and findings of controls on fraud and corruption,
- compliance of the certification or third-party verification scheme with international or European standards (e.g., the relevant ISO-guides),
- consequences and sanctioning in case of infractions as well as corrective actions, also in terms of suspension of certification until corrective measures are taking place, taking also into account the speed of procedure to revoke and restore authorization to issue certification for products,
- inclusion of provisions about stakeholder engagement, also enabling and promoting the participation of smallholders (if relevant) in the scheme.
- information about the independence of third-party organisations that deliver the relevant certification or verification services as accredited organisations. Assurances or representations from the scheme, scheme-affiliated auditors or third-party auditors engaged by the scheme to perform its assurance procedures should not be relied upon in isolation or taken as conclusive. The views of other relevant stakeholders, including scheme participants, labour unions, workers' and smallholders' associations, civil society and non-governmental organisations, and third-party auditing and assurance organisations, should be considered if they are reasonably available.

**b) Background information**

Certification and third-party verified schemes are either public or private, depending on their governance model, whether government-run or not. They can be mandatory or voluntary, depending on whether they are legally-binding. Private schemes are voluntarily used by the operator, while public ones are often (though not necessarily) mandatory and established by the countries from which products are sourced. Both public and private certification and third-party verification schemes aim to recognise good environmental standards through certification, and as such many of them have made important contributions to raising the sustainability of agricultural production worldwide.

Nonetheless, the impact assessment preceding the EUDR, building on other relevant studies, also identified a number of concerns regarding such schemes, including that they have varying levels of transparency and different rules, procedures, and quality assurance systems in place, as well as related to monitoring, disclosure and enforcement. Over the years of their operation, concerns have also been raised over the efficiency and integrity of chain-of-custody (CoC) systems and their vulnerability to fraud. In addition, the lack of independent audits is a weakness of certain private schemes. A specific study commissioned by the Commission on Certification and Verification Schemes in the Forest Sector and for Wood-based Products made similar findings, pointing to a lack of transparency and the risk of partial or even misleading information[21].

Mandatory public verification schemes with binding measures can include high standards, both in terms of coverage and implementation. It is key that they cover all economic operators in a country (including both placing on the market and exports) to avoid loopholes and leakage that may be caused by presence of economic operators not covered by the scheme. They can also ensure better smallholder integration by providing the necessary support to overcome the problem of costs, often perceived as significant, as economies of scale have SMEs at a disadvantage in achieving certification in comparison to larger operators and traders.

[21] European Commission, Report: Study on Certification and Verification Schemes in the Forest Sector and for Wood-based Products, Publications Office of the EU, 2021.

As regards reliability and relevance of both private and public schemes, all applicable elements of their standards should be in line with (either at the same level, or higher than) the EUDR, in particular regarding the deforestation-free definition, geolocation requirements and transparency and the legality of production.

In this context it is important to note that not all schemes include standards and assessments relating to the legality of production of the relevant commodity, and it may therefore be relevant to check what legality requirements are covered by the schemes, both in terms of the laws they cover, and the criteria or indicators relied on to assess compliance. For example, schemes may differ in their definitions of what is to be considered a relevant "law" or "legal" in the country of production or the indicators that must be considered to assess the risks of illegality.

Internal decision-making and governance, including the direct participation of supply chain actors that seek and hold certification or acquire and use certified products to meet customer demands, are also elements which have implications for the implementation, enforcement and credibility of any relevant scheme.

To further facilitate trade and compliance with the EUDR, a repository of practices will be set up to which economic operators may refer when carrying out their due diligence for placing and making available products on the EU market, and competent authorities when performing the relevant checks.

To consider further relevant elements of all forms of certification and third-party verification, consult the Commission's Impact Assessment[22], the EU best practice guidelines for voluntary certification schemes for agricultural products and foodstuffs[23], and the findings of the Commission's Study on Certification and Verification Schemes in the Forest Sector and for Wood-based Products[24].

## 11. AGRICULTURAL USE

### 1. Introduction

Article 3(a) of the EUDR prohibits placing and making available on or exporting from the Union market relevant commodities and relevant products unless they are deforestation-free. Article 2(13)(a) defines 'deforestation-free' as the relevant products containing, having been fed with, or having been made using relevant commodities that were produced on land that has not been subject to deforestation after 31 December 2020[25]. According to Article 2(3) 'deforestation' means the conversion of forest to agricultural use, whether human-induced or not.

Recital (36) of the EUDR explains that the Commission should develop guidelines in order to clarify the interpretation of the definition 'agricultural use', in particular in relation to the conversion of forest to land, the purpose of which is not agricultural use. Recital 31 of the Regulation on Nature Restoration[26] also refers to such guidelines.

The main objectives of this Chapter are therefore the following:

[22] European Commission, SWD (2021) 326 final.
[23] OJ C 341, 16.12.2010, p. 5–11.
[24] European Commission, Report: Study on Certification and Verification Schemes in the Forest Sector and for Wood-based Products, Publications Office of the EU, 2021.
[25] The other element of 'deforestation-free' in Article 2(13)(b), which stipulates that relevant products containing or having been made using wood have been harvested without inducing forest degradation is outside the scope of this chapter which deals specifically with the definition of agricultural use.
[26] OJ L, 2024/1991, 29.7.2024, ELI: http://data.europa.eu/eli/reg/2024/1991/oj

- to clarify the definition of forest, measurement of the technical parameters used to define 'forest' under the EUDR in terms of area, average height and canopy cover, particularly in cases where trees are bordering or overlapping with agricultural areas (Section 3);
- to clarify the meaning of 'set aside agricultural areas' and 'agricultural plantations' referred to in Article 2(5) of the EUDR, in particular the conditions under which agricultural areas, which have been e.g. set-aside, or are lying fallow or are used for certain nurseries remain under 'agricultural use' for the purposes of Article 2 irrespective of the land characteristics, in order and to clarify the conditions for conversion of forest to agricultural area (Sections 3 and 4);
- to provide guidance about the circumstances, in which in spite of an observed tree cover after 31 December 2020 (the cut-off date laid down in Article 2(13) of the EUDR), the area should be considered under 'agricultural use' (Section 4);
- to clarify situations where an area falling under the definition of 'forest' should not be considered as converted to "agricultural use" but to other land uses, in particular:
    - to other land use to prevent, minimise, mitigate or reverse the adverse impact on biodiversity of the introduction and spread of invasive alien species, or
    - to semi-natural habitats that are extensively managed (e.g. by conservation grazing) as required by a conservation or restoration plan implementing obligations stemming from international conventions on nature and biodiversity protection and restoration, or
    - for forest fire prevention or for deployment of renewable energy (Sections 2 and 4.a);
- to provide interpretation of "agricultural use" under the EUDR, taking into account definitions laid down in applicable EU legislations and explanatory notes that are agreed on international level (Sections 4, 4.c and 4.d);
- to clarify the combined and synergetic uses of areas with tree cover that fall under the definitions in the EUDR, such as agroforestry, agrosilvicultural, silvopastoral and agrosilvopastoral systems (Section 4.d);
- to clarify different land use types in the same area and the use of cadastral maps and land registers (Section 5).

## 2. Clarification of conversion of forest to land the purpose of which is not agricultural use

**Relevant legislation:** ***EUDR – Recital (36), Article 2 (3), (5), (13) – Definitions, Article 3 (a) – Prohibition***

According to Article 2(3) of EUDR 'deforestation' means conversion of forest to agricultural use and should be understood as a change in the use of the land from 'forest' as defined in Article 2(4) of EUDR (discussed in detail in Section 3) to 'agricultural use' as defined in Article 2(5) of EUDR (discussed in detail in Sections 4, 4.c and 4.d). In this regard, the extent of the conversion to agricultural use is irrelevant, and such conversion renders the commodity in scope produced on such land non-compliant if the deforestation occurred after 31 December 2020.
The classification of an area as 'deforested' is based on the objective criterion whether the forest has been converted for a specific use and purpose, which is independent from the legally registered use and geographical boundaries of the plot of land or from the question of who or what is at the origin of the deforestation.

For the purpose of this Regulation, conversion of forest into other land uses which do not fall under the definition of 'agricultural use' means that this conversion does not fall under the definition of 'deforestation' (please see detailed information about 'Agricultural use' in Section 4). This includes conversion of forest into areas of urban infrastructure such as electricity lines, roads, cities and settlements, for non-agricultural industrial sites, or for renewable energy deployment.

Conversion of forest land also does not fall under the EUDR definition of 'deforestation' if the primary purpose of the conversion and its subsequent land use is not agricultural use, but e.g. renewable energy

deployment, industrial use, restoration of biodiversity, forest fire prevention, animal welfare in extreme climatic conditions, or management of invasive alien species. Ancillary agricultural activities may take place where essential to support the primary purpose of conversion and of the land use after the conversion (see section 4.a), or where the agricultural activity does not change the predominant use of forest (see section 4.b).

The responsibility for the enforcement of the provisions lies with the Member States. When applying these guidelines to individual cases, the Member States should ensure that the specific circumstances of each case are duly taken into account, considering also the relevant provisions of the Treaty. In cases where the activities are negligible, given all circumstances at stake, the principle of proportionality should be respected.

## 3. Definition of 'Forest'

**Relevant legislation :** ***EUDR – Article 2(4) – Definitions***

According to Article 2 (4) of the EUDR an area is considered 'forest' if the following characteristics apply:

- **Land spanning more than 0.5 hectares** – This means that the area of trees described by the perimeter of canopy cover reaches 0.5 hectare or beyond.
- **Trees higher than 5 metres** – this means that the top of the trees reaches the average height of 5 metres or more.
- **Canopy cover of more than 10%** - This means that the ratio of the canopy cover of the trees forming the tree stand to the area occupied by the tree stand is more than 10%.
- **Trees able to reach those thresholds in situ** – This means areas with young trees that have not yet reached but expected to reach canopy cover 10% and tree height of 5 metres. It includes in particular areas that are temporarily unstocked due to clear-cutting as part of a forest management practice or natural disasters, and which are expected to be regenerated.
- **Excluding land that is predominantly under agricultural or urban land use** – This means that the forest is determined both by the presence of trees and the absence of other predominant land use (see below and also Section 4).

*The land spanning, the average height, and the canopy cover characteristics must be present or able to reach these thresholds in-situ simultaneously.*

In the context of EUDR, **'urban land use'** should be considered predominant for example in case of parks and gardens in urban areas, irrespective of reaching the thresholds of forest definition. For more information about predominant '**agricultural use**' see Section 4.
Provided that the characteristics in the definition are met, the area of 'forest' includes but is not limited to:

- areas surrounded by forests or strictly connected to it used for forestry, such as forest roads, fire breaks, and other small open areas, unless they are established on their own individual real-estate property,
- land abandoned generally for more than 10 years with a regeneration of trees that have reached the criteria of 'forest' (please see in connection with 'set-aside land and land under temporary fallow' in Section 4);
- mangroves in tidal zones, regardless of whether this area is classified as land area or not;
- nurseries of forest species grown within forest area to fulfil the forest owners' own needs;
- areas outside the legally designated forest land which meet the criteria of the definition of 'forest'.

The definition of 'forest' excludes tree stands in agricultural production systems. For further information, please see Sections 4.c and 4.d.

## 4. Definition of 'Agricultural use' and exceptions

**Relevant legislation:** ***EUDR – Article 2 (5) – Definitions***

According to Article 2 (5) of the EUDR an area is considered under 'agricultural use' if the purpose of the land use is agriculture.

### a) Clarification of the purpose of agriculture

**According to Article 2(5) the land is used for the purposes of agriculture (among others) in the following list of cases:**

- **agricultural plantations** defined in Article 2(6) of the EUDR. For a more detailed guidance on 'agricultural plantations', please see Section 4.c.
- **set-aside agricultural areas** – Set-aside agricultural areas should be considered in combination with 'land under temporary fallow' as discussed below in this section.
- **rearing of livestock** – This includes areas of temporary or permanent pastures, and farm buildings for rearing and housing animals.

It should be noted that the categories of 'agricultural plantation', 'set-aside agricultural area', and area 'for rearing livestock' are a non-exhaustive list of examples for 'agricultural use'.

For the purpose of this Regulation, land used for agriculture should be understood as covering the following land use categories:

- Land under temporary crops which means all land used for crops with a usually less than one-year growing cycle, including multi-annual temporary crops.
- Land under temporary meadows and pastures which means land cultivated with herbaceous forage crops, or grasses for mowing or pasture for a period of less than five years in a row.
- Set-aside land, or land under temporary fallow which means agricultural land at prolonged rest before re-cultivation, pastoral use or use for other agricultural activities. This may be part of the agricultural holdings' crop rotation system or because legitimate reasons or exceptional circumstances such as flood damage, lack of water, unavailability of inputs, including economic, social (illness, succession problems) or legal reasons (litigation, etc). NB: Land set-aside or remaining fallow should be considered as remaining under 'agricultural use' generally for [ten] years. However, the area can be considered as remaining under 'agricultural use' for longer than this period if it is demonstrated that the agricultural activities could not be resumed because of one of the above-mentioned reasons. The reason given must cover the whole period in which the land was set-aside or under temporary fallow. If such demonstration is made, the land should be continuously considered to be under agricultural use, unless it is officially designated as forest by national law.
- Land under permanent crops which means land cultivated with long-term crops which do not have to be replanted for several years, usually for five years or more. Land under permanent crops also includes land used for growing permanent crops under protective cover, which is described in Section 4.b.
- Land under permanent meadows and pastures which means land used for more than five years in a row for grazing animals or to grow forage crops, through cultivation or naturally.
- Land under farm buildings and farmyards which means surfaces occupied by operating farm buildings (hangars, barns, cellars, silos), buildings for animal production (stables, cow sheds, sheep pens, poultry yards) and farmyards.
- Where it can be demonstrated by adequately conclusive evidence that both (i) a plot of land was under 'agricultural use' as described above before 31 December 2020, and (ii) where a producer

decided to plant short rotation coppice or commit the land to temporary afforestation before that date or after that date and that land does not fall under the scope of a forest management plan or legislation requiring forest management or protection of forest on that plot of land, such plot of land is deemed to remain in agricultural use for the purposes of the EUDR and the producer may continue agricultural activity on that plot of land.

- The above-mentioned agricultural land use categories can cover also surfaces occupied by landscape elements, which are encouraged for biodiversity or environmental reasons.

**Restoration, management of invasive species, forest fire prevention, animal welfare, renewable energy deployment**

Land which has undergone conversion for one or several of the primary purposes listed below should **not** be understood as converted to agricultural use if the conversion has been undertaken to:

- prevent, minimise, mitigate or reverse the adverse impact on biodiversity of the introduction and spread of invasive alien species, if limited to what is strictly necessary and supported by prevention plans, management plans, or official mandates, or
- prevent, or minimise and mitigate the risk of forest fires, if limited to what is strictly necessary and supported by fire prevention plans, forest management plans, or official mandates, or
- ensure compliance with animal welfare laws where the erection of structures (permanent and non-permanent) to house animals is necessary for the purpose of ensuring their welfare and limited to the minimum necessary area for the construction, and where this activity does not impact on the categorisation of the surrounding areas as forest, or
- ensure the restoration and subsequent conservation management of ecosystems of high biodiversity value (such as for example certain types of heathlands, wetland or grassland) if required by a conservation or restoration plan (for example a management plan of a protected area or a national or regional nature restoration plan) implementing obligations stemming from global multilateral agreements on nature and biodiversity protection and restoration such as the Convention on Biological Diversity and the Kunming-Montreal Global Biodiversity Framework, or
- deploy renewable energy (e.g. through establishment of wind farms, photovoltaics),

even if ancillary agricultural activities may take place where essential to support the primary purpose of conversion and the land use after the conversion.

**b) Clarification of the predominant land use**

According to Article 2(4), in case the predominant land use is agriculture then the land does not fall under the ‘forest’ definition.

**In the context of EUDR,** for the purposes of the exclusions referred to in the definition of ‘forest’ in Article 2(4), **‘agricultural use’** should be considered predominant in the following non-exhaustive list of cases:

- Seasonal (e.g. summer grazing) or temporary silvopastoral grazing in tree covered areas which do not fall into the category of primary forests (e.g. in semi-natural pastures or in natural pastures with changing tree cover).
- If due to climatic conditions (e.g. temporary snow cover) silvopastoral or agrisilvicultural practices are limited to a certain period of the year, they can be considered the predominant use.
- Establishing protective groups of trees for various environmental or biodiversity purposes on a predominantly agricultural use (e.g. grazing) area, even if the area reaches the thresholds of the ‘forest’ definition.

These cases are different from ancillary agricultural activities in the context of conversion for the purpose of restoration or management of invasive alien species, which do not fall under "agricultural use", see above.

In contrast, for the purposes of EUDR, **'agricultural use'** should **not** be considered **predominant** for example in case of small-scale production of side products (e.g. coffee), and occasional extensive or occasionally small-scale grazing in forests as long as the production and related activities do not have detrimental effect on the habitat of the forest.

### c) Definition of 'Agricultural plantation'

**Relevant legislation:** ***EUDR – Article 2(6) – Definitions***

'Agricultural plantations' are included in the definition of 'agricultural use' set out in Article 2(5) EUDR.

The definition of Article 2(6) of the EUDR "agricultural plantation' refers firstly to 'land with tree stands in agricultural production systems, such as fruit tree plantations, oil palm plantations, olive orchards" which makes reference to cropland including permanent crops as described in Section 4.

Secondly, that definition refers to "agroforestry systems where crops are grown under tree cover", which is explained in Section 4.d and must be read together with the exception where predominant land use does not change. Article 2 (6) EUDR further clarifies that all plantations of relevant commodities other than wood are encompassed under the terms 'agricultural plantation', therefore these plantations fall under the definition of 'agricultural use'.

Finally, Article 2 (6) EUDR lays down that agricultural plantations are excluded from the definition of 'forest'. This means that the areas fulfilling the criteria of agricultural plantation do not fall under the definition of forest, even where they include trees such as rubber or oil palm.

### d) Clarification of 'Agroforestry system'

**Relevant legislation:** ***EUDR – Recital (37) and Article 2 (6) – Definitions***

According to FAO documents [27] 'agroforestry' is a collective name for land use systems and technologies where woody perennials (trees, shrubs, palms, bamboos, etc) are deliberately used on the same land management unit as agricultural crops and/or animals, in some form of spatial arrangement or temporal sequence. In agroforestry systems there are both ecological and economic interactions between the different components. There are two basic agroforestry systems: simultaneous and sequential. Simultaneous systems have trees and crops or animals growing together on the same piece of land, while in sequential systems crops and trees take turns in occupying most of the same space, minimising their competition.

Agroforestry can also refer to specific forestry practices that complement agricultural activities, such as by improving soil fertility, reducing soil erosion, improving watershed management, or providing shade and food for livestock[28].

Recital (37) recalls that FAO definitions do not consider agroforestry systems as forests, but agricultural use and that they encompass various situations such as those where crops are grown under tree cover, as well as agrisilvicultural, silvopastoral and agrosilvopastoral systems.

[27] FAO 2003. Multilingual Thesaurus on Land Tenure. Chapter 7. Land in an agricultural, pastoral and forestry context.
[28] FAO World Programme For The Census Of Agriculture 2020, Vol. 1, p.120, point 8.12.12 and 8.12.13

Since the definition of 'forest' in Article 2(4) of the EUDR excludes land that is predominantly under 'agricultural use', it can be inferred that if a land is predominantly used under 'agroforestry systems' for the purposes spelled out by Recital (37), it cannot be considered as 'forest'. In this case and for the purpose of the Regulation, this land must be considered as being under 'agricultural use'. Regarding ancillary agricultural activities, including agroforestry activities in the context of restoration please see Section 2.

### 5. Clarification of land use in case of multiple land use types in the same area and the use of land registries and cadastral maps

In case a plot of land contains both an area falling under the definition of 'forest' and an area which is 'agricultural use', the two areas are to be considered separately. The area fulfilling the criteria of the definition of 'forest' falls under the scope of the Regulation, while the area fulfilling the criteria of 'agricultural use', does not fall under the scope of the Regulation in terms of conversion.

Whether the part of the plot of land used for agriculture is bigger than the part of the plot of land considered a forest under the definition, is not relevant. As an example, this means that if a 10-hectare property has a 2-hectare area that can be considered as forest area by objective criteria and 8 hectares are cultivated under agricultural use, then the 2 hectares of forest are classified as forest, regardless of the fact that it only makes up 20% of the total property.

In the assessment of whether a certain plot of land constitutes forest, the actual forest properties should prevail over the designation in land registers and cadastral maps. For demonstrating agricultural use in the past, land registers and cadastral maps can be further elements to complement the satellite data. Furthermore, forest management plans and registers of designated forest areas can be of use when determining whether the area is a forest without current tree cover, particularly in case of the area is temporary unstocked without tree cover due to forest management practice, natural disaster, or the first years of afforestation. The EU Observatory[29] provided by the Commission is a free to use tool for all stakeholders to determine the global forest cover of 2020. However, the Observatory is non-exclusive, non-mandatory and carries no legal value. Public and private stakeholders can use any maps that they see fit for the purpose of their due diligence exercise or checks.

[29] https://forest-observatory.ec.europa.eu/forest/gfc2020

# ANNEX I

## HOW DO THE INTERPRETATIONS OF 'PLACING ON THE MARKET', 'MAKING AVAILABLE ON THE MARKET' AND 'EXPORT' APPLY IN PRACTICE?

The following scenarios outline situations in which a natural or legal person is considered an operator under the EUDR.

*[Unless otherwise specified, operators in all scenarios below are responsible for carrying out due diligence on the relevant products/commodities and submitting a due diligence statement (DDS) to the EUDR Information System or assigning an authorised representative, referred to Article 6, to submit the DDS on their behalf.]*

*[According to Article 4(3) the submission of a due diligence statement (DDS) implies that the operator or non-SME trader has complied with the obligations as laid down in the applicable provisions of the EUDR and assumes responsibility for the conclusion that they are deforestation-free and have been produced in accordance with the relevant legislation of the country of production, according to Article 3).*

### Scenario 1 – Processing of products

EU-established manufacturer A (non-SME operator) is a company that buys palm oil [HS 1511] in a third country and imports it into the EU, where it uses the palm oil to produce industrial fatty alcohols [HS 3823 70]. It then sells the industrial fatty alcohols to manufacturer B in another EU Member State.

► Manufacturer A is an operator when importing into the EU (declare for the customs procedure 'release for free circulation') the palm oil, as palm oil is a relevant product covered by Annex I of the EUDR. This means that manufacturer A must exercise due diligence on the palm oil, submit a DDS to the Information System and include the DDS reference number in the customs declaration for release for free circulation.
► Manufacturer A is also an operator when placing the industrial fatty alcohols on the market, as industrial fatty alcohols are relevant products covered by Annex I of the EUDR. This means that manufacturer A must submit a separate DDS for the industrial fatty alcohols before placing them on the market, in which they may refer to their previous DDS reference number according to Article 4(9).

### Scenario 2 – Packaging materials

### Scenario 2a

EU-established manufacturer C (SME operator) imports coated craft paper [HS 4810] from producer B established in a third country and uses it to package other products that are subsequently sold on the Union market.

► Manufacturer C is an operator when importing into the EU (i.e., declare for the customs procedure 'release for free circulation') the craft paper, as craft paper is a relevant product covered by Annex I of the EUDR: although it will be used as packaging, the craft paper is imported as a product in its own right (*compare with Scenario 2b*) and therefore is subject to due diligence. Manufacturer C must submit a DDS to the Information System and include the DDS reference number in the customs declaration for release for free circulation.
► Manufacturer C is not required to exercise due diligence or submit a DDS for the craft paper when subsequently used for packaging other products as it is not sold as a product in its own right but rather as packaging material (which is of a kind normally used for packaging such goods, and not giving the product its essential character) and is therefore not regulated as a relevant product under the EUDR.

**Scenario 2b**

EU-established company D (SME operator) imports wooden frames [HS 4414] from a third country and sells them to EU-established retailer E. The frames were packaged in cardboard.

► Company D is an operator when importing into the EU (i.e. declare for the customs procedure 'release for free circulation') the wooden frames, as wooden frames are a relevant product covered by Annex I of the EUDR. This means that company D must exercise due diligence on the wooden frames, submit a DDS to the Information System and include the DDS reference number in the customs declaration for release for free circulation.
► Company D is not required to exercise due diligence or submit a DDS for the cardboard packaging, as this was not imported as a product in its own right but rather as packaging material (which is of a kind normally used for packaging such goods, and not giving the product its essential character) and is therefore not regulated as a relevant product under the EUDR.

**Scenario 3 – Transfers of ownership**

**Scenario 3a**

EU-established manufacturer F (non-SME operator) buys raw hides of cattle [HS ex 4101] from supplier H, who is established outside the EU. Under the contract, ownership is immediately transferred to manufacturer F while the hides are still outside the EU and manufacturer F imports them into the EU. After the import in the EU, manufacturer F processes the hides into tanned hides [HS ex 4104] and sells them to EU-established non-SME retailer I (trader).

► Manufacturer F is an operator when importing into the EU (declare for the customs procedure 'release for free circulation') raw hides of cattle, as raw hides of cattle are a relevant product covered by Annex I of the EUDR. This means that manufacturer F must exercise due diligence on the raw hides, submit a DDS to the Information System and include the DDS reference number in the customs declaration for release for free circulation. As part of their due diligence for the raw hides, manufacturer F must include geolocation information referring to all the establishments where the cattle were raised (in accordance with Article 9(1)(d)). In accordance with recital (39), manufacturer F determines whether the cattle used to produce those hides were fed with another relevant product, and if so, conducts also the required due diligence for the livestock feed.
► Manufacturer F is also an operator when placing the tanned hides on the market, as the tanned hides are relevant products covered by Annex I of the EUDR. This means that manufacturer F must submit a separate DDS for them before selling them to trader I. Manufacturer F may refer to the existing DDS relating to the raw hides it previously placed on the market upon import into the EU.
► As a *non-SME trader*, trader I assumes the same due diligence obligations as an operator. After having ascertained that due diligence relating to the raw hides of cattle was exercised, trader I is required to submit a separate DDS for the tanned hides bought from manufacturer F before selling them to consumers or other actors further down the supply chain (i.e., *making them available* on the Union market). Trader I's DDS may reference manufacturer F's existing DDS for the tanned hides according to Article 4(9).

*[In this scenario, ownership is transferred from a non-EU person to an EU person before the product physically enters the EU]*

**Scenario 3b**

An EU-established manufacturer F (non-SME operator) buys tanned hides of cattle [HS ex 4104] online from supplier H, who is established outside the EU. Under the contract, ownership is only transferred to manufacturer F when the hides are delivered to their factory in the EU. Shipping agent G imports the hides into the EU on behalf of supplier H and delivers them to manufacturer F's factory.

► Supplier H is an operator when importing the tanned hides of cattle into the EU (i.e., declare for the customs procedure 'release for free circulation'), as they are a relevant product covered by Annex I of the EUDR. This means that supplier H must exercise due diligence on the hides of cattle, submit a DDS to the Information System and include the DDS reference number in the customs declaration for release for free circulation [or mandate shipping agent G as authorised representative according to Article 6(1) to submit it]. As part of their due diligence for the hides, supplier H must include geolocation information referring to all the establishments where the cattle were raised (in accordance with Article 9(1)(d)). In accordance with recital (39), supplier H determines whether the cattle used to produce those hides were fed with another relevant product, and if so, conducts also the required due diligence for the livestock feed.
► Manufacturer F is the first natural or legal person to make the relevant products available on the EU market and is also deemed to be an operator pursuant to Article 7, i.e. although it is actually not an operator pursuant to the definition laid down in Article 2(15), Article 7 establishes that it is subject to the same obligations as an operator. Therefore, manufacturer F must exercise due diligence and submit a separate DDS to the Information System before selling them to consumers or other actors further down the supply chain, in which it may refer to the DDS of supplier H according to Article 4(9).

*[In this scenario, ownership is only transferred from the non-EU person to the EU person after the product has physically entered the EU]*

**Scenario 4 – Placing vs. making available on the market**

*[Scenarios 4a, 4b, 4c and 4d demonstrate the difference between placing and making available on the Union market and exemplify some of the circumstances under which a downstream business may be an operator.]*

**Scenario 4a**

EU-established wholesaler J (SME operator) imports cocoa powder [HS 1805] from a third country (non-EU) producer and sells it to EU-established non-SME retailer K. Retailer K imports additional cocoa powder from a third country (non-EU producer) and mixes it with the cocoa powder purchased from wholesaler J for sale to end consumers within the EU *(compare with Scenarios 4b, 4c, 4d)*.
► Wholesaler J is an operator when importing into the EU (i.e., declare for the customs procedure 'release for free circulation') the cocoa powder *(placing on the market)*, as cocoa powder is a relevant product covered by Annex I of the EUDR. This means that wholesaler J must exercise due diligence on the cocoa powder, submit a DDS to the Information System and include the DDS reference number in the customs declaration for release for free circulation.
► For the cocoa powder bought from wholesaler J, retailer K is acting as a trader because this cocoa powder has already been placed on the Union market. As a *non-SME* trader, retailer K assumes the same due diligence obligations as an operator and is required to submit a DDS for the cocoa powder bought from wholesaler J prior to selling it (*making it available*). Retailer K can refer to wholesaler J's existing DDS for the cocoa powder, after ascertaining that due diligence has been undertaken properly in accordance with the EUDR requirements according to Article 4(9), but retailer K still retains responsibility for compliance.
► Retailer K is an operator for the additional cocoa powder that K imports directly into the EU (declare for the customs procedure 'release for free circulation'), as cocoa powder is a relevant product covered by Annex I of the EUDR and K is placing the additional cocoa powder on the market for the first time. This means that retailer K must exercise due diligence on the additional cocoa powder, submit a DDS to the Information System and include the DDS reference number in the customs declaration for release for free circulation.

**Scenario 4b**

EU-established wholesaler J (SME operator) imports cocoa powder [HS 1805] from a third country (non-EU) producer and sells it to EU-established retailer K (non-SME trader). Retailer K resells the cocoa powder within the EU.
► Wholesaler J is an operator when importing the cocoa powder into the EU (i.e., declare for the customs procedure 'release for free circulation'), as cocoa powder is a relevant product covered by Annex I of the EUDR. This means that wholesaler J must exercise due diligence on the cocoa powder, submit a DDS to the Information System and include the DDS reference number in the customs declaration for release for free circulation.
► As the cocoa powder has already been placed on the market by wholesaler J and provided that retailer K neither processed nor supplemented it before resale, retailer K is only *making available* a relevant product. For the purpose of exercising due diligence and submitting due diligence statements according to Article 4(2) and (9), retailer K can refer to existing DDS after ascertaining that due diligence was exercised properly by wholesaler J according to Article 4(9), but retailer K still retains responsibility for compliance.

**Scenario 4c**

EU-established wholesaler J (SME operator) imports soya-bean oil [HS 1507] from a third country (non-EU) producer and sells it to EU-established retailer K (SME trader). Retailer K resells the soya-bean oil within the EU.
► Wholesaler J is an operator when importing the soya-bean oil into the EU (i.e., declare for the customs procedure 'release for free circulation'), as soya-bean oil is a relevant product covered by Annex I of the EUDR. This means that wholesaler J must exercise due diligence on the soya-bean oil, submit a DDS to the Information System and include the DDS reference number in the customs declaration for release for free circulation.
► As the soya-bean oil has already been placed on the market by wholesaler J and provided that retailer K neither processed nor supplemented it before reselling, retailer K is only *making available* a relevant product. Since retailer K is an *SME trader*, it does not have the same due diligence obligations as an operator. Retailer K must therefore collect and keep the information required under Article 5 of the EUDR, but it is not required to submit a DDS for the soya-bean oil prior to reselling it according to Article 5(2).

**Scenario 4d**

EU-established wholesaler J (SME operator) imports cocoa beans [HS 1801] from a third country (non-EU) producer and sells them to EU-established manufacturer K (non-SME operator). Manufacturer K uses the cocoa beans to make chocolate bars [HS 1806], which it sells within the EU.
► Wholesaler J is an operator when importing the cocoa beans into the EU (*declare for customs procedure 'release for free circulation'*), as cocoa beans are a relevant product covered by Annex I of the EUDR. This means that wholesaler J must exercise due diligence on the cocoa beans, submit a DDS to the Information System and include the DDS reference number in the customs declaration for release for free circulation.
► Manufacturer K becomes an operator when selling the chocolate bars, because chocolate bars are also a relevant product listed in Annex I of the EUDR and these are being placed on the market (*made available for the first time*). For the purpose of exercising due diligence and submitting due diligence statements according to Article 4(2) and (9), retailer K can refer to existing DDS after ascertaining that due diligence was exercised properly by wholesaler J according to Article 4(9), but retailer K still retains responsibility for compliance.

**Scenario 5 – Using existing DDS as reference**

EU-established company L (non-SME operator) purchases frozen cattle meat [HS ex0202] from EU-established farmer M (SME operator) who has produced the cattle within the EU. Farmer M purchased the feed of the cattle from retailer W (SME operator) who exercised due diligence. Company L then

exports the frozen cattle meat [HS ex0202] to a third country. Meat has not been processed into or mixed with other relevant products.
► Farmer M is an operator when selling the frozen cattle meat to company L and must conduct due diligence and submit a DDS for the cattle meat to the Information System before selling. As part of their due diligence for the cattle meat, farmer M must include geolocation information referring to all the establishments where the cattle were raised (in accordance with Article 9(1)(d)). In accordance with recital (39), farmer M determines whether the cattle were fed with another relevant product, and if so, farmer M should use as evidence the relevant invoices, reference numbers of relevant due diligence statements or any other relevant documentation received from retailer W indicating that the feed was deforestation-free.
► Company L is an operator when exporting the meat from the EU (i.e., declare for the customs export procedure). Company L must therefore ascertain that due diligence relating to the cattle meat was exercised, and submit a separate DDS, which may refer to the previous DDS submitted by farmer M according to Article 4(9). If, instead of exporting the meat to a third country, company L decides to sell the meat within the EU then company L would be acting as a trader, but they would be subject to the **same** obligations as above, as non-SME traders are considered as non-SME operators according to Article 5(1).

**Scenario 6 – Due diligence for natural persons/microenterprises**

EU-established private forest owner N (SME operator) contracts timber company O (non-SME operator) to harvest some of its trees. The company O harvests the trees, but the logs [HS 4403] are still owned by the private forest owner N. When the logs are collected, the private forest owner N sells the harvested logs to timber company O. Timber company O then sends the logs to their own sawmill and places them on the market as sawn wood [HS 4407].

► Forest owner N is an operator and must conduct due diligence before placing the logs on the market. However, because forest owner N is a *natural person/microenterprise*, it has the option of mandating the next operator or trader further down the supply chain that is not a natural person/microenterprise to act as an authorised representative and submit the DDS on their behalf. In case forest owner N chooses to mandate company O to submit the DDS on their behalf, it communicates to company O all information necessary to confirm that it has already exercised due diligence and no/negligible risk was found according to Article 6(3). Forest owner N retains responsibility for compliance.
► Timber company O is an operator when places on the market sawn wood as a relevant wood product covered by Annex I of the EUDR, produced from logs that were harvested in the forest of forest owner N. This means that timber company O must ascertain that due diligence relating to the logs was exercised and submit a separate DDS to the Information System before placing on the market the sawn wood produced from sawing the trees of forest owner N.

**Scenario 7 – Mandating third-parties as authorised representatives**

EU-established retailer P (SME operator) imports pneumatic rubber tyres [HS ex4011] from a third country (non-EU) and chooses to mandate EU-established company Q as their authorised representative to submit the DDS as a service provider for retailer P.
► Retailer P is an operator when importing into the EU (declare for the customs procedure 'release for free circulation') the rubber tyres, as rubber tyres are a relevant product covered by Annex I of the EUDR. This means that retailer P must exercise due diligence on the rubber tyres but, retailer P may mandate company Q as authorised representative to submit the DDS for the tyres on their behalf according to Article 6(1). Company Q does not act as a supply chain member, it is only a service provider that submits the DDS to the Information System on retailer P's behalf and, upon request from the competent authorities, provide a copy of the mandate according to Article 6(2). Retailer P retains responsibility for the tyres' compliance with Article 3 of the EUDR.

**Scenario 8 – Product coverage**

EU-established manufacturer R (SME operator) imports palm oil [HS 1511] from third country (non-EU) producers into the EU and processes it within their factory into soap [HS 3401] which it sells within the EU.
► Manufacturer R is an operator when importing into the EU (declare for the customs procedure 'release for free circulation') the palm oil, as palm oil is a relevant product covered by Annex I of the EUDR. This means that R must exercise due diligence, submit a DDS to the Information System and include the DDS reference number in the customs declaration for release for free circulation.
► However, when selling the soap, manufacturer R is not required to exercise due diligence or submit a DDS for the palm oil contained in the soap, as the soap itself is not a relevant product listed in Annex I of the EUDR.

**Scenario 9 – Placing relevant products on the market by an SME operator**

**Scenario 9a**

EU-established soya merchant S (non-SME trader) buys soya beans [HS 1201] that were already placed on the market by another company. EU-established non-SME merchant S sells soya beans to EU-established company T (SME operator). Company T creates soya bean flour [HS 1208 10] from the soya beans and sells them.
► Merchant S is a non-SME trader when selling (*making available*) the soya beans to company T, as soya beans are a relevant product covered by Annex I of the EUDR. This means that merchant S must ascertain that due diligence relating to the soya beans was exercised and submit a new DDS to the Information System in which S may reference the existing DDS provided by the supplier according to Article 4(9) before selling the soya beans to company T. Merchant S still retains responsibility for compliance.
► Company T is an operator when placing the soya bean flour on the market by selling them, as it has processed the soya beans into a new product (the soya bean flour), which is a relevant product with a separate HS code under EUDR Annex I. Since this sale by company T is a placing on the market (*first making available*) of a new relevant product, company T is an operator. As an SME enterprise, company T is not required to perform due diligence before placing the soya bean flour on the market nor to submit a due diligence statement in the Information System because the soya bean flour is made from soya beans that have already been subject to due diligence and for which a due diligence statement has already been submitted by merchant S according to Article 4(8), but company T still retains responsibility for compliance.

**Scenario 9b**

EU-established private forest owner U (SME operator) harvests some of its own trees to process the logs into sawn wood [HS4407] in his own business to sell it directly to other businesses.
► Forest owner U is an operator when selling the sawn wood, meaning Forest owner U has to exercise due diligence and submit a DDS for the sawn wood before selling it, rather than before harvesting the logs.

*[If, in the above scenario 9b, forest owner U would harvest some of its trees to create sawn wood for its own use in its home such as for its fence, it would not be an operator and would consequentially not be subject to obligations under the EUDR. Same would apply if it would process other relevant products for own personal use from the trees, such as furniture for its house or wooden photo frames, or use the logs to heat its own house.]*

**Scenario 10 – Relevant products offered for sales online or by other means of distance sales**

EU established person V (SME trader) buys wooden photo frames [HS 4414] for subsequent sale through their online craft shop in the course of a commercial activity. The wooden photo frames were already subject to due diligence by operator Z.
► Person V is a trader when making available on the market the wooden photo frames, or an operator in case exporting the wooden frames to a third country, as wooden frames are a relevant product under EUDR Annex I. EUDR contains *no* provision whereby the mere offering for sales online or by other means of distance sales is deemed to be making available on the market or an export. Person V must comply with EUDR prior to entering into contractual purchase agreement with the buyer of the wooden photo frames.

## ANNEX II

**EXAMPLES OF INFORMATION AND DUE DILIGENCE REQUIREMENTS FOR COMPOSITE PRODUCTS** COVERED BY ANNEX I OF THE EUDR

**Example 1:** Information and due diligence requirements have been met for the relevant product and all parts that contain or are made from other relevant products.

<table>
<tr><td>Product type</td><td colspan="4">Volume</td><td>Has due diligence been conducted for the relevant product?</td></tr>
<tr><td>CKD office furniture (HS 9403)</td><td colspan="4">1,500 units</td><td>Yes, the operator has carried out due diligence in accordance with Article 8 EUDR, including the information requirements contained in Article 9 (see below) and submitted a due diligence statement.</td></tr>
<tr><td>Part of relevant product (component)</td><td colspan="4">Information on relevant parts of the product (per Article 9)</td><td rowspan="2">Is the part of the relevant product covered by a due diligence statement (DDS)?</td></tr>
<tr><td></td><td>Description[2]</td><td>Species</td><td>Country of production</td><td>Geolocations of commodity</td></tr>
<tr><td>Core</td><td>particle board (HS 4410)</td><td>Sitka spruce (Picea sitchensis)</td><td>EU Member State</td><td>Multiple plantations. All geolocations known.</td><td>Yes: the operator referenced the existing DDS, after ascertaining that DD had been properly exercised.</td></tr>
<tr><td>Face and back</td><td>0.5 mm veneer (HS 4408)</td><td>European beech (Fagus sylvatica)</td><td>EU Member State</td><td>Private forest owners. All geolocation</td><td>Yes: the operator referenced the existing DDS, after ascertaining that DD had been properly exercised.</td></tr>
</table>

| | | | | | |
|---|---|---|---|---|---|
| | | | | s known. | |

**Example 2:** Information and due diligence requirements have been met for the relevant product and all parts that contain or are made from other relevant products

| **Product type** | **Volume** | | | **Has due diligence been conducted for the relevant product?** |
|---|---|---|---|---|
| Cocoa-based confectionary (HS 1806) | 2000 kg | | | Yes, the operator has carried out due diligence in accordance with Article 8 EUDR, including the information requirements contained in Article 9 (see below) and submitted a due diligence statement. |
| **Part of relevant product (component)** | **Information on relevant parts of the product (per Article 9)** | | | **Is the part of the relevant product covered by a due diligence statement (DDS)?** |
| | **Description** | **Country of production** | **Geolocations of commodity** | |
| Ingredient | Cocoa butter (HS 1804) | Several third countries | Multiple farms /smallholdings. All geolocations known. | Yes. There was no existing DDS, so the operator conducted the DD for this part of the relevant product. |
| Ingredient | Cocoa paste (HS 1803) | Several third countries | Multiple farms /smallholdings. All geolocations known. | Yes: the operator referenced the existing DDS, after ascertaining that DD had been properly exercised. |

**Example 3:** Information and due diligence requirements have not been met for the relevant product and all parts that contain or are made from other relevant products. The relevant product cannot be placed on the market as the geolocations of commodities relating to one relevant product within the composite product are unknown.

| **Product type** | **Volume** | | | | **Has due diligence been conducted for the relevant product?** |
|---|---|---|---|---|---|
| Plywood (HS 4412) | 8,500 $m^3$ | | | | Yes, the DD has been carried out but because the DD process revealed that required geolocation information is not available, the relevant product cannot be placed on the market. |
| **Part of relevant product (component)** | **Information on relevant parts of the product (per Article 9)** | | | | **The part of the relevant product is covered by a due diligence statement (DDS)?** |
| | **Description** | **Species** | **Country of production** | **Geolocations of commodity** | |
| Face and back | Veneer sheets (HS 4408) | Bintangor (*Calophyllum* spp.) | Third country | Multiple concessions. All geolocations known. | Yes: the operator referenced the existing DDS, after ascertaining that DD had been properly exercised. |
| Core | Veneer sheets (HS 4408) | Poplar (*Populus* sp.) | Third country | Farm woodlots. Geolocations unspecified/ unknown. | No: it is not possible to fulfil the DD obligations without knowing the geolocations. |

**Example 4:** Information and due diligence requirements have not been met for the relevant product and all parts that contain or are made from other relevant products. The relevant product cannot be placed on the market as the geolocations of commodities relating to one relevant product within the composite product are unknown and species information was unavailable for another relevant product.

| **Product type** | **Volume** | **Has due diligence been conducted for the relevant product?** |
|---|---|---|

| | | | | | |
|---|---|---|---|---|---|
| Writing paper (90 g/m2) (HS 4802) | 1,200 tonnes | | | | Yes, the due diligence has been carried out but information required as part of that process is not available so the relevant product cannot be placed on the market. |
| **Part of relevant product (component)** | **Information on relevant parts of the product (per Article 9)** | | | | **The part of the relevant product is covered by a due diligence statement (DDS)?** |
| | **Description** | **Species** | **Country of production** | **Geolocations of commodity** | |
| Pulp | Short-fibre pulp (HS 47) | *Acacia mangium* | Third country | Forest plantation. Geolocation known. | Yes: the operator referenced the existing DDS, after ascertaining that DD had been properly exercised. |
| Pulp | Short-fibre pulp (HS 47) | Mixed tropical hardwoods of unknown species | Third country | Forest plantations. All geolocations known. | No: it is not possible to fulfil the DD obligations without identifying all species within wood products. |
| Pulp | Long-fibre pulp (HS 47) | *Pinus radiata* | Third country | Forest plantations. Geolocations, unspecified/ unknown. | No: it is not possible to fulfil the DD obligations without knowing the geolocations. |

**Example 5:** Information and due diligence requirements have not been met for the relevant product and all parts that contain or are made from other relevant products. The relevant product cannot be placed on the market as due diligence conducted for one relevant product within the composite product revealed that it was not deforestation-free.

| **Product type** | **Volume** | **Has due diligence been conducted for the relevant product?** |
|---|---|---|
| Cocoa-based confectionary (HS 1806) | 900 kg | Yes, the due diligence has been carried out but it is not possible to confirm that the products are deforestation free so the relevant product cannot be |

| | | | | |
|---|---|---|---|---|
| | | | | placed on the market. |
| **Part of relevant product (component)** | **Information on relevant parts of the product (per Article 9)** | | | **Is the part of the relevant product covered by a due diligence statement (DDS)?** |
| | **Description** | **Country of production** | **Geolocations of commodity** | |
| | Cocoa butter (HS 1804) | Several third countries | Multiple farms /smallholdings. All geolocations known | Yes: the operator referenced the existing DDS, after ascertaining that DD had been properly exercised. |
| | Cocoa paste (HS 1803) | Several third countries | Multiple farms/ smallholdings. All geolocations known | Yes: the operator referenced the existing DDS, after ascertaining that DD had been properly exercised. |
| | Cocoa powder (HS 1805) | Several third countries | Multiple farms. All geolocations known. | No. DD conducted but some locations had been subject to deforestation after the cut-off date, hence the component does not comply with Article 3 and is prohibited. |

# Frequently Asked Questions

## Implementation of the EU Deforestation Regulation

**Version 4 – April 2025**

*This document is a working document drafted by the Commission services intending to provide information to national authorities, operators and other stakeholders for the implementation of 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 (referred to in this document as 'the Regulation', 'this Regulation' or 'EUDR'). This document only reflects the views of the Commission services. It is not legally binding and does not engage the Commission's liability.*

*Updates and additions to the third iteration of this document (published in October 2024) are indicated by (UPDATED) and (NEW).*

## Table of Contents

# 1. Traceability

## 1.1. Why and how must operators collect coordinates? (UPDATED)

The Regulation requires operators placing covered products on the EU market to collect geographic coordinates of the plots of land where the commodities were produced.

Traceability to the plot of land (i.e., the requirement to collect the geographic coordinates of the plots of land where the commodities were produced) is necessary **to demonstrate that there has been no deforestation at the specific location of production**. Geographic information linking products to the plot of land is already used by part of the industry and a number of certification organisations. Remotely sensed information (air photos, satellite images) or other information (e.g., photograph in the field with linked geotags and time stamps) may be used for verifying if the geolocation of declared commodities and products is linked to deforestation.

**The geolocation coordinates need to be provided in the due diligence statements** (hereinafter referred to as "Due Diligence Statement" or "DDS") that operators are required to submit to the Information System ahead of the placing on the EU market or export from the EU of the products[1]. It is therefore a core part of the Regulation, which prohibits the placing on the EU market, or the export, of any product covered by the Regulation's scope whose geolocation coordinates have not yet been collected and submitted as part of a due diligence statement.

Collecting the geolocation coordinates of a plot of land can be done via mobile phones, handheld Global Navigation Satellite System (GNSS) devices and widespread and free-to-use digital applications (e.g. Geographic Information Systems (GIS)). These do not require mobile network coverage, only a solid GNSS signal, like those provided by Galileo.

For plots of land of more than 4 hectares used for the production of commodities other than cattle, the geolocation must be provided using polygons, meaning latitude and longitude points of six decimal digits to describe the perimeter of each plot of land. For plots of land under 4 hectares, operators can use a polygon or a single point of latitude and longitude of six decimal digits to provide geolocation. Establishments where cattle are kept can be described with a single point of geolocation coordinate.

Please note that the Regulation does not impose direct obligations on producers in third country (unless they are directly placing products on the EU market).

For the obligations of downstream non-SME operators and non-SME traders, see FAQ 3.4.

[1] The functioning of the Information System is set out in Commission Implementing Regulation (EU) 2024/3084, Implementing regulation - EU - 2024/3084 - EN - EUR-Lex. Further information is available in Chapter 7 of this document.

### 1.2. Should all commodities (imported, exported, traded) be traceable? (UPDATED)

The traceability requirements apply to each batch of imported/exported/traded relevant commodities.

The Regulation requires that operators trace **every relevant commodity** back to its plot of land before making a relevant product available or placing it on the EU market, or before exporting it. Consequently, **the submission of the due diligence statement which includes geolocation information is a requirement for the relevant products to be imported** (customs procedure 'release for free circulation') and to be exported (customs procedure 'export') and the consignment for transactions within the EU market. In the case of export, the necessary information can be provided by referencing previous DDS in the case of downstream non-SME operators (see FAQ 3.4., for SMEs at export see FAQ 5.6.1).

### 1.3. How does it work for bulk-traded or composite products? (UPDATED)

For products traded in **bulk**, such as soy or palm oil for instance, this means that the operator needs to ensure that all plots of land involved in a shipment are identified and that the commodities are not mixed at any step of the process with commodities of unknown origin or from areas deforested or degraded after the cut-off date of 31 December 2020.

For relevant **composite** products, such as e.g. wooden furniture with different wood components, the operator needs to geolocate all the plots of land where the relevant commodity (wood, for example) used for the manufacturing process has been produced. This can be done by collecting the geolocations or referencing a previous DDS that contains the geolocations of all plots of land. The relevant commodities' components may be neither of unknown origin nor from areas deforested or degraded after the cut-off date.

In the case of **composite** products containing multiple different relevant commodities or products (for example, a chocolate bar containing cocoa powder, cocoa butter and palm oil, or wooden furniture with leather components), the operator placing such a product on the EU market or exporting from it will need to conduct due diligence only on the main commodity and (derived) products deemed relevant under the EUDR, this being the commodity contained in the left column of Annex I. For example, for chocolate bars (Code 1806), the relevant commodity linked to it is cocoa. This means that the due diligence obligation and information requirements extend only to relevant products listed in the right column of Annex I under the relevant commodity which the chocolate bar contains or has been made using, which in this case is the cocoa powder and cocoa butter under the commodity cocoa.

### 1.4. Are mass balance chains of custody allowed?

The Regulation requires that the commodities used for all products falling under the scope be traceable to the plot of land.

Mass balance chains of custody that allow for the mixing, at any step of the supply chain, of deforestation-free commodities with commodities of unknown origin or non-deforestation-free commodities **are not allowed** under the Regulation, because they do not guarantee that the commodities placed on the EU market, or exported, are deforestation-free. Therefore,

the commodities placed on the EU market, or exported, need to be segregated from commodities of unknown origin or from non-deforestation-free commodities at every step of the supply chain. As mass balance is therefore to be ruled out, full identity preservation is not needed.

### 1.5. What if part of a product is non-compliant?

If part of a relevant product is non-compliant, **the non-compliant part needs to be identified and separated from the rest** before the relevant product is placed on the EU market or exported, and that part may be neither placed on the EU market nor exported.

If identification and separation cannot be done, for instance because the non-compliant products have been mixed with the rest, then the whole relevant product is non-compliant as it cannot be guaranteed that the conditions of Art. 3 of the Regulation are met and therefore it may be neither placed on the EU market nor exported.

For instance, when bulk commodities have all been mixed and are linked to several hundred plots of land, the fact that one of the plots of land has been deforested after 2020 would make the whole relevant batch non-compliant.

A product would however not be non-compliant where 100% of relevant commodities or relevant products placed on the EU market 1) can be traced to the plot of land, 2) are legal and deforestation free within the meaning of the Regulation, and 3) at no point in time has been mixed with commodities of unknown origin or non-deforestation-free.

### 1.6. What are the rules for land that is not real-estate?

**What happens with public or communal land that does not fall within the concept of "real-estate property"?**

The Regulation requires that commodities placed on the EU market or exported must have been produced or harvested on the land designated as a plot of land. The absence of a land registry or formal title should not prevent the designation of land that is de facto used as a plot of land (see below).

### 1.7. What is the size of the area (hectares) that can be covered by a polygon?

There is not a fixed threshold on the minimum or maximum size for plots of land in the Regulation, as long as the plot of land captures the precise area of production and enjoys sufficiently homogeneous conditions to allow an evaluation of the aggregate level of risk of deforestation and forest degradation associated with relevant products produced on that land. See also question 1 in relation to the geographic coordinates for plots of under 4 ha.

There is no limit in the area of polygons that can be imported into the Information System, but the total file size of the DDS cannot exceed 25 Mb.

### 1.8. Does geolocation need to be provided by means of polygons in all cases?

No. For plots of land of a size below four hectares (only), geolocation can be described with one latitude and longitude point only. In case of cattle, no polygons but only single geolocation points required, notably for all 'establishments' (as defined in Art. 2(29) of the Regulation), where cattle have been held.

### 1.9. (*DELETED and information moved to question 7.26*)

### 1.10. What if property registers or titles are unavailable?

**How can operators and traders that are not SMEs obtain geolocation data in countries where property registers are incomplete and where farmers may lack IDs or titles over their land? (UPDATED)**

Farmers can collect the geolocation of their plots of land regardless of whether they are entered or not in a land registry or the lack of IDs or titles over their land. Unless they are direct suppliers of the operators or operators themselves, no personal information is required from the farmers and the geolocation of the plot used to supply commodities for placing on the EU market is sufficient.

As regards the legality requirement in relation to land use right (Art. 2(40)(a) of the Regulation) the Regulation requires compliance with relevant national laws. If farmers are legally allowed to sell their product under national laws (which might lack a property register and where some farmers might lack IDs), then that would also mean that operators (or traders that are not SMEs) would meet the legality requirement when sourcing from those farmers. If possession of a land title is not required under domestic law to produce and commercialise agricultural products, then it is not required under the Regulation. Operators (or traders that are not SMEs), nonetheless, would need to verify that there is no risk of illegality in their supply chains, meaning that relevant laws applicable in the country of production are complied with.

There are many different means that operators (or traders that are not SMEs) already use today to collect the legality (and geolocation) information: some resort to mapping directly their suppliers, while others rely on intermediaries like cooperatives, certification bodies, national traceability systems or other companies. Operators (or traders that are not SMEs) are legally responsible for ensuring that the geolocation and legality information is correct, regardless of the means or intermediaries they use to collect that information.

### 1.11. Can an operator use the producer's geolocation data?

Yes, but it is the operator who is ultimately responsible for its accuracy and not the producer who provides it. The Regulation does not apply to producers which do not directly place products on the European Union market (and thus do not fall under the definition of operators and traders).

In such a case, the operator will have to ensure that the area where the relevant commodity was produced is correctly mapped and that the geolocation corresponds to the plot of land.

Among measures which the operator can use are support for suppliers to meet requirements of this Regulation, in particular for smallholders, through capacity building and other investments.

### 1.12. Should operators verify the geo-location? (UPDATED)

Operators **need to verify and be able to prove that the geolocation is correct.**

Ensuring the truthfulness and precision of geolocation information is a crucial aspect of the responsibilities that operators must fulfil. Providing incorrect geolocation details would constitute a breach of the obligations of operators under the Regulation.

### 1.13. Should due diligence be repeated for products from the same land? (UPDATED)

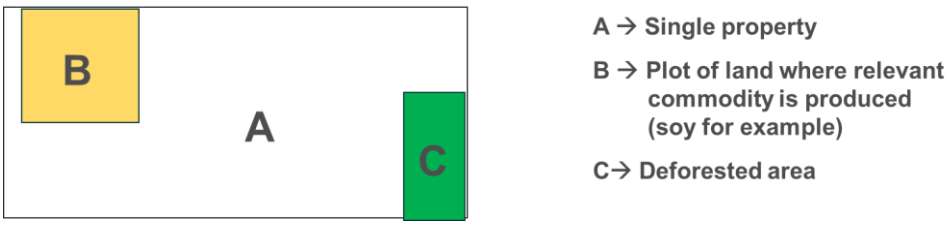
The geolocation information obligation to be provided in the DDS, via the Information System, is connected to each relevant product. Operators (or traders that are not SMEs) will thus need to indicate this information each time they intend to place, make available on the EU market or export a relevant product. The due diligence must be repeated (i.e. updated) for each relevant product, including providing the geolocation coordinates accordingly. **The necessary information can be provided by referencing previous DDS** after ascertaining that due diligence was exercised upstream (see FAQ 3.4.).

### 1.14. Can a polygon cover several plots of land?

Polygons are to be used to describe the perimeter of the plots of land where the commodity has been produced. **Each polygon should indicate one single plot of land, whether contiguous or not**. Where relevant products are made of commodities from several plots of land, several polygons must be provided in one due diligence statement. A polygon cannot be used to trace the perimeter of an area of land that might include plots of land only in some of its parts.

### 1.15. What if a relevant commodity is produced on a plot of land within a single estate property, including also other plots of land?

The situation may be best described with the following illustration.




**i) If the relevant commodity (soy, in the example) is produced in area B, which geolocation should be provided?**

Based on definition of plot of land ("land within a single real estate property") the operator should provide only the geolocation of the plot of land where the relevant commodity is produced (area B, in the example)

**ii) What if deforestation in area C is legal and after the cut-off date?**

- if no relevant commodity is produced in area C, deforestation in area C does not affect the compliance of soy produced in area B
- If another relevant commodity (e.g. cattle) is produced in area C, then cattle is non-compliant (non-deforestation free), but soy from area B is, in principle, compliant
- If the same commodity is produced in areas B and C (soy), the operator will have to achieve negligible risk, taking into particular account the high risk of mixing within the single property (Art. 10(2)(j))

**iii) What if the legal status of the real estate property A is affected by illegality within the meaning of the Regulation (for instance, if there is illegal deforestation in area C)? Is the soy produced in area B affected?**

The soy produced in area B is not legal, and therefore not compliant, since the legal status of the area of production (so not the plot of land, but the whole property, in line with Art. 2 (40)) is not complying with the relevant legislation of the country of production.

### 1.16. Should polygons be provided by means of circumference?

There is neither an obligation nor a possibility to provide the plot of land information by means of circumference. **For plots of land of more than four hectares** (for the production of the relevant commodities other than cattle), geolocation has to be provided using polygons (not a unique central point with a circumference) with sufficient latitude and longitude points to describe the perimeter of each plot of land.

### 1.17. How should the place of production of mixed goods be declared?

The operator needs to declare the place of production of all goods effectively shipped to the EU.

For example, if compliant goods from multiple places of production are mixed into the same silo, stack, pile, tank, etc., and then some of those goods are placed on the EU market:

- The place of production declared should **include the place of production of all goods that entered the silo since it was last empty** (and could therefore potentially be included in the shipment)
- If the silos are not regularly emptied, the operator would need to declare the place of production of all goods that entered the silo during a period of time that ensures that commodities of unknown place of production are not mixed up in the process. For instance, when downloading part of the goods stored in the silo, this could be safely done by declaring the geolocation of all previous goods that entered the silo up to a minimum of 200% of the silo capacity, provided that the silo works in first-in first-out system or an equivalent system that ensures the chronological exhaustion of raw

materials in the order of their entry. This approach applies to relevant commodities or products stored in stacks, tanks, etc. and all continuous processing. Other approaches are possible for first-in first-out as well as for other storage systems as long as it is ensured that commodities from an unknown place of production or which are incompliant with EUDR are not mixed up in the process.

- Declaring the place of production of x amount of goods that entered the silo, where x is the amount placed on the EU **is not allowed** under the Regulation, as it would violate the prohibition under the Regulation of placing products of unknown origin on the Union market.

This is without prejudice to the transitional provisions as described in section 9.

### 1.18. Under which circumstances can operators declare more plots of land in a due diligence statement than those actually concerned by the production of the specific commodity placed on the market? What are the implications of a "declaration in excess"?

The thrust of the regulation requires a correspondence between the commodities/products placed on the market and the plots of land where they are effectively produced (hence, the regulation is built on the principle of strict traceability, whereby operators need to collect the precise geolocation coordinates corresponding to the plots of land of production). However, an operator can, in specific circumstances, provide geolocation coordinates for a limited number of plots of land higher than those where the commodities were produced:

Operators may declare "in excess" only in situations where a bulk commodity is fully traced to the plot of land and is not being subject to mixing with commodity of unknown origin or non-compliant commodities. When such bulk commodity is mixed up along the logistical or production process, for instance in silos for storage, onboard ships for transportation, or in mills during the production process, the operator can resort to a declaration in excess if and when only a part of the whole is placed on the market. Operators are required to obtain traceability data that is as granular as possible.

Declaration in excess can also be applied in case of crop rotation on a set of agricultural land plots on a farm, where e.g. soy is produced each year in a different part of the farm's total arable land area.

If the operator declares 'in excess' in the due diligence statement, the operator assumes full responsibility for compliance of all plots of land for which geolocation is provided, regardless of whether such plots of land are concerned by the production of commodities/products eventually placed on the market. If one plot of land 'geolocalised' in the due diligence statement is not compliant, the entire set of plots of land 'geolocalised' is non-compliant. In these cases the operator declaring plots of land in excess also has to fully carry out due diligence in compliance with the obligations under the EUDR, for all plots of land declared (including those in excess) and has to provide evidence that 1) the risk of non-compliance (regarding the deforestation-free and the legality requirement) has been assessed in accordance with Art. 10(2) EUDR for all plots of land, 2) that, in such assessment, the operator has taken particular account of criteria (i) and (j), of Art. 10 EUDR, and 3) that such risk is negligible for all plots of land. In more detail, the operator has to consider the existence of a

risk if connecting relevant products to the plots of land where the relevant commodities were produced is difficult according to Art. 10(2)(i) EUDR, and also if the risk of circumvention of the Regulation or of mixing with relevant products of unknown origin is non-negligible according to Art. 10(2)(j) EUDR. The operator has to mitigate these risks to negligible level before placing or making available such products on the market or exporting them.

With no prejudice to the above-mentioned case scenarios, traceability practices that aim to declare an excessive amount of plots of land (for instance, on a regional or country-wide basis) are generally not in line with the rules of this regulation. Such practices would not allow operators to comply with their core due diligence obligations, in particular mitigating risk of circumvention (i.e., it is not possible to conduct due diligence as per Art. 8 of the Regulation on an entire country). It would also hinder the work of EU Member States Competent Authorities, making it difficult (or even impossible) to comply with their obligations to carry out checks as per Art. 16.

### 1.19. How will geolocation allow claims to be checked in practice? (UPDATED)

**How will geolocation allow for checking the validity of a no-deforestation claim in practice? Is it aligning satellite navigation positioning and deforestation maps? Will there be baseline maps that forest areas or areas that have undergone deforestation and forest degradation? How will it work if geolocation of farms, plantations or concessions are not available?**

It is the responsibility of the operator to collect the geolocation coordinates of the plots of land where the commodities were produced. If the operator cannot collect the geolocation of all plots of land contributing to a relevant product, then they should not place that product on the EU market or export it, in accordance with Art. 3 of the Regulation.

### 1.20. Operators (and traders which are not SMEs) and enforcing authorities may cross-check the geolocation coordinates against satellite images or forest cover maps to assess if the products meet the deforestation-free requirement of the Regulation. How will the EU check the validity of a no-deforestation claim?

The EU Member States' Competent Authorities (EUMS CAs) should carry out checks to establish that the relevant commodities and products that have been or are intended to be placed on or made available on the EU market or exported, come from deforestation-free plots of land and were produced legally (in accordance with Art. 16 of the Regulation). This includes conducting checks on the validity of the due diligence statements, and the overall compliance of the operators and traders with the provisions of the Regulation.

For more information on the scope of EUMS CAs obligations, please refer to Arts. 18 and 19 of the Regulation.

### 1.21. What type of checks may EU Member States Competent Authorities carry out in third countries in case a product is deemed potentially non-compliant with the EUDR?

Competent Authorities may conduct field audits in third countries pursuant to Art. 18(2)(e) of the Regulation, provided that such third countries agree, through cooperation with the administrative authorities of those third countries.

It should be noted that the Regulation does not require the EU Member States' Competent Authorities to consult producing countries if a product is assessed 'potentially non-compliant' or 'non- compliant'.

### 1.22. Will Competent Authorities use the definitions in the Regulation?

In the context of the implementation of this Regulation, Competent Authorities of EU Member States **will use the definitions set out in Art. 2 of the Regulation**. A Regulation is a binding legislative act in the EU. It must be applied in a harmonized manner in its entirety in the 27 EU Member States.

### 1.23. What is supply chain traceability? (UPDATED)

The information, documents and data which operators, and traders that are not SMEs where applicable, need to collect and keep for 5 years to demonstrate compliance with the Regulation are listed in Art. 9 and Annex II as well as in Art. 2(28) of the Regulation as regards data related to geolocation.

Operators should exercise due diligence with regard to all relevant products supplied by each particular supplier. Therefore, they should put in place a due diligence system, which includes the collection of information, data and documents needed to fulfil the requirements set out in Art. 9; risk assessment measures as described in Art. 10; and risk mitigation measures as referred to in Art. 11 of the Regulation. The requirements for the establishment and maintenance of due diligence systems, reporting and record keeping are listed in Art. 12 of the Regulation. The operators will have to communicate to operators and to traders further down the supply chain all information necessary to demonstrate that due diligence was exercised and that no or only a negligible risk was found pursuant to Art. 4(7) EUDR.

Operators and traders further down the supply chain that receive such information may base their own due diligence on the information received, but the fact that another operator or trader further up in the value chain has carried out a due diligence does by no means disapply their own obligations. For obligations of non-SME downstream operators and non-SME traders see FAQ 3.4.

Operators and traders which are not SMEs are required to ensure that the information on traceability that they supply to enforcing authorities in the Member States through the due diligence statement submitted to the Information System is correct.

The development and functioning of the Information System will be in line with the relevant data protection provisions. In addition, **the system will be equipped with security measures that will ensure the integrity and confidentiality of the information shared.**

### 1.24. How will traceability work for products from multiple countries?

Operators and traders that are not SMEs are required to ensure that the required information on traceability that they supply to competent authorities in the Member States is correct, **regardless of the length or the complexity of their supply chains.**

Traceability information can be added up along supply chains. For instance, a large, bulk shipment of soy that has been sourced in several hundred plots of land from several countries would need to be associated with a due diligence statement that includes all relevant countries of production and geolocation information for every single plot of land from all of these countries that have contributed to the shipment.

### 1.25. What is the 'date or time range of production'? (UPDATED)

Operators are required to collect information on the date or time range of production under the obligations set out in Art. 9 of the Regulation. This information is needed to establish whether the relevant product is deforestation-free. That is why it applies to the commodities covered by the Regulation that are placed on the EU market or to the commodities that are used for the production of relevant products covered by the regulation.

For commodities other than cattle, the date of production refers to the date of harvesting of the commodities, and the time range of production refers to the period/duration of the production process (for instance, in the case of timber, "time range of production" would refer to the duration of the relevant harvesting operations). The date of production and the time range of production should both be related to the designated plots of land.

If more precise information is not available, due to the specificities of the production, the crop year and/or harvesting season could be used.

For relevant products under the commodity "cattle", the time range of production refers to the lifetime of the animals from the moment the cattle were born until the time of slaughtering. If live cattle (HS Code 0102 21, 0102 29) are placed on the EU market (e.g., by importing or by the first selling of a cow after it was born in the EU), all geolocations until the first placing on the EU market will have to be collected and submitted with the due diligence statement (DDS). If live cattle are subsequently made available on the EU market, non-SME traders will be obliged to collect and add all additional geolocations of establishments where the cattle were kept after the first placing on the EU market (see Art. 9(1)(d) of the Regulation). In the case of SME traders, they will not have to add their geolocations nor issue new DDS but should keep the information relating to the relevant products they intend to make available on the market for at least 5 years as set out in Art. 5(3) and 5(4).

To note that, according to Art. 1(2) of the Regulation, and in line with the definition of "*produced*" in Art. 2(14), the EUDR does not apply to cattle and cattle derived products if the cattle was born before the entry into force of the Regulation, i.e. before 29 June 2023.

### 1.26. How does traceability work for cattle? (UPDATED)

**Would it be enough to provide the geolocation of the land where the calf was born? Some cattle may be moved to one or more locations before slaughter.**

Operators (or traders that are not SMEs) who place on the EU market cattle products must geolocate or refer to a DDS containing geolocations of all establishments associated with raising the cattle, encompassing the birthplace, farms where they were fed, grazing lands, and slaughterhouses in case the cattle is kept in this establishment (but only geolocation

corresponding to one latitude and one longitude point, not polygons, is required for each of these 'establishments').

### 1.26.1 How should operators fulfil obligations related to "feed used for livestock"? (NEW)

According to Recital 39 of the Regulation, operators placing or making available on the market or exporting relevant products that have been made using cattle should ensure, as part of their due diligence system, that the feed used for livestock is deforestation-free. However, no geolocation information should be required for the feed itself.

Taking into account that EUDR imposes requirements on relevant products, feed used for livestock is relevant under EUDR only if such feed is a relevant product at the time of being fed (e.g., HS 1208 10 – soya bean flour and meal).

A DDS for the feed included in Annex I must be submitted only when it is placed or made available on the market or exported in its own right.

In case that the feed used for livestock has already been subject to due diligence in a previous step of the supply chain, exercising the due diligence on cattle and derived relevant products may include relevant invoices, reference numbers of relevant due diligence statements or any other relevant documentation as evidence of the feed is deforestation-free. The evidence can be requested by Competent Authorities during an investigation in case they obtain or are made aware of relevant information, including information based on substantiated concerns submitted by third parties that there is a risk of the feed not being in compliance with the EUDR. The evidence should cover the lifetime of the animals, up to a maximum of five years.

### 1.27. What if upstream suppliers do not provide required information? (UPDATED)

If an operator or a trader placing or making available a commodity on the EU market or exporting it is unable to obtain the information required by the Regulation from its suppliers, they must refrain from placing or making available the relevant products on the EU market or exporting them from the EU as that would result in a violation of the Regulation.

### 1.28. Should coordinates be provided for land in countries classified as low-risk?

There is **no exception** for the traceability requirement via geolocation. The operators also have to assess the complexity of the relevant supply chain and the risk of circumvention of the Regulation and the risk of mixing with products of unknown origin or origin in high-risk or standard-risk countries or parts thereof (Art. 13 of the Regulation). If the operator obtains or is made aware of any relevant information that would point to a risk that the relevant products do not comply with the Regulation or that the Regulation is circumvented, the operator must fulfil all the obligations under Art. 10 and 11 of the Regulation and must immediately communicate any relevant information to the competent authority.

### 1.29. Does the legality requirement apply to deforestation-free land?

Relevant commodities cannot be made available on the EU market or exported from the EU unless they have been produced in accordance with the relevant legislation of the country of production pursuant to Art. 3(b) of the Regulation (the so-called "legality requirement").

The obligations under Art. 3 are cumulative, meaning they all have to be fulfilled: (1) **the legality requirement (Art. 3(b)) ; (2) the 'deforestation-free' requirement** (Art. 3(a)) and (3) the requirement for the commodities or products to be covered by a due diligence statement (Art. 3(c) of the Regulation).

**1.29.1 In which cases can legislation be deemed relevant even where it is not linked to the EUDR's objectives of halting deforestation and forest degradation? (NEW)**

As set out in the introductory part of the definition in Art. 2(40) EUDR, legislation is relevant if it concerns the legal status of the area of production, meaning where laws specifically impact or influence the legal status of the area in which the commodities were produced.

Art. 2(40) EUDR further specifies that this may include, among others, trade and customs laws. Such laws, which by their nature do not concern the legal status of the area of production, can also be relevant if they specifically concern the relevant sectors of agricultural or timber production – this could, for example, be the case if specific agricultural or forest-related documents need to be supplied at customs or as part of trade laws of the country of production.

**1.29.2 A commodity is harvested in country A and transported to country B for further manufacturing (e.g. cocoa beans from A are manufactured into cocoa powder in B) before the cocoa powder is placed on the EU market in country C. The laws applicable in which country are relevant? (NEW)**

In the given example, country A is the country of production, meaning the legality requirement only covers laws that are applicable in country A.

**1.30. Are there legal obligations for non-EU countries?**

**There are no legal obligations applicable to non-EU countries**. This Regulation sets out obligations for operators and traders (as defined in chapter 2 of the Regulation) as well as for the EU Member States and their Competent Authorities (see chapter 3 of the Regulation).

However, many countries around the world have taken action to enhance deforestation-free supply chains, strengthen public traceability systems on relevant commodities, etc., thereby facilitating the tasks of companies under this Regulation. This is welcome, as such developments can greatly help operators and traders to comply with their obligations.

**1.31. How can producers share the geolocation data when certain governments prohibit the sharing of such data? (UPDATED)**

One of the core requirements for operators under this Regulation is to collect the geolocation information on the plot(s) of land where commodities and products placed on or exported from the EU market have been produced (Art. 9(1)(d) of the Regulation). Operators cannot rely on the existence of national laws prohibiting the sharing of such (public) data with operators and traders in order to be exempt from the obligation to collect and upload that data into the Information System. Operators must submit the geolocation information as part of their obligations; otherwise, the operators and traders when referring to previous DDS,

cannot comply with the requirements on due diligence according to Art. 8 and, therefore cannot place on, make available on or export relevant products from the EU market.

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# 2. Scope

## 2.1. What products are included in the Regulation?

The Regulation applies only to products listed in Annex I. Products not included in Annex I are not subject to the requirements of the Regulation, even if they contain relevant commodities in the scope of the Regulation. For example, soap will not be covered by the Regulation, even if it contains palm oil.

Likewise, products with an HS code not included in Annex I, but which might include components or elements derived from commodities covered by the Regulation – such as cars with leather seats or natural rubber tyres – are not subject to the requirements of the Regulation.

N.B.: The Regulation foresees that the list of relevant products and product descriptions may be amended by the Commission by means of a delegated act. In addition, the Commission will assess the need and the feasibility of making a legislative proposal to the European Parliament and to the Council to extend the scope of the Regulation to further commodities, based on an impact assessment of relevant commodities on deforestation and forest degradation. The first review of the commodity scope is to take place within two years of the entry into force of the Regulation.

## 2.2. What about listed products that do not contain listed commodities? (UPDATED)

| | **… made of the commodity listed in the corresponding left column of Annex I** | **… <u>not</u> made of a commodity listed in the corresponding left column of Annex I** |
|---|---|---|
| **Relevant product listed in Annex I…** | Subject to the Regulation (EUDR) | <u>Not</u> subject to the Regulation |
| **Other product <u>not</u> listed in Annex I…** | <u>Not</u> subject to the Regulation | <u>Not</u> subject to the Regulation |

Products included in Annex I that do not contain, or are not made of, the commodities listed in the corresponding left column of Annex I are not covered by the Regulation.

**“ex” before the HS code** of products in Annex I means that the product described in the annex is an “extract” from all the products that can be classified under the HS code. For instance,

code 9401 might include seats made of raw materials other than wood, but only wooden seats are subject to the requirements of the Regulation. Similarly, HS 0201 covers “Meat of **bovine** animals, fresh or chilled”, whereas ex 0201 in Annex I of the Regulation covers only “Meat of **cattle**, fresh or chilled”, meaning cattle of the genus Bos and it’s sub-generas: Bos, Bibos, Novibos and Poephagus, but bison (Bison genus) or buffalo (Syncerus genus) meat are **not** covered by the Regulation.

In case the relevant product, e.g. “ex 4011 New pneumatic tyres of rubber” is made from a mix of synthetic and natural rubber then the operator (or non-SME trader) has to exercise due diligence only for the natural rubber ingredient.

### 2.3. Does the Regulation apply regardless of quantity or value?

There is no threshold volume or value of a relevant commodity or relevant product, including within processed products, below which the Regulation would not apply.

Operators and traders placing or making available on the EU market or exporting a relevant product included in Annex I, whatever its quantity, are subject to the obligations of the Regulation.

### 2.4. What about commodities produced in the EU? (UPDATED)

Commodities produced inside the EU are **subject to the same requirements as commodities produced outside the EU**. The Regulation applies to products listed in Annex I, whether they are produced or manufactured in the EU or imported.

For instance, if an EU company manufactures chocolate (code 1806, which is included in Annex I), then it will be considered as a downstream operator subject to the obligations of the Regulation, even if the cocoa powder used in the chocolate has already been placed on the EU market and fulfilled the due diligence requirements (see also FAQ 3.4. and 3.5. on downstream operators).

### 2.5. How does the Regulation apply to wood and paper used for packaging? (UPDATED)

For example, in the case of a producer selling packaging, such as pallets, to manufacturers (to protect the final product - not to be sold as a final product to consumers), the text "**not including packaging material used exclusively as packaging material to support, protect or carry another product placed on the market" in Annex I** should be understood as follows:

If any of the concerned packaging is placed on the EU market or exported as a product in its own right (i.e. standalone packaging), rather than as packaging for another product, it is covered by the Regulation and therefore due diligence requirements apply.

If packaging, as classified under HS code 4415 or another HS Code, for example HS 48, is used to ‘support, protect or carry’ another product, it is not covered by the Regulation.

Packaging materials used exclusively as packaging material to support, protect or carry another product placed on the EU market is not a relevant product within the meaning of Annex I of the Regulation, regardless of the HS code under which they fall. Whether the

packaging material is listed on the invoice alongside the carried product is irrelevant; it is rather decisive whether the packaging would be classified jointly or separately in an import or export scenario (see rule 5b) of the General rules for the interpretation of the Combined Nomenclature). According to the rule 5b), packing materials and packing containers presented with the goods therein shall be classified with the goods if they are of a kind normally used for packing such goods. Where packaging is or would be classified jointly with the carried product, it can be considered to be used exclusively as packaging material to support, protect or carry another product placed or made available on the EU market or exported from it.

In a draft Delegated Act put forward by the Commission, it is proposed that user manuals, information leaflets, catalogues, marketing materials as well as labels accompanying other products are also falling under this exemption unless they are placed or made available on the market or exported in their own right.

### 2.6. Would the return of a relevant empty packaging by the retailer to its supplier be considered 'making available on the EU market' when the concerned packaging was placed on the EU market in its own right (i.e. standalone packaging) prior to the return? (UPDATED)

As long as the concerned packaging, such as for example a pallet, is placed on or made available on the market or exported as a product in its own right (i.e. standalone packaging), rather than as packaging for another product, it is covered by the Regulation and therefore the relevant due diligence requirements apply (see Q. above). This should apply as long as the concerned packaging is used for commercial purposes in its own right.

However, once the concerned packaging becomes a packaging material used exclusively as packaging material to support, protect or carry a product, it is then not covered by the scope of the Regulation. This means that selling or renting used packaging material to other companies is not subject to EUDR. Similarly, empty packaging material already used for the first time to support, protect or carry another product, for instance when traded within a closed loop exchange system (i.e., pallets are transferred from one company to another to be reused for transport) is not covered by the Regulation. For additional information on renting of products, see FAQ 2.14.

If packaging that has already been used to support, protect or carry another product is repaired and sold, it must comply with EUDR regarding only new relevant products used for the repair (e.g. a pallet that is repaired with non-recycled wood components). This means that, in the example, a new DDS must be submitted for the pallet, but only the new wood components are subject to the due diligence exercise.

### 2.7. Does trading with relevant second-hand products on the EU market fall in the scope of the Regulation?

Second-hand products which have completed their lifecycle and would be otherwise disposed of as waste (see Recital 40 and Annex I) are not subject to the obligations of this Regulation.

### 2.8. Does recycled paper/paperboard fall under the scope of the Regulation?

Most recycled paper/paperboard products contain a small percentage of virgin pulp or pre-consumed recycled paper (for example, discarded paperboard scraps from cardboard box production) to strengthen the fibres.

Annex I states that the Regulation **does not apply to goods if they are produced entirely from material that has completed its lifecycle and would otherwise have been discarded as waste** as defined in Art. 3, point (1), of Directive 2008/98/EC. So, no obligations apply under the regulation to the recycled material.

On the contrary, **if the product contains non-recycled material, then it is subject to the requirements of the Regulation** and the non-recycled material will need to be traced back to the plot of origin via geolocation.

Annex I also clarifies that generally, by-products of a manufacturing process are subject to the Regulation. In the case of paper/paperboard which constitutes a recovered (waste and scrap) product, such paper and paperboard is exempt from the scope according to Annex I (see Chapter 47 and 48 of the Combined Nomenclature).

### 2.8.1 Are tyre casings or carcasses of retreaded tyres subject to the Regulation? (NEW)

In a draft Delegated Act put forward by the Commission, it is proposed that used tyre casings and carcasses (generally used for retreading tyres) are out of the scope of the Regulation, whereas retreaded tyres are in the scope only for the new natural rubber parts, such as the tread, applied to the carcasses and casings.

### 2.9. What are CN and HS Codes and how should they be used? Where can I find more information about applicable TARIC measures? (UPDATED)

The nomenclature governed by the Convention on the Harmonized Commodity Description and Coding System, commonly known as **"HS Nomenclature"**, is an international multipurpose nomenclature which was elaborated under the auspices of the World Customs Organization (WCO). This nomenclature assigns six-digit codes to classify goods and applies worldwide. Countries/regions can add additional numbers to the universal six-digit HS Nomenclature for more detailed classification.

**The Combined Nomenclature (CN code**) of the European Union is an eight-digit commodity code that further subdivides the global HS Nomenclature into more specific goods to address the needs of the European Community.

The CN code is the basis for the declaration of goods for import into or export from the European Union, and also for intra-EU trade statistics. Commodities and products in Annex I of the Regulation are classified by their CN codes. Relevant products in Annex I of the Regulation are classified in the Combined Nomenclature set out in Annex I to Regulation (EEC) No 2658/87.

At import, when releasing goods for free circulation as defined in Art. 201 of the UCC Regulation (EU) No 952/2013, the CN code can be further subdivided to a ten-digit TARIC code

specifically created to address the needs of the EU legislation. When declaring goods for export procedure as defined in Art. 269 of the UCC Regulation (EU) No 952/2013, the final subdivision can go up to an eight-digit CN code.

Supply chain members need to classify their products based on Annex I to the basic CN Regulation (Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff) to establish whether the Regulation applies to them. The HS codes can evolve every 5 years. The EU's CN Regulation is adopted each year, to reflect any updates.

See for more information: Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff.

An explanatory document with further information on the incorporation of EUDR measures in the integrated tariff system of the European Union (the TARIC database), including applicable TARIC exemptions that are introduced in TARIC, is available online[2].

**2.10. When is there a "supply" of a relevant product, meaning it is placed or made available on the market in the course of a commercial activity? To what extent are companies in scope when they use relevant products in their own business or process them? (UPDATED)**

A distinction has to be made between the person in the supply chain which imports or domestically places a relevant product on the EU market and persons further down the supply chain:

If a person places on the EU market a **relevant product manufactured or produced in the EU**, it is thereby supplying the product on the market for the first time. A supply presupposes an agreement (written or verbal) between two or more legal or natural persons for the transfer of ownership or any other property right concerning the product in question; it requires that the product has been manufactured or that the commodity, if placed on the market without manufacturing, has been produced (see Art. 2(14) EUDR). Such an activity is relevant under the EUDR, no matter if the relevant product is placed on the market for a) the purpose of processing, b) distribution to commercial or non-commercial consumers or c) use in the business of the operator itself (see Art. 2(19) EUDR). The company is an operator and needs to exercise due diligence and submit a DDS.

If a **relevant product is to be placed under customs procedure "release for free circulation"** in the course of a commercial activity and not intended for private use or private consumption, it is assumed to be intended to be placed on the market, irrespective of a "supply" or irrespective of an agreement (written or verbal) between two or more legal or natural persons for the transfer of ownership or an equivalent right concerning the product in question.

[2] https://circabc.europa.eu/ui/group/0e5f18c2-4b2f-42e9-aed4-dfe50ae1263b/library/eb7a8fc2-ef96-4ceb-a7e4-e7ae51c26867.

After a product has been placed on the market, it is "supplied" on the market for distribution, consumption or use if there is an agreement between two or more legal or natural persons for a transfer of ownership or an equivalent concerning the product in question (e.g. a sale or a gift agreement) after the stage of manufacture (and production in the case of commodities) has taken place. The EUDR does generally not establish obligations on those who offer logistical services along the supply chain (e.g. shipping agents/transport agents or customs representatives are not 'operators' or 'traders in the meaning of the EUDR) as far as they do not place products on the market or export.

These situations may be explained by a few examples:

1) Car company B buys leather of cattle (relevant product) from EU tannery T to manufacture a car using the leather of cattle for the car seats. Car company B places the car (non-relevant product) on the market by selling it to end consumers. Car company B is not an operator, as the car it is supplying on the market is not a relevant product in Annex I, nor a trader, as it is not supplying the leather of cattle (individually) - on the market.
2) Car company B imports (i.e., place under customs procedure "release for free circulation") leather of cattle to manufacture cars. Car company B is an operator when importing leather for its own business operations. B needs to exercise due diligence and submit a DDS prior to the release for free circulation.
3) Farmer D buys soya bean meal (relevant product) from a crushing company inside the EU market and feeds it to his chicken (non-relevant product) which he then sells. D is not an operator when selling the chicken, as chicken are not a relevant product in Annex I, nor a trader, as he is not supplying the soya bean meal on the market. However, D would be an operator if he imported (i.e. placed under customs procedure "release for free circulation") the soya bean meal to feed to the chicken (see above scenario 2).
   *In case the farmer feeds soya relevant products to **cattle** (relevant product) please refer to Recital 39.*
4) Printing company P buys paper from paper manufacturer B and prints various products which are then supplied to publisher C. P is an operator when selling printed paper products (relevant product) to publisher C. On the other hand, if printing company P merely offers printing services without ever owning the printed products, it does not supply printed paper products itself, meaning in this case, P is a service provider without obligations under the EUDR.

In the examples below, the persons **process** or **use** relevant products **in their business**. They are only subject to the Regulation in those cases in which they are supplying relevant products on the market:

5) Company A buys from retailer B in a third country and imports (i.e., places under customs procedure "release for free circulation") wooden tables and seats (relevant products). The furniture will be used by A's own employees during working hours. A is an operator and needs to exercise due diligence and submit a DDS prior to the release for free circulation of the wooden tables and seats.

6) Company D buys wooden tables and seats (relevant products) from EU operator B who has imported them from a third country and who has already carried out due diligence and submitted a DDS. Company D will use the furniture for its own employees during working hours. The furniture is not supplied, hence D is not subject to the EUDR.
7) EU-established farmer F harvests his own soy beans (relevant products) and processes the soy beans into soy flour (relevant product) which is used to feed his chicken at his own farm. As farmer F is not supplying the soy beans and soy flour on the market (for example, to another legal or natural person), they are not placed on the market and F is not subject to the EUDR.
8) EU-established farmer F harvests his own soy beans (relevant products) and processes them into soy flour (relevant product) which he sells to EU-established farmer G. Farmer F is an operator with regard to the soy flour, as it is being supplied to farmer G.
9) EU-established company B harvests its own forest and processes the logs into wood chips (relevant product) from the logs (relevant product). It uses the wood chips as fuel for heating its own facilities. As B is not supplying the logs or wood chips on the market, there is no placing or making available on the market and B is not subject to the EUDR.
10) Company C buys wood chips (relevant product) from an EU operator who has already carried out due diligence and submitted a DDS. Company C uses the wood chips as fuel for heating their own facilities. As C is not supplying the logs or wood chips on the market, there is no placing or making available on the market and C is not subject to the EUDR.
11) Company C buys wood chips (relevant product) from an EU operator who has already carried out due diligence and submitted a DDS. Company C uses the wood chips to produce electricity. As C is not placing or making available a relevant product on the market, C is not subject to the EUDR.

### 2.11. When is there a need to exercise due diligence and submit a DDS if the same natural or legal person processes a relevant product multiple times in the course of their commercial activity?

In case of multiple occasions of internal processing (relevant product X is being processed into relevant product Y and subsequently into relevant product Z by the same company), obligations arise only for the placing on the market of the last relevant product (product Z). This can be demonstrated by the following example:

Non-SME chocolate company C buys cocoa beans (relevant product) from EU operator I and processes them into cocoa powder (relevant product) and subsequently into food preparations containing cocoa (relevant product). Company C then places the food preparations on the market by selling them to company D. In this case, obligations apply only for the food preparations, so company C needs to ascertain the compliance of the due diligence and submit a DDS prior to placing them on the market.

If company C was an SME, it would not be required to exercise due diligence or submit a DDS for food preparations, provided that operator I already exercised due diligence for the cocoa

beans contained in the processed products (see Art. 4(8) EUDR). In that case, company C would only be required to retain the due diligence reference number obtained from operator I.

### 2.12. Is bamboo in scope of the EUDR? What about other products that do not contain or have been made using relevant commodities, but that are listed in Annex I?

Products made solely from bamboo are not in scope of the EUDR. Art. 1(1) EUDR defines that for the EUDR the 'relevant products' are only those that contain or are made from relevant commodities, amongst them 'wood'. The definition in Art. 2(2) EUDR also clarifies that for the purposes of the EUDR the HS codes listed in Annex I are only pertinent to identify which products are captured by the EUDR.

In accordance with the FAO explanatory notes, bamboo is a non-wood forest product, consequentially bamboo does not fall under the commodity wood.

### 2.13. Are exchanges of written letters and other items of correspondence subject to EUDR requirements? (NEW)

According to Art. 1(26) and 141(2) of Delegated Regulation (EU) 2015/2446 to the Union Customs Code, "items of correspondence" are not subject to customs declarations requirements and thus to the presentation of a DDS reference number. Similarly, within the EU, such items of correspondence are not placed or made available on the market but serve a communication purpose. It is to be noted that relevant products contained in items of correspondence (e.g. in an envelope) cannot be considered as 'items of correspondence' and therefore, where applicable, are subject to customs declaration requirements and to the presentation of a DDS reference number.

### 2.14. Are samples and products used for examination, analysis or testing purposes in scope of the EUDR? (NEW)

In a draft Delegated Act put forward by the Commission, it is proposed that samples of products, which are of negligible value and quantity and can be consumed or used only to solicit orders for goods of the type they represent under the condition that the manner of presentation and quantity, for products of the same type or quality, rule out its consumption or use for any purpose other than that of seeking orders, are not in scope of the Regulation. The same applies to products which are to undergo examination, analysis or tests to determine their composition, quality or other technical characteristics for purposes of information or industrial or commercial research under the condition that the products to be analysed, examined or tested are completely used up or destroyed in the course of the examination, analysis or testing.

**Examples of supplies of samples and products used for examination, analysis or testing purposes** include:

- A supplier sending tyres to a vehicle manufacturer for the recipient to test its quality and durability – the tyres will be destroyed in the course of testing.

- A supplier sending small quantities of a new ingredient (e.g. cocoa or coffee beans) to a food manufacturer for the purpose of sensory evaluation, and to test its quality and food safety within the business. The ingredient is completely used up in the course of analysis and testing. In this case, the supplier and the food manufacturer are out of scope if the ingredient is clearly intended to be used for analysis and testing purposes given the contractual arrangements and surrounding circumstances.
- A coffee company importing a small sample of coffee beans from a new area of production to use and consume them in their business in order to decide whether to order a large amount of coffee beans from the same area.

### 2.15. Does the Regulation cover the renting out of relevant products? (NEW)

If a relevant product is rented out, or provided under a similar contractual arrangement, the product is not considered to be placed or made available on the market. A supply under the EUDR presupposes an agreement (written or verbal) between two or more legal or natural persons for the transfer of ownership or any other property right concerning the product in question (see FAQ 2.10.). However, as specified in paragraph 3 of FAQ 2.10, any product released for free circulation on the EU market or placed under the customs procedure 'export', incl. where rented out, is considered as being placed on the market and is thus subject to the Regulation).

**Example**: non-SME EU company P buys wooden articles of furniture (relevant product) from EU manufacturer S who has carried out due diligence and submitted a DDS for the furniture. The furniture is rented out by P within the EU to be used over a certain period of time before being returned to P for subsequent renting out. P is not subject to the obligations of the EUDR, as it is only renting out the furniture, and is not transferring ownership or another property right.

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## 3. Subjects of obligations

### 3.1. Who is considered an operator? (UPDATED)

As defined in Art. 2(15) of the Regulation, an operator is a natural or legal person who places relevant products on the EU market (including by importing them) or exports them from the EU in the course of a commercial activity.

This definition also covers companies that transform one product of Annex I (which has already been the object of due diligence) into another product of Annex I, where such transformation corresponds to a change of HS Code (see FAQ 3.1.1). For example, if company A, based in the EU, imports cocoa butter (HS code 1804, included in Annex I), and company B, also based in the EU, uses that cocoa butter to produce chocolate (HS code 1806, included in Annex I) and places it on the EU market, both company A and B would be considered operators under the regulation. Company A would be considered the "upstream operator", whereas company B would be a "downstream operator". Operators placing on the EU market

products listed in Annex I that have not been subject to due diligence in a prior step of the supply chain (for example importers sourcing cocoa) are, regardless of their size, subject to the obligation of submitting a due diligence statement.

### 3.1.1. To what extent does a change of HS code have an impact on the designation of the company as an operator or a trader? (NEW)

A change in the Commodity Code (HS, CN or TARIC) of a product already placed on the market results in a company placing a derived product on the market being an operator only if the change affects the digits that are listed in Annex I. For example, company A, based in the EU, imports unroasted coffee (HS Code 0901 11), which falls under HS Code 0901 as listed in Annex I. Company B, also based in the EU, subsequently roasts the coffee beans (HS Code 0901 21), which remains under HS Code 0901 in Annex I. In the given example, company A would be considered an operator under the Regulation, while company B would be classified as a trader. This is because the HS code for roasted coffee starts with the same four digits as the HS code for unroasted coffee beans, and only these first four digits are listed in Annex I of the EUDR. In the case of HS 47, 48, and 49, the same principle applies for the first two digits of HS codes.

### 3.2. What does “in the course of commercial activity” mean?

Commercial activity is understood as an activity taking place in a business-related context.

The combined definitions of “operator” (Art. 2(15)) and of ‘in the course of a commercial activity’ (Art. 2(19)) in the Regulation imply that any person, who places a relevant product on the EU market for selling (with or without transformation) or as a free sample, for the purpose of processing or for distribution to commercial or non-commercial consumers, or for use in the context of its commercial activities, will be subject to the due diligence requirements and have to submit a due diligence statement.

### 3.3. What does ‘relevant legislation of the country of production’ mean? (UPDATED)

Relevant commodities and products can only be placed on the EU market if they comply with the three requirements of Art. 3 of the Regulation, namely (1) they are deforestation-free (Art. 3(a)), (2) comply with the relevant legislation of the country of production (Art. 3(b)), and (3) are covered by a due diligence statement (Art.3(c)).

‘Relevant legislation’ may include, among others, national laws (including relevant secondary law) and international law as applicable in domestic law. ‘Country of production’ means the country in which a relevant commodity was produced (see Art. 2(24) EUDR). ‘Produced’ means grown, harvested, obtained from or raised on relevant plots of land or, as regards cattle, on establishments (see Art. 2(14) EUDR). Consequentially, legislation of other countries in which further steps of a manufacturing process may have taken place are not relevant for the legality requirement (for instance, soy beans harvested in country A (country of production) being manufactured into soymeal in country B prior to being placed on the EU market in country C). The Regulation provides a list of legislative areas without specifying particular legal acts, as these differ from country to country and may be subject to amendments. According to the definition, the legislation listed in Art. 2(40) letters (a) to (h)

must be interpreted as being concerned with the legal status of the area of production. Additionally, for the different fields of legislation, the meaning and purpose stipulated in Art. 1(1)(a) and (b) EUDR should be taken into account. Therefore, among others, legislation with a link to the protection of forests, the reduction of greenhouse gas emissions or the protection of biodiversity is relevant.

Relevant documentation is required for the purposes of the risk assessment pursuant to Art. 9(1)(h) and 10 of the Regulation. Such documentation may, for example, consist of official documents from public authorities, contractual agreements, court decisions or impact assessments and audits which may have been carried out. In any case, the operator has to verify that these documents are verifiable and reliable, taking into account the risk of corruption in the country of production.

Further information can be found in the Commission Notice Guidance document (C/2024/6789).

### 3.4. What are the obligations of downstream non-SME operators and non-SME traders? (UPDATED)

Downstream operators are those who place on the market or export relevant products listed in Annex I whose components or ingredients (all of them) have previously been subject to due diligence under EUDR and have been the object of a due diligence statement submission. For example, a furniture manufacturer that sells wooden furniture made of wood that has already been subject to EUDR obligations would be considered a downstream operator. Their obligations vary depending on whether they are Small and Medium-sized Enterprises (SMEs) or not (for obligations of downstream SME operators, see FAQ 3.5).

Non-SME traders are large companies that make relevant products available on the EU market. For example, a large supermarket chain selling to consumers chocolate that has already been placed on the EU market by another company would be a non-SME trader under the Regulation. They are subject to the same rules as downstream non-SME operators, see Art. 5(1) EUDR and FAQ 3.8. Pursuant to Art. 4(9) EUDR, when submitting their due diligence statement in the Information System, downstream non-SME operators - and non-SME traders - may refer to due diligence performed earlier in the supply chain by including the relevant reference number for the parts of their relevant products that were already subject to a due diligence.

**Key Obligations:**

Downstream non-SME operators and non-SME traders are required to:

1. **Ascertain** that due diligence was exercised upstream in the supply chain pursuant to Art. 4(9) EUDR; for this purpose, they can review the information in the Information System (see details below).

2. **Submit a due diligence statement (DDS)** and refer to previous DDS by including relevant reference numbers and verification numbers[3] received from their direct suppliers.

According to Art. 12 EUDR, downstream non-SME operators and non-SME traders are under the obligation to establish and keep up to date a due diligence system to ascertain that due diligence has been exercised upstream.

**Ascertaining that due diligence has been exercised**

Downstream non-SME operators and non-SME traders **ascertain** that due diligence was exercised upstream by **collecting the reference numbers and verification numbers** of DDS submitted upstream and **verifying the validity of the reference numbers**. Downstream non-SME operators and non-SME traders then **submit their own DDS, referencing all previous DDS received from their direct suppliers**. (N.B.: The Information System referred to in Art. 33 EUDR automatically verifies the validity of up to 2,000 DDS reference numbers at once when submitting a new DDS, so this obligation does not entail any additional administrative burden.)

**Possible further steps**

Given that in accordance with Art. 4(10) EUDR, non-SME operators and non-SME traders retain legal responsibility in the event of a breach of the Regulation, they could, based on the risks and particularities of their supply chains, choose to take further steps when ascertaining that due diligence has been carried out.

For example, non-SME operators and non-SME traders could check the chain of submitted DDS as well as the information provided in previous DDS regarding country of production, quantity and HS codes of declared products and – where available – geolocation and scientific names, in order to verify the completeness and plausibility of the information provided in light of the products they intend to place or make available on the EU market or export. Ascertaining that due diligence was properly carried out does not imply having to systematically check every single due diligence statement submitted by upstream suppliers.

Downstream non-SME operators or non-SME traders may also wish to collect and analyse information beyond what is contained in the Information System. Downstream non-SME operators or non-SME traders may, for instance, use the list of countries or parts thereof referred to in Art. 29(2) EUDR; consult the publicly available reports based on Art. 12(3) EUDR from non-SME upstream suppliers; consult the results of an audit conducted based on Art. 11(2)(b) EUDR; or request, on a voluntary basis, further information from their suppliers. In that manner, they could verify that their direct suppliers, where these are non-SMEs or upstream operators, have an operational and up-to-date due diligence system in place, including adequate and proportionate policies, controls, and procedures to mitigate and

[3] 'Verification number', defined in Art.3(f) of Implementing Regulation (EU) 2024/3084, means a security number assigned by the Information System to the Due Diligence Statement submitted by the Information System user to ensure additional security of data contained in the Due Diligence Statement.

manage effectively the risks of non-compliance of relevant products, to ensure that due diligence is properly and regularly exercised.

**Direct or indirect supply by SMEs**

SME traders and downstream SME operators are not obliged to collect information related to the due diligence exercise and hence are not under a legal obligation to communicate to their clients any information beyond the reference number and verification number pursuant to Art. 4(7) EUDR. This, in consequence, limits the available information that must be collected, analysed and communicated by non-SME operators and non-SME traders which are supplied directly or indirectly by SMEs.

The measures taken by operators and traders when communicating information and ascertaining that due diligence was exercised should be taken into account by the competent authorities in their risk analyses.

If downstream non-SME operators and non-SME traders come to the conclusion that products may be non-compliant or that there is a non-negligible risk of non-compliance, they must refrain from placing or making relevant products available on the market or exporting them. If downstream operators or traders obtain or are made aware of information pointing to non-compliance, they must immediately inform the competent authorities in accordance with Art. 4(5) and 5(5) EUDR.

**No requirement to collect information**

As downstream non-SME operators and non-SME traders who only have to ascertain that due diligence was exercised, they **do not have to collect information required by Art. 9 EUDR.** DDS include a declaration that due diligence was exercised, implying that the information required by Art. 9 EUDR has been collected by the upstream operator (see point 5 in Annex II).

**Parts of products not yet subject to due diligence**

For parts of relevant products that have not been subject to due diligence, non-SME operators should exercise due diligence in full and submit a due diligence statement.

### 3.5. What are the obligations of SME operators further down the supply chain? (UPDATED)

Operators further down the supply chain are those who either transform a product listed in Annex I (which has already been subjected to due diligence) into another product listed in Annex I or export a product listed in Annex I (which has already been subjected to due diligence).

SME operators further down the supply chain retain legal responsibility in the event of a breach of the Regulation. They are required to obtain due diligence statement reference numbers and verification numbers associated to products and make them available to competent authorities upon request, as well as to make them available to operators and traders to whom they supply the relevant products. Furthermore, they have to immediately

inform competent authorities if they find a risk of non-compliance and offer all necessary assistance to facilitate checks (Art. 4(4)(a), (5) - (8) EUDR). However, in respect of parts of their products that have been subject to a due diligence, they are neither required to a) exercise due diligence for parts of their products that were already subject of due diligence exercise; nor to b) submit a due diligence statement in the Information System (Art. 4(8) EUDR). But they still have to provide due diligence reference numbers obtained from previous steps in the supply chain upon request of the competent authorities as well as, in case of re-import or export, in the customs declaration for release for free circulation or export (Art. 26(4) EUDR).

For parts of relevant products that have not been subject to due diligence, SME operators should exercise due diligence in full and submit a due diligence statement.

### 3.6. Will operators and non-SME traders further down the supply chain have access, in the Information System, to geolocation information in due diligence statements submitted by upstream operators to the Information System? (UPDATED)

Upstream operators will be able to decide whether the geolocation information contained in their due diligence statements submitted in the Information System will be accessible and visible for downstream operators and non-SME traders via the referenced due diligence statements inside the Information System. Even if the geolocation is not visible for downstream operators and traders, it is contained in their due diligence statements (as required by point 3 in Annex II) by referencing the upstream statements. For further information on visibility of the geolocation information, see FAQ 7.7.

### 3.7. What happens if a non-EU based operator places a relevant product or commodity on the EU market? Under which circumstances will non-EU based operators have access to the Information System? (UPDATED)

If a natural or legal person established outside the EU places relevant products on the market, according to Art. 7 EUDR the first person established in the Union who makes such products available on the market is deemed to be an operator within the meaning of the Regulation.

This means that in this case, there will be two operators within the meaning of the Regulation – one established outside and one inside of the EU.

The first person established in the Union that is deemed to be an operator according to Art. 7 EUDR is subject to the obligations of “upstream operators” (see FAQ 3.1. for more information). Art. 4(8) and Art. 4(9) EUDR do not apply to the first person established in the Union; the purpose of Art. 7 EUDR, as set out in Recital 30, is that in every supply chain in the Union there is an operator who is established in the Union and can be held accountable in the event of non-fulfilment of the obligations under the EUDR.

**Example**:
Non-EU based company A imports and releases for free circulation cocoa beans, a relevant product. Company A supplies the cocoa beans to EU-based company B.

Company A is a non-EU based operator and must exercise due diligence and submit a DDS into the Information System. As a consequence of Art. 7 EUDR, EU-based company B is an operator and is equally obliged to exercise due diligence and submit a DDS.

Non-EU based operators will only have access to the Information System if they have a valid EORI number issued by an EU Member State or by the United Kingdom in respect of Northern Ireland (XI), as only in this case they will need to submit a due diligence statement after having conducted due diligence prior to lodging a customs declaration. They will have access to the system in the role of an operator and not as an authorised representative, as according to Art. 2(22) of the Regulation, the authorised representative must be established in the Union.

### 3.8. Which companies are non-SME traders and what are their obligations?

A non-SME trader is a trader which is not a small and medium-sized undertaking pursuant to Art. 2(30) of the Regulation. This provision refers to the definitions provided in Art. 3 of Directive 2013/34/EU.

This will essentially include any large company that is not an operator and commercialises - the products included in Annex I on the EU market, for instance, large supermarket or retail chains.

By virtue of Art. 5(1) of the Regulation, the obligations of non-SME traders are the same as those of large downstream operators: a) they need to submit a due diligence statement; b) when doing so, they may rely on due diligence previously carried out in the supply chain but, in such a case, they are subject to the provisions of Art. 4(9) ; c) they are liable in case of breach of the Regulation, including for due diligence carried out or a due diligence statement submitted by an upstream operator.

### 3.9. Are organizations that are not SMEs and sell to consumers (retailers) classified as traders?

A retailer organisation can either qualify as an ‘operator’ (if it qualifies as ‘natural or legal person who, in the course of a commercial activity, places relevant products on the EU market or exports them’) or as ‘trader’ (if it qualifies as ‘any person in the supply chain other than the operator who, in the course of a commercial activity, makes relevant products available on the market’) under the Regulation, depending on specific situations.

### 3.10. Who is an SME under the EUDR? (UPDATED)

According to Art. 2(30) EUDR, ‘small and medium-sized enterprises’ or ‘SMEs’ means micro, small and medium-sized **undertakings** as defined in Art. 3 of Directive 2013/34/EU. The thresholds mentioned in Art. 3(5) and (6) of Directive 2013/34/EU for small, medium-sized and large **groups** have no relevance for the SME definition under the EUDR.

Accounting Directive 2013/34/EU, as amended by Commission Delegated Directive (EU) 2023/2775, states that **medium-sized undertakings** “shall be undertakings which are not micro-undertakings or small undertakings and which on their balance sheet dates do not exceed the limits of at least two of the three following criteria: (a) balance sheet total: EUR

25 000 000; (b) net turnover: EUR 50 000 000; (c) average number of employees during the financial year: 250."

The sizes for SMEs in the Directive 2013/34/EU apply in EU Member States only after having been transposed into national law. Therefore, for the purposes of the Regulation, the size criteria, as amended by Commission Delegated Directive (EU) 2023/2775, will apply to companies established in the European Union only after such transposition in the Member State in which a company is established.

However, it should be noted that for Art. 38(3) of the Regulation and the entry into application of the Regulation by 30 June 2026, it is decisive whether an operator was established as a micro-undertaking or small undertaking by 31 December 2020. This is dependent on the national law of the EU Member States implementing Directive 2013/34/EU and the size thresholds contained therein which was in force by 31 December 2020.

#### 3.10.1 I am an SME company exempted from submitting DDS. Can the non-SME companies which I supply to require me to submit a DDS nevertheless? (NEW)

There is no legal obligation for an SME trader or an SME downstream operator to submit DDS or to ascertain that due diligence was exercised upstream; SME downstream operators can use the exemption of Art. 4(8) EUDR, whereas SME traders are not subject to the obligations of operators (see Art. 5 EUDR).

Hence, non-SME downstream companies cannot rely on the provisions of EUDR to require SMEs mentioned above to submit a DDS.

It should be noted that, if a company chooses to submit a DDS, it confirms that due diligence was carried out and no or only a negligible risk was found according to Art. 4(2) EUDR (see also point 5 in Annex II).

### 3.11. Who is liable in case of a breach of the Regulation? (UPDATED)

All operators retain responsibility for the compliance of the relevant product they place on the EU market or export. The Regulation also requires operators (or traders which are not SMEs (pursuant to Art. 5(1) EUDR) to communicate all necessary information along the supply chain (Art. 4(7) EUDR). For SME downstream operators, this means they are required to obtain a due diligence statement reference numbers associated to products and make them available to competent authorities upon request. In cases of non-compliance, operators have to refrain from placing the product on the market or export it, and have to immediately inform competent authorities if they find a risk of non-compliance (Art. 4(4)(a), (5), (8) EUDR).

Non-SME traders also retain responsibility for relevant products they make available on the EU market.

### 3.12. Who is the operator in the case of standing trees or harvesting rights? (UDPATED)

Standing trees as such do not fall within the scope of the Regulation. Depending on the detailed contractual agreements, the 'operator' at the moment of harvesting could be either

the forest owner or the company that has the right to harvest relevant products, depending on who is placing the relevant product on the EU market or exporting it from the EU. In case a person concludes a contract by which it authorises the other party to the contract to harvest wood, the contracted party carrying out the harvest is considered the operator if it directly and automatically becomes the owner of harvested logs by the mere act of harvesting the trees. This is not the case where the applicable national law or the contract provide that the natural or legal person transfers, after harvesting, the right of ownership to the other party of the contract (for reference see, by analogy, Judgment C-370/23 of 21 November 2024).

### 3.13. How does the Regulation apply to company groups? (UPDATED)

The due diligence obligations apply to 'persons' in accordance with Art. 2(20) EUDR, regardless of whether they are members of a company group or not.

Subsidiaries of a group, like any legal entity, have to refer to Directive 2013/34/EU to determine whether their entity is an SME or not (see FAQ 3.10.). The balance sheet, net turnover and number of employees of the individual legal entity, not of the company group as a whole, is decisive.

For this reason, each entity must create a separate and individual account for its economic operator in the Information System. The system does not allow for a single account with the role of operator or trader to represent multiple companies or to create an economic operator account for a company group with multiple user companies.

However, pursuant to Art. 6 EUDR, it is possible for operators and traders to mandate an authorised representative to submit and manage due diligence statements. Consequentially, company groups have the possibility to mandate one of their members as an authorised representative to submit due diligence statements on behalf of all members of the group. An authorised representative can use a single account to submit and manage DDS on behalf of all entities it represents. The authorised representative must be established in the Union in accordance with Art. 2(22) EUDR. It should be noted that legal responsibility for compliance with the Regulation remains with the individual operators and traders.

For details of registration in the Information System, please refer to the EUDR User Guide[4].

### 3.14. Who is the operator or trader when one company contracts another company to provide relevant products that are linked to their commercial activities? For example, an onsite cafeteria, small shop or a stand established besides a main business. (NEW)

Depending on the detailed contractual agreements, the company responsible for supplying relevant products for use in the cafeteria, small shop, stand etc. (making available a relevant product on the EU market) is responsible for compliance of those products. The obligations of the company would depend on whether they were a non-SME trader (FAQ 3.8) or an SME trader (FAQ 3.5).

[4] The user manual is available here: https://green-business.ec.europa.eu/deforestation-regulation-implementation/information-system-deforestation-regulation_en#training-and-user-manuals

For example:

1) Contractor C is an SME company which, under its contractual agreement with Supermarket B, is responsible for purchasing (from an EU manufacturer) and supplying chocolate (HS 1806) to customers at Supermarket B shops. In this situation, Contractor C is an SME trader which is only subject to the obligations under Art. 5 (2) to (6) EUDR, is exempt from due diligence requirements and does not retain responsibility for the EUDR compliance of the chocolate.
2) Contractor A runs onsite restaurants on behalf of non-SME EU Supermarket B. Contractor A is a non-SME and, under its contractual agreement with Supermarket B, is responsible for purchasing and supplying chocolate (HS 1806) at an onsite restaurant on the establishment of Supermarket B. Contractor A buys the chocolate from an EU manufacturer, so in this situation, Contractor A is a non-SME trader responsible for the compliance of the chocolate that it is making available at the cafeterias. Contractor A must ascertain that due diligence was carried out upstream and must submit a DDS for the chocolate that it sells; based on Art. 4(9) EUDR, it may refer to upstream DDS numbers. Supermarket B is not responsible for the EUDR compliance of the chocolate.
3) Contractor D is a non-SME company that runs confectionary stands at Supermarket B shops. The confectionary includes chocolate (HS 1806). Under their contractual agreements, Supermarket B buys the chocolate bars from a producer in a third country and Contractor D only sells chocolate bars on behalf of Supermarket B without ever owning them. In this situation, Supermarket B is therefore an operator responsible for performing DD for the chocolate bars and submitting a DDS for each batch of chocolate bars. Contractor D is not responsible for the EUDR compliance of the chocolate bars.

Fulfilling EUDR obligations is only required when the supplied products are in the scope of the Regulation (FAQ 5.13). Products that are not in scope, even if they contain components or elements derived from in-scope commodities are not subject to the requirements of the Regulation (FAQ 2.1). Examples for such products out of scope that may be supplied by contractors are sausages and similar meat preparations of cattle (HS 1601), or preparations with a basis of coffee, meaning coffee beverages (HS 2101).

### 3.15. How are the roles of ‘authorised representative’ under Art. 6 EUDR and ‘customs representative’ under Art. 18 of Regulation (EU) 952/2013 (UCC) articulated? (NEW)

The two roles are separate:

- An ‘authorised representative’ under Art. 6 EUDR is tasked to submit a DDS in the information system on behalf of an operator. This role relates thus only to the obligation under Art. 4 EUDR.
- A ‘customs representative’ under Art. 18 UCC is tasked to lodge the customs declaration on behalf of another person. This role relates thus only to the customs obligations under the UCC.

It may happen that a company is offering both the services as an ‘authorised representative’ and a ‘customs representative’, but both roles require two explicit and different mandates and imply two separate sets of responsibilities under each respective provision.

Whatever the circumstances (whether or not designated also as an ‘authorised representative’ under Art. 6 EUDR), customs representatives are never an ‘operator’ under the EUDR as they neither place on the market nor export relevant products.

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# 4. Definitions

These definitions are the basis for the obligations for companies and stakeholders in third countries that have commercial relations with the EU, as well as for EU competent authorities.

## 4.1. What does ‘global deforestation’ mean?

‘Global deforestation’ means deforestation taking place worldwide (both in the EU and outside) in line with the definition set out in Art. 2 of the Regulation (i.e. the conversion of forest to agricultural use, whether human-induced or not).

Deforestation and forest degradation are among the main drivers of climate change and biodiversity loss - the two key global environmental crises of our time.

The main cause of deforestation and forest degradation worldwide is the expansion of agricultural land for the production of commodities such as soy, beef, palm oil, wood, cocoa, rubber or coffee. As a major economy and consumer of these commodities, the EU is contributing to deforestation and forest degradation worldwide. The EU, therefore, has the responsibility to contribute to ending it.

By promoting the production and consumption of ‘deforestation-free' commodities and products and reducing the EU's impact on global deforestation and forest degradation, the Regulation is expected to bring down EU-driven greenhouse gas emissions and biodiversity loss.

## 4.2. What does ‘plot of land’ mean? (UPDATED)

The "plot of land" – the subject of geolocation under the Regulation – is defined in Art. 2(27) as "land within a single real estate property, as recognised by the law of the country of production, which possesses sufficiently homogeneous conditions to allow an evaluation of the aggregate level of risk of deforestation and forest degradation associated with relevant commodities produced on that land." For purposes of this Regulation, the key factor is to identify the plot of land used to produce commodities intended to place on the EU market – it is not necessary to list all plots owned by a single owner if some of these plots are not used to produce commodities covered by the Regulation or are not intended to be placed on the EU market.

If a single owner owns multiple plots of land, and places relevant products on the market from all these plots, it is possible to declare all concerned plots in one DDS (see also FAQ 1.14.).

### 4.3. Which criteria does wood need to comply with?

**The wording of the deforestation-free definition in Art. 2(13)(b) of the Regulation ("….in case of relevant products that contain or have been made using wood…") singles out wood from the product scope, creating the impression of a 'special case' and raising a question regarding the applicability of the "deforestation-free" criterion in Art. 3(a) of the Regulation to wood. Does wood need to comply with both criteria, related to deforestation and forest degradation, or only forest degradation?**

In order to meet the requirements of the Regulation, wood needs to comply with both criteria: a) it needs to have been harvested from land not subject to deforestation after 31 December 2020; and b) it needs to be harvested without inducing forest degradation after 31 December 2020.

### 4.4. What are the compliant harvesting levels?

**If a wood operator in 2022 harvests 20% of a forest with a 100% cover and lets the land naturally regenerate, would the harvested wood comply with the Regulation? In 30 years, once the forest will have been regenerated, could the same operation take place with the same conclusion on compliance with the Regulation?**

Under the regulation, "forest degradation" means structural changes to forest cover, taking the form of the conversion of primary forests or naturally regenerating forests into plantation forests or into other wooded land, and the conversion of primary forests into planted forests (Art. 2(7)).

This definition covers all categories of forests defined by the Food and Agriculture Organisation of the United Nations. Therefore, forest degradation under the Regulation consists of transforming certain types of forests into other kinds of forests or other wooded land.

Different levels of wood harvesting are allowed, provided that this does not result in a transformation falling under the definition of degradation.

### 4.5. How should the phrase 'without inducing forest degradation' within the definition of 'deforestation-free' for relevant products that contain or have been made using wood be understood?

The element of the 'deforestation-free' definition referring specifically to forest degradation requires that wood needs to have "been harvested from the forest without inducing forest degradation after 31 December 2020" (Art. 2(13)(b) EUDR). The reference to 'inducing' creates a causal link between the wood harvesting and the process of forest degradation.

This reflects the fact that forests may be impacted by other processes, including climate change, disease outbreaks, fires, etc. These potential forms of forest degradation are beyond

the scope of the Regulation; the EUDR addresses forest degradation driven by the forestry activities associated with wood harvesting and subsequent regeneration of the forest.

The relevant products would not be compliant with the Regulation if they were sourced from an area where harvesting activities induced forest degradation. Operators could take into account all data and information available at the date of harvest, mainly forest management legislation of the country, forest management plans, but also reforestation plans and planned post-harvesting activities, restoration and conservation plans, other types of plans, management procedures, etc. - to assess whether there is a risk that the harvest induces forest degradation.

If the degraded status of the forest persists over time, any future harvesting on a plot of land where wood harvesting operations have provoked forest degradation after 31 December 2020 would not be 'deforestation-free' and the relevant products could not be placed on the market. On the contrary, if in the future the forest is regenerated and its status changes into a forest category that would not have been considered as falling under the definition of forest degradation in the first place, then the wood extracted from new harvesting activities on that plot of land could be considered 'deforestation-free'.

### 4.6. How should the question of whether a wood product is free of forest degradation be assessed and what is the relevant time period under consideration? (UPDATED)

Under the Regulation, "forest degradation" means structural changes to forest cover, taking the form of the conversion of primary forests or naturally regenerating forests into plantation forests or into other wooded land, and the conversion of primary forests into planted forests (Art. 2(7)).

| **'Forest degradation' means:**<br>Structural changes to forest cover,<br>taking the form of conversion of | | | | |
|---|---|---|---|---|
| 1) Primary forests<br>into | | | 2) Naturally regenerating forests<br>into | |
| a) Planted forests | b) Plantation forests | c) Other wooded land | a) Plantation forests | b) Other wooded land |

To comply with the forest degradation element of the 'deforestation-free' definition, operators will need to establish whether the forest type prior to and including 31 December 2020 was primary forest or naturally regenerating forest (the two forest types to which the 'forest degradation' definition applies), then assess whether the forestry activities associated with wood harvesting, as well as planned post-harvesting activities, could cause or bring about (induce) a conversion, or have caused a conversion, to a different forest type amounting to 'forest degradation'.

It is important to take into account the relevant forest management legislation of the country, including forest sustainable management plans or legal framework for sustainable harvesting, as well as information and data on the pre-harvest state of the forest, the harvesting regime and its likely impacts, the regeneration treatments, other planned forest protection and

restoration measures, and other information relating to the risk assessment criteria detailed in Art. 10 of the Regulation. This could include official documentation issued by forest authorities outlining reforestation obligations and conditions, contractual agreements between the parties, or other relevant information obtained from the landowner or their representatives.

If there is evidence indicating that harvesting activities may induce forest degradation*, then the wood product cannot be placed on, made available on, or exported from, the EU market unless this risk is mitigated to no or negligible level.

If, at the moment of harvest, the intended end-purpose of the plot of land (reforestation or conversion) is not known, then there is a risk that these harvesting activities may induce forest degradation. Hence those wood products cannot be placed on, made available on, or exported from, the EU market unless this risk is mitigated to no or negligible level.

*Some examples of indications that harvesting activities may induce forest degradation could include:

- management plans (or other available information) indicating that proposed harvesting and regeneration activities may be insufficient to prevent forest degradation in line with the definitions of the Regulation,
- harvesting activities carried out deviate from those proposed in the forest sustainable management plan or those authorised by the legal framework of the country,
- post-harvest planting and forest management plan appears to meet the criteria for 'planted' or 'plantation forest', in line with the definitions of the Regulation, or
- planned regeneration measures (i.e. planting or seeding) or the absence of such planned measures.

### 4.7. Can a wood product be free of forest degradation if it was harvested from a forest that has undergone structural changes after 31 December 2020 that were not induced by harvesting activities?

Yes, if forest degradation after 2020 is provoked by other processes like climate change, disease outbreaks, or fires that are unrelated to the harvesting operations or deforestation activities, the products of harvesting activities on those plots of land could still be considered deforestation-free, provided that the harvesting operations themselves do not induce forest degradation.

In those cases, it would be important to have sufficient data and evidence to demonstrate that any change in forest status between the two time periods was unrelated to wood harvesting.

In addition, when the purpose of the harvesting of trees is forest protection – for instance, when harvesting damaged wood after a storm or a fire; or when cutting infected trees to prevent the spread of pests and disease –, it should not be understood that harvesting has "induced" the forest degradation. In those cases, it would be important to have sufficient data and evidence to demonstrate the actual purpose of the tree harvesting.

**4.8. In some cases, evidence for wood harvesting operations inducing 'forest degradation' may not be evident for some time after a wood product has been placed on (or made available or exported from) the European Union market. Can operators be liable for events that happen after the submission of the due diligence statement?**

**Would the relevant wood products be considered deforestation free?**

The relevant products would not be compliant with the Regulation if they were sourced from an area where harvesting activities induced forest degradation in the period prior to submitting a due diligence statement.

In submitting the due diligence statement, an operator assumes responsibility for the due diligence process and the compliance of the relevant products with Art. 3 a) and b). In this process the operator should take into account all relevant information and data, including for the risk factors set out in Art. 10.

A breach of the due diligence obligations could be found, for example, if the risk assessment part of the due diligence has not been properly conducted, because relevant information or specified criteria were overlooked, including post-harvesting plans for the plot of land.

Where the due diligence was found not to have been properly conducted, any downstream operators or traders would not be able to rely on an existing due diligence statement for the relevant products.

In contrast, where due diligence was properly exercised at the time, and the relevant products were compliant when they were placed on the market, the compliant status of the relevant products – and those of derived products – will not change based on events that occur after the process a product has been placed on the market (or exported) that could not have been identified as a potential risk at the time of submitting a due diligence statement. Nor will this affect the compliance status of the operator.

**4.9. Does the definition of "forest degradation" disincentivize the deliberate planting and seeding of trees, which may be an important practice for the protection and restoration of forests?**

In certain forest types, deliberate planting or seeding may be an effective and preferred method of forest restoration, including after natural events (e.g. storms, fire) or following management measures for invasive alien species, pests or disease, or to promote regeneration on hard environments including poor soils, drought, frost and or where effects of climate change are noticeable. Therefore, and while the conversion of primary forest or naturally regenerating forest to plantation forest would constitute "forest degradation", under the Regulation the definition 'plantation forest' excludes "forests planted for protection or ecosystem restoration, as well as forests established through planting or seeding, which at stand maturity resemble or will resemble naturally regenerating forests".
This exception should logically also apply to 'planted forests'.

### 4.10. How to apply “trees able to reach those thresholds in situ”?

**How should we apply the clause “trees able to reach those thresholds in situ” related to tree height and canopy cover in the definition of “forest” in Art. 2(4) of the Regulation?**

If the woody vegetation has or is expected to surpass more than 10% canopy cover of tree species with a height or expected height of 5 metres or more, it should be classified as “forest”, based on the Food and Agriculture Organisation (FAO) definition. For example, young stands that have not yet but are expected to reach a crown density of 10 percent and a tree height of 5 metres are included under the definition of “forest”, as are temporarily unstocked areas, whereas the predominant use of the area remains forest.

### 4.11. Which forest land use change complies with the Regulation?

**Deforestation is defined in Art. 2(3) of the Regulation as “conversion of forest to agricultural use.” Is any other forest land-use change compliant with the Regulation?**

Deforestation under the Regulation is defined as conversion of forest to agricultural use. Conversion for other uses such as urban development or infrastructure does not fall under the deforestation definition. For instance, wood from a forest area that has been legally harvested to build a road would be compliant with the Regulation.

### 4.12. Would a natural disaster count as deforestation?

The definition of “deforestation” in the Regulation encompasses the conversion of forest to agricultural use, whether human-induced or not, which includes situations due to natural disasters. A forest that has experienced a fire and is then subsequently converted into agricultural land (after the cut-off date) would be considered as “deforestation” under the Regulation. In this specific case, an operator would be prohibited from sourcing commodities within the scope of the Regulation from that area (but not because of the forest fire). Conversely, if the affected forest is allowed to regenerate, it would not be deemed to amount to “deforestation”, and an operator could source wood from that forest once it has regrown.

### 4.13. Will ‘other wooded land’ or other ecosystems be included? (UPDATED)

The Regulation relies on the definition of ‘forest’ of the Food and Agriculture Organization (FAO) of the United Nations. This includes four billion hectares of forests – the majority of habitable land area not already used by agriculture – which encompasses areas defined as savannahs, wetlands and other valuable ecosystems in national laws.

As part of the review procedure outlined in Art. 34 EUDR, the Commission will assess the impact of expanding the scope of the Regulation to ‘other wooded land’ and to ecosystems other than ‘forests’.

The conversion from primary or naturally regenerating forest to plantation forests or to other wooded land is already part of the definition of ‘forest degradation’, and wood products coming from such converted land cannot be placed on the EU market or exported.

### 4.14. Is rubber cultivation considered as 'agricultural use' under the Regulation?

Yes, rubber cultivation falls within the definition of 'agricultural plantation' under the Regulation, which means 'land with tree stands in agricultural production systems, such as fruit tree plantations, oil palm plantations, olive orchards and agroforestry systems where crops are grown under tree cover'. This definition includes all plantations of relevant commodities other than wood. Agricultural plantations are excluded from the definition of 'forest''. This means that the replacement of a forest with a rubber plantation would be considered as deforestation under the Regulation.

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## 5. Due Diligence

### 5.1. What are my obligations as an operator? (UPDATED)

As a general rule, operators (and traders which are not SMEs) will have to set up and maintain a Due Diligence System in accordance with Art 12 of EUDR.

The exercise of due diligence consists of three steps.

As step one, they would need to collect the information referred to in Art. 9 of the Regulation, such as the commodity or product which they intend to place (or make available in case of non-SME traders) on the EU market or export, including under customs procedures 'release for free circulation' and 'export', as well as the respective quantity, supplier, country of production, evidence of legal harvest, among others. A key requirement, in this step, is to obtain the geographic coordinates of the plots of land where the relevant commodity was produced and to provide relevant information – product, CN code, quantity, country of production, geolocation coordinates – in the due diligence statement to be submitted via the Information System. If the operator cannot collect the required information, it must refrain from placing on the EU market or exporting the relevant product concerned. Failing to do so would result in a violation of the Regulation, which could lead to sanctions.

If the operator cannot collect the required information, it must refrain from placing the affected products on the European Union market or exporting from it. Failing to do so would result in a violation of the Regulation, which could lead to potential sanctions.

In step two, companies will need to feed the information gathered under the first step into the risk assessment pillar of their Due Diligence Systems to verify and evaluate the risk of non-compliant products entering the supply chain, taking into account the criteria described in Art. 10 of the Regulation. Operators need to demonstrate how the information gathered was checked against the risk assessment criteria and how they determined the risk.

In step three, they will need to take adequate and proportionate mitigation measures in case they find under step two more than a negligible risk of non-compliance in order to make sure that the risk becomes negligible, taking into account the criteria described in Art. 11 of the Regulation. These measures need to be documented.

Operators sourcing commodities entirely from areas classified as low risk will be subject to simplified due diligence obligations. According to Art. 13 of the Regulation, they will still need to collect information in line with Art. 9 and assess the complexity of the supply chain and the risk of circumvention and the risk of mixing the product with products of unknown origin or origin of standard or high risk countries, but they will not be required to assess and mitigate risks (Art. 10 and 11 EUDR) unless the operator obtains or is made aware of any relevant information, including substantiated concerns submitted under Art. 31 , that would point to a risk that the relevant products do not comply with this Regulation (Art. 13(2) EUDR). For more information, see Chapter 4 b) of the Commission Notice Guidance document (C/2024/6789).

### 5.2. Who can mandate an 'authorised representative'? (UPDATED)

Pursuant to Art. 6 of the Regulation, operators and traders may mandate authorised representatives to submit a due diligence statement on their behalf. In this case, the operators and non-SME traders will retain responsibility for the compliance of the relevant products.

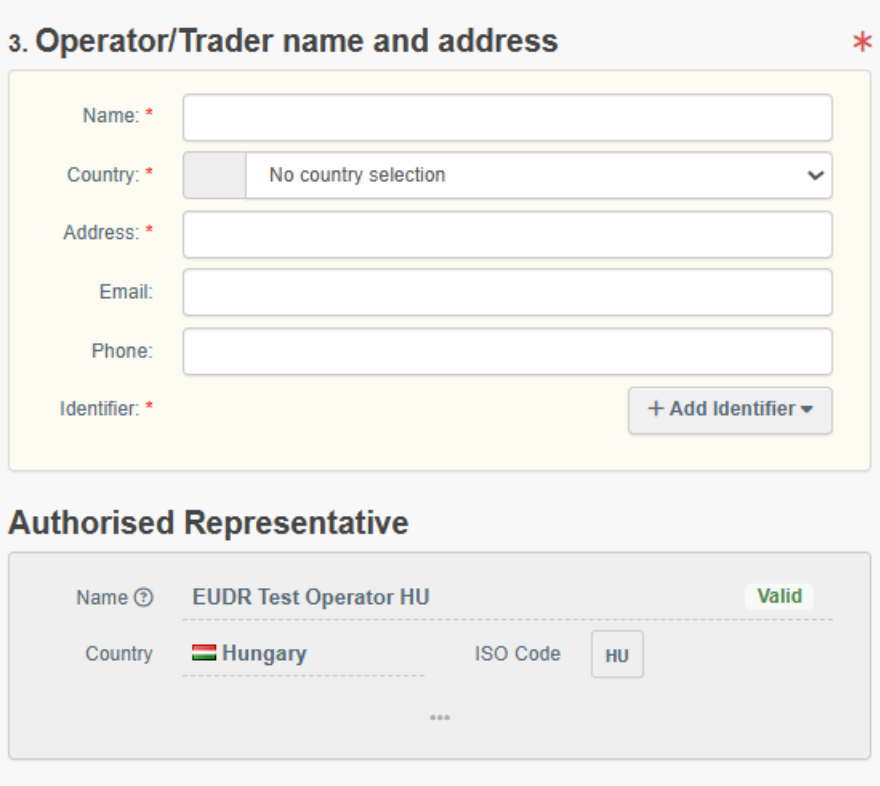
If the operator is a natural person or microenterprise, it may mandate the next operator or trader in the supply chain to act as its authorised representative, provided it is not a natural person or micro-enterprise. In this case, the mandating operator retains responsibility for the compliance of the product.

According to Art. 2(22) of the Regulation, the authorised representative must be established in the EU and must have received a written mandate from an operator or trader.

#### 5.2.1. What is an authorised representative? Can one authorised representative represent multiple operators and traders? Which EUDR obligations can an authorised representative perform? (NEW)

An authorised representative is a natural or legal person that acts on behalf of an operator or trader by submitting a Due diligence statement for them (Art. 6 EUDR). According to Art. 2(22) EUDR, an authorised representative must be established in the Union and must receive a written mandate from an operator or trader in order to act on their behalf. In principle, any natural or legal person (private or public) established in the EU can act as authorised representative, no matter whether they actively participate in a supply chain or not.

When submitting DDS, authorised representatives must register in the Information System and choose between the roles ‘Representing Operator’ or ‘Representing Trader’. These roles allow authorised representatives to be authenticated with their own credentials and submit Due Diligence Statements on behalf of their clients. It is possible for an authorised representative to be mandated by multiple operators and traders if the above-mentioned requirements are met. The details of the operator and trader shall be introduced in the fields when submitting a DDS allowing unique identification of the represented operator or trader:




Even if an authorised representative submits a due diligence statement, the obligation to exercise / ascertain due diligence remains with the operator or trader. Accordingly, the operator or trader retains responsibility for compliance of relevant products with Art. 3 EUDR.

In the case of an operator being a natural person or a microenterprise, they may mandate the next operator or trader further down the supply chain that is not a natural person or a microenterprise to act as an authorised representative, see Art. 6(3) EUDR.

### 5.3. Can companies conduct due diligence on behalf of subsidiaries?

The internal organisation and due diligence policy of a group of companies (a mother company and its subsidiaries) is not governed by the Regulation. The operator or trader that places or makes available on the EU market or exports a relevant product, is responsible for the compliance of the product and for overall compliance with the Regulation. Hence, it is its name that should be provided in the due diligence statement, and it should retain the full responsibility under the Regulation.

### 5.4. What about re-importing a product? What are my due diligence obligations if I am re-importing a product that was previously exported from the EU? (NEW)

Where an operator re-imports (i.e., releases for free circulation) a product that was previously exported from the EU market and places it under the customs procedure ‘release for free circulation’, it is considered a “downstream operator”.

The re-importer, who is releasing a relevant product for free circulation and hence placing it on the market is subject to the obligations of downstream operators, which are dependent on the size of the re-importer:

If the re-importer is an SME operator, Art. 4(8) EUDR applies (see FAQ 5.6.1), meaning the re-importer does not need to carry out due diligence. At customs, the SME re-importer provides the reference number(s) received from its supplier(s) in the customs declaration.

If the re-importer is a non-SME, already existing due diligence statements can help ascertain that due diligence was exercised upstream in accordance with Art. 4(9) EUDR. The non-SME re-importer needs to submit a DDS prior to re-importing and needs to provide the reference number received for its DDS when releasing products for free circulation.

The above applies equally where a product that is imported contains relevant products that were previously placed on the EU market and have been subject to due diligence (example: cocoa beans are exported from the EU to a third country to manufacture chocolate, and the chocolate is subsequently released for free circulation in the EU).

For parts of relevant products that have not been subject to due diligence, operators must exercise due diligence and submit a DDS.

In case of the re-import of a product which was initially placed on the market during the transitional period (itself or in the form of an upstream relevant product), as explained in FAQ 9.2., a conventional DDS reference number will be communicated by the Commission that can be used in the customs declaration submitted for re-import. For further information on the transitional period, see FAQs 9.1.-9.6.

### 5.5. Which customs procedures are affected?

Relevant products placed under other customs procedures than the ‘release for free circulation’ or ‘export’ (e.g. customs warehousing, inward processing, temporary admission etc.) are not subject to the Regulation.

### 5.6. Does placing on the market of products not produced in the EU require customs clearing?

**Would a customs declaration be sufficient documentation in this context?**

Yes, placing on the market relevant commodities or relevant products produced outside of the EU requires customs clearance prior to placing on the market. In this context, only a customs declaration (neither a bill of lading nor a other commercial or logistics document) would be considered as adequate evidence, if it can be directly linked to the product in question.

### 5.6.1. How does the Regulation apply to exports? (NEW)

The Regulation applies both to exports and to imports. Operators exporting relevant products from the EU market will have to include the reference number of the due diligence statement in their export declaration. Operators exporting products made with commodities or other products that were already covered by a due diligence statement may also avail themselves of relevant simplifications in Art. 4 EUDR (i.e., Art. 4(8) and 4(9) EUDR) (see information for products produced in the EU). In particular, a downstream SME operator exporting from Union market may avail itself of Art. 4(8) EUDR; in such a case, the SME operator must provide

to customs in the export declaration the due diligence statement reference number(s) obtained from the previous operator(s) or trader(s) in the supply chain.

### 5.7. What is the role of certification or verification schemes? (UPDATED)

Certification schemes can be used by supply chain members to help their risk assessment to the extent the certification covers the information needed to comply with their obligations under the regulation. Operators and traders which are not SMEs will still be required to exercise due diligence, and they will remain responsible for any breach.

The European Commission's Guidance document (C/2024/6789) provides further explanations on the role of certification and third-party verification schemes in risk assessment and risk mitigation.

### 5.8. How long should documentation be kept?

**How long should the operator keep the documentation used for the due diligence exercise? Do SME traders have to keep the relevant information about the relevant product they place or make available on the EU market or export? What is considered as the beginning of this duration? (UPDATED)**

Operators should collect, organise, and keep for five years from the date of the placing on the EU market or export of the relevant commodities and relevant products the information gathered based on Art. 9 of the Regulation, accompanied by evidence. Based on the provisions of Art. 10(4) and Art. 11(3) of the Regulation, operators should be able to demonstrate how due diligence was carried out and what mitigation measures were put in place in case risk was identified. Relevant documentation about these measures must be saved for at least five years after the due diligence exercise was carried out. Operators must also keep record of the due diligence statements for five years from the date when the statement is submitted in the Information System, which is prior to the date of placing the product on the EU market or exporting it. In that regard, non-SME traders have the same obligations as the operators.

SME traders must keep the information listed in Art. 5(3) of the Regulation for at least five years, including the due diligence reference numbers, from the date of the making available on the EU market of relevant products.

### 5.9. What are the criteria for 'negligible risk products'?

'Negligible risk' refers to the level of risk that applies to relevant products to be placed on the EU market or exported from the EU, where, on the basis of a full assessment of product-specific and general information, and, where necessary, of the application of the appropriate mitigation measures, those commodities or products show no cause for concern as to not being in compliance with Art. 3 points (a) or (b) of the Regulation.

### 5.10. Are 'negligible risk products' exempt?

**Can we understand "negligible risk" under Art. 2(26) of the Regulation read together with Art. 10(1) as providing an exemption from the Regulation?**

No. Operators and traders [that are not SMEs] may only reach a conclusion on 'negligible risk' (which is a pre-condition for placing or making available on the EU market or exporting relevant products) **as a result of conducting due diligence** (pursuant to Art. 4(1) of the Regulation). Conducting due diligence is a core obligation of operators and traders under this Regulation, which is not subject to any exemption.

Please note that the 'negligible risk' element does not apply to commodities (there is no 'risk status' for each commodity in the Regulation).

### 5.11. Could certain commodities from a given country be considered 'negligible risk'?

Could palm oil, rubber, coffee, cacao, or timber from a given country be considered 'negligible risk'?

No. See question above.

### 5.12. When checking compliance with the 'deforestation-free' requirement, what is the point in time the checks should focus on?

The assessment of whether the commodity has contributed to deforestation is conducted by looking backwards in time to see if the crop land used to be a forest (in line with definition in Art. 2) since the cut-off date of the Regulation (namely, 31 December 2020).

### 5.13. What products would require documentation by operators and traders in the context of their due diligence obligations?

Documentation is only required for the products in scope of the regulation (HS Codes listed in Annex I). No documentation is required for articles produced with commodities that are out of scope (namely, if they are not listed in Annex I).

### 5.14. When will non-SME operators have to produce their first annual reports pursuant to Art. 12(3) of the Regulation? (UPDATED)

The EUDR will be enforceable from 30 December 2025 (except for micro and small companies, where the date is 30 June 2026). Art. 12(3) requires relevant companies to publish an annual report about their activities to comply with requirements under the EUDR. As 2026 will be the first year for which the EUDR applies, the first report (covering the year 2026) will have to be published after 30 December 2026.

Companies which have already reported relevant elements covered in Art. 12(3) EUDR in the context of their reporting obligations under other EU relevant legislation (such as the EU Corporate Sustainability Due Diligence Directive) do not have to repeat the reporting.

### 5.15. Will there be a template for the due diligence statement that actors in the seven commodity sectors covered by the Regulation need to fill?

The template for operators and traders' due diligence statement is the same for all commodity sectors (see Annex II of the Regulation) on which the form in the Information System is based.

**5.16. Will there be a set of pre-determined format or list of questions to perform due diligence?**

No. Operators and traders must comply with their respective due diligence obligations in accordance with Arts. 8, 9, 10 and 11 of the Regulation. Achieving no or negligible risk is a pre-requisite for placing/making available/exporting relevant products on/from the EU market.

Please note that due diligence is not a "tick-the-box exercise". Hence, it may depend on the specific context and supply chain, provided that the different steps of due diligence as described in the regulation (i.e. information requirement, risk assessment and risk mitigation, in line with Art. 9, 10 and 11 EUDR) are covered.

**5.17. Do operators and traders (and/or their authorised representatives) who wish to place, make available or export relevant products on/from the EU market, have to register in the Information System?**

Operators and traders must register if they are subject to submitting a Due Diligence Statement under this Regulation. Alternatively, they can request the services of an Authorised Representative (who, in turn, must be registered in the system as such).

**5.18. Will the Commission issue further details concerning the satellite imagery tools to be used to check compliance of relevant products (for instance, on minimum resolution)?**

While spatial imagery tools can greatly help operators and traders in conducting their due diligence obligations (to ascertain that a product is deforestation-free) and Member States' competent authorities in performing checks, the Regulation does not impose the use of specific satellite imagery tools, or threshold on satellite imagery resolution, to document the absence of deforestation.

**5.19. How often should due diligence statements be submitted in the Information System, and can they cover multiple shipments/batches? What about situations where relevant products may be placed on the market successively over a period of time? (UPDATED)**

A due diligence statement can cover multiple physical batches/shipments of multiple different relevant products. In these situations, the operator (or non-SME trader, see Art. 5(1) EUDR) has to confirm that due diligence was carried out for all relevant products intended to be placed on, made available on the Union market, or exported and that no or only a negligible risk was found that the relevant products do not comply with Art. 3, point (a) or (b), of the Regulation (Annex II) and that the operator assumes responsibility for the compliance of the relevant products with Art. 3 EUDR (Art. 4(3) EUDR).

In addition, there are legal requirements and practical considerations that must be taken into account:

1. The quantity of all relevant products placed on, made available on the Union market, or exported must be covered by a due diligence statement (Art. 3(c) EUDR) and that statement must be submitted prior to any batches/shipments of relevant products being placed on the market, made available or exported (Art. 4(2) EUDR).

2. Once the quantity of products covered by the due diligence statement has been fully placed on the market or exported, a new statement must be filed for additional quantities by the same operator.
3. In accordance with Art. 12(2) of the EUDR, operators shall review their due diligence system once a year. Therefore, a due diligence statement should not cover shipments/batches over a period longer than one year from the time of submission of the statement. In addition, a longer time period could lead to difficulties in demonstrating the correspondence between declared products and products actually (intended to be) placed on the market or exported.
4. With a due diligence statement, the operator confirms that due diligence was carried out for all relevant products jointly or individually that are intended to be placed on, made available on the Union market, or exported and that there is no or negligible risks of non-compliance of the relevant products. Therefore, in principle a due diligence statement should cover commodities that have already been produced, i.e., grown, harvested, obtained from or raised on relevant plots of land or, as regards cattle, on establishments. In other words, in principle operators should be able to link a due diligence statement to existing commodities. On the other hand, it is not necessary that the individual product that will be placed on the market has already been manufactured: for example, in the case of declaring wooden furniture in a DDS, while the trees should have already been harvested at the time of DDS submission for the furniture, it is not necessary that the furniture has already been manufactured.
5. The quantities of the products declared in the due diligence statement must correspond to the quantities that have been subject to the due diligence exercise by the operator and are intended to be placed or made available on the EU market or exported. This includes that a product must not be covered by multiple Due Diligence Statements submitted by the same person. If a person does not know which products will be sold on the EU market, and which will be exported at the time of DDS submission, it is possible to declare all products with an “export” DDS and keep documentation demonstrating the corresponding quantities. Upon demand of the Competent Authority, operators should be able to provide evidence of such correspondence in their due diligence system established in accordance with Art. 12 EUDR. Unless simplified due diligence applies (Art. 13 EUDR), the operator has to provide evidence that the risk of non-compliance (regarding the deforestation-free and the legality requirement) has been assessed in accordance with Art. 10(2) EUDR for all products, and that such risk is negligible for all declared products. Appropriate records demonstrating the above-mentioned correspondence must be kept for 5 years from the date of (last) placing or making available on the market, to be made available to the Competent Authority upon request (Art. 9 EUDR). Where the quantity declared in the DDS has not been fully placed or made available on the market or exported, the operator should keep appropriate records explaining the difference between the declared and the actual quantity placed or made available on the market or exported must be kept for 5 years, to be made available to the Competent Authority upon request (Art. 9 EUDR).
6. An individual due diligence statement with its geolocation data must be within the practical size limit established for upload into the Information System (25 MB).
7. Where a due diligence statement covers multiple batches/shipments, this additional complexity may increase the risk of non-compliance for the operator. The operator

assumes full responsibility for compliance of all batches/shipments and information in the due diligence statement, country of production and geolocation of all plots of land included. The additional complexity may be of relevance to the risk-based approach used by Competent Authorities to identify the checks to be carried out (Art. 16 EUDR). Where relevant, interim measures or action for non-compliance may apply to all relevant products covered by a due diligence statement, including those contained in separate batches/shipments.

### 5.20. What is the latest date for submitting a DDS? (UPDATED)

According to Art. 4(1) EUDR, operators shall exercise due diligence in accordance with Art. 8 EUDR prior to placing relevant products on the market or exporting them in order to prove that the relevant products comply with Art. 3 EUDR. The same applies to non-SME traders according to Art. 5(1) EUDR.

For **relevant products entering the Union market** (import) **or leaving the Union market** (export) the reference number of the DDS shall be made available to customs authorities. For this purpose, the person lodging the customs declaration (known as "customs declarant") shall include the DDS reference number on the customs declaration lodged for that relevant product, in accordance with Art. 26 EUDR. Therefore, the DDS shall be submitted, and the reference number of the DDS shall be obtained prior to the lodging of the customs declaration[5].
Where a DDS covers multiple shipments/batches the same DDS reference number can be referred to in several customs declarations as long as the legal requirements of the EUDR, specifically as recalled in question 1, are respected. It is equally possible to include multiple DDS reference numbers in one customs declaration.
For commodities **produced within the EU**, the exact date of placing on the market should be understood when the product is physically available on the Union market (i.e., the commodity has been produced and in the case of a derived product, the product has been manufactured), and is supplied on the market (for distribution , consumption or use) and two or more legal or natural persons enter into an agreement in which the operator promises the supply of the relevant product. Such agreement could provide for the supply in return for payment or free of charge. To demonstrate in a forest related example, the DDS shall be **submitted by the latest** when both elements are fulfilled: i) the harvested logs are available, and ii) a purchase/supply agreement of the harvested logs is finalized by agreeing on the supply to a third entity, for example a sawmill.

This date is irrespective of the payment for the logs, the date of first shipment, or the date of transfer of ownership.

[5] In the mid- to long-term, it will be possible for operators and non-SME traders to submit at once their customs declarations and the DDS pursuant to Art. 28(2) of the EUDR. This situation is not yet applicable and thus not reflected yet in this document. Separate guidance and FAQs will be made available in due time in this respect.

### 5.21. What is the earliest date for submitting a DDS? (NEW)

According to Art. 4(1) EUDR, operators shall exercise due diligence in accordance with Art. 8 EUDR prior to placing relevant products on the market or exporting them in order to prove that the relevant products comply with Art. 3 EUDR. The same applies to non-SME trader and downstream non-SME operators when ascertaining that due diligence was exercised according to Art. 4(9), 5(1) EUDR.

The earliest a DDS can be submitted is after due diligence has been exercised or ascertained and when all information that is needed for submission is available (including the quantity planned to be placed or made available on the market or exported). It should also be noted that as set out in FAQ 5.19., a due diligence statement should not cover shipments/batches over a period longer than one year from the time of submission of the statement.

### 5.22. My company imports relevant products into the EU which are then sold on the EU market to multiple clients without further manufacturing, or which are exported without further manufacturing. Do I need to submit a DDS two times (prior to import and prior to selling / export)? (NEW)

As the import due diligence statement covers the products which are supplied on the EU market, in the case in which the importer sells the products on the EU market or exports it without further manufacturing, there is no need to submit another due diligence statement prior to the sale / export.

It should be noted that for every import and export, a DDS reference number must be provided in accordance with Art. 26(4) EUDR. In the above-mentioned case, the reference number created for import can be entered for the export of products which have not undergone manufacturing.

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## 6. Benchmarking and partnerships

### 6.1. What is country benchmarking? (UPDATED)

The benchmarking system operated by the Commission will classify countries, or parts thereof, in three categories (high, standard and low risk) according to the level of risk of producing commodities that are not deforestation-free in such countries.

The criteria for the identification of the risk status of countries or parts thereof are defined in Art. 29 of the Regulation. Art. 29(2) EUDR mandates the Commission to develop a system and publish the list of countries, or parts thereof, that present a low or high risk. It will be based on an objective and transparent assessment analysis of quantitative and qualitative criteria,

taking into account the latest scientific evidence, internationally recognised sources, and information verified on the ground.

### 6.2. What is the methodology? (UPDATED)

The main principles of the benchmarking methodology are outlined in the Annex to the Strategic Framework on International Cooperation, published by the Commission on 2 October 2024[6].

The Commission's methodology is firmly rooted in a commitment to fairness, objectivity and transparency. It relies on quantitative criteria based on scientific evidence and internationally recognized latest available data, primarily from the Global Forest Resources Assessment by the Food and Agriculture Organization of the United Nations. By focusing on these measurable factors, the Commission ensures that the classification process is grounded in solid data, while combined with a methodology for a qualitative assessment, where relevant.

### 6.3. The development of the benchmarking system under the EU Deforestation Regulation (EUDR) is regularly presented in meetings of the Multi-Stakeholder Deforestation Platform and other relevant meetings. How can stakeholders contribute?

**How can producer countries and other stakeholders feed into the benchmarking process, and how will information supplied by producer countries and other stakeholders be evaluated, verified, and utilised?**

The Commission is required under Art. 29(5) of the Regulation to engage in a specific dialogue with all countries that are, or risk to be classified as, high risk, with the objective to reduce their level of risk. This dialogue will be an opportunity for partner countries to provide additional relevant information and work in close contact with the EU ahead of the finalisation of the classification.

### 6.4. Can countries share relevant data with the Commission?

**Can countries share data that they consider relevant to the implementation of this Regulation (such as data on deforestation and forest degradation rates) with the Commission? If so, can they do so outside of the specific dialogue framework foreseen in Art. 29(5) of the Regulation?**

While this Regulation does not place any obligation on third countries to share relevant data with the EU, countries that wish to share such data with the EU are welcome to do so at any stage from the entry into force of the Regulation. They can do so regardless of whether the country is engaged in a specific dialogue with the EU, for instance under Art. 29(5) of this Regulation on benchmarking or in a different context.

In addition, the Commission engage with several countries, in particular those that have a significant trade in EUDR commodities with the EU. These dialogues also are an opportunity to share relevant data and information.

[6] C/2024/6604, EUR-Lex - 52024XC06604 - EN - EUR-Lex.

### 6.5. Will legality risks be considered?

**Will the benchmarking take into account legality risks as well as deforestation and forest degradation? How will the legislation and forest policies of producer countries, particularly regarding 'legal deforestation', be assessed/taken into account during the benchmarking process?**

The list of criteria for benchmarking is set out in Art. 29 of the Regulation. The assessment of the Commission will be based on an objective and transparent assessment analysis, based on the criteria defined in Art. 29(3) and 29(4) of the Regulation. The relevant quantitative criteria are: (a) the rate of deforestation and forest degradation, (b) the rate of expansion of agriculture land for relevant commodities, and (c) production trends of relevant commodities and of relevant products.

As envisaged in the Regulation, the assessment may also take into account other criteria including (a) information supplied by governments and third parties (NGOs, industry); (b) agreements and other instruments between the country concerned and the Union and/or its Member States that address deforestation and forest degradation; (c) the existence of national laws to fight deforestation and forest degradation and their enforcement; (d) the availability of transparent data in the country; (e) if applicable, the existence, compliance with, or effective enforcement of laws protecting the rights of indigenous peoples; (and (g) international sanctions imposed by the UN Security Council or the Council of the European Union on imports or exports of the relevant commodities and relevant products; etc.

### 6.6. What support is provided for producer countries and smallholders? (UPDATED)

**How are producer countries and smallholders being supported to produce products in compliance with the Regulation? How can we ensure that smallholders are not excluded from supply chains?**

The EU and its Member States are stepping up engagement with partner countries, consumer and producer countries alike, to jointly address deforestation and forest degradation including through a global Team Europe Initiative (TEI) on Deforestation-free Value Chains. Partnerships and cooperation mechanisms under the TEI will support countries to address deforestation and forest degradation where a specific need has been detected, and where there is a demand to cooperate - for instance, to help smallholders and companies in ensuring working with only deforestation-free supply chains. The Commission has already financed projects to disseminate information, raise awareness, and address technical questions through workshops for smallholders in the most affected third countries.

See more on opportunities for smallholders in the EUDR.

### 6.7. What are the different elements of the Team Europe Initiative?

**What is the interplay between the different elements of the TEI initiative: the hub, the Sustainable Agriculture for Forest Ecosystems (SAFE) project, FPI projects and facilities planned in this context, but also those relevant in the broader context, for example at regional level? How will duplications be avoided? (UPDATED)**

The Team Europe Initiative on Deforestation-free Value Chains is a joint effort by the EU and its Member States designed to support global ambitions on decoupling agricultural production from deforestation in partnership with various stakeholders in Africa, Asia and Latin America (current budget EUR 86 Mio). Through its activities and flagship projects, the EU and EU Member States promote the inclusive and just transition of sustainable value chains, especially for smallholders and low-income countries. They do this by supporting partner governments with creating enabling framework conditions for corporate action to minimize deforestation, reducing risks in complex value chains and crowding-in private sector investments in sustainable agribusinesses. The initiative also supports smallholders with forest preservation and assists Indigenous Peoples and local communities with protecting their rights.

This Team Europe Initiative (TEI) Hub (short: "Zero Deforestation Hub") provides information and outreach to partner countries on deforestation-free value chains and conducts knowledge-management to coordinate relevant pre-existing projects from EU and Member States, with upcoming activities dedicated to the goals of the TEI. This ensures that different Team Europe activities on deforestation-free value chains in producing countries can be better aligned, gaps identified, and redundancies avoided.

The **Sustainable Agriculture for Forest Ecosystems (SAFE)**[7] project is the most important pillar on the cooperation side of the TEI (current budget EUR 65 Mio). SAFE is currently being implemented in Brazil, Ecuador, Indonesia Zambia, DRC, Vietnam, Peru, Uganda, Cameroon and Burundi. The SAFE project will be further scaled up to cover more countries through upcoming financial contributions from Member States. The project focuses on support to smallholders in their transition to sustainable and deforestation-free value chains and assisting producing countries in creating an enabling environment to retain and expand access to the EU market. The SAFE programme's current duration is from 2024-2028 and can be scaled-up through contributions from Member States to the deforestation TEI.

The **Technical Facility on Deforestation-free Value Chains** is a flexible and on-demand instrument to assist producing countries with expertise on technical requirements, such as geolocation, land-use mapping and traceability, with a particular focus on smallholders. These activities are closely coordinated with EU Delegations and aligned with pre-existing projects as well as SAFE, in order to create synergies and avoid duplications.

### 6.8. How does the Team Europe initiative relate to the CSDDD? (UPDATED)

The TEI Hub will be working closely together with the upcoming EU Helpdesk on CSDDD, in particular with regards to agricultural value chains and smallholders which will be affected by both the EUDR and the CSDDD.

### 6.9. How can we mitigate the risk of operators avoiding certain supply chains or certain producer countries/regions that are benchmarked as 'high risk'?

Operators sourcing from standard and high-risk countries or parts of countries are subject to the same standard due diligence obligations. The only difference is that shipments from high-

[7] factsheet-tei-deforestation-free-value-chains-05122023_en.pdf.

risk countries will be subject to enhanced scrutiny from competent authorities (9% of operators sourcing from high-risk areas). In that sense, drastic changes of supply chains are not warranted or expected. Furthermore, high risk classification will entail a specific dialogue with the Commission to address jointly the root causes of deforestation and forest degradation, and with the objective to reduce their level of risk.

### 6.10. How will the EU ensure transparency?

The process leading to the benchmarking system will be transparent. Regular updates and consultations on the benchmarking methodology will take place in the Multi-stakeholder Platform on deforestation, where many third countries take part, alongside with the 27 EU Member States. The Commission will provide updates on the approach followed and the methodology used.

Furthermore, in accordance with its obligations under the Regulation, the Commission will engage in a specific dialogue with all countries that are, or risk to be classified as high risk (prior to making the classification), with the objective to reduce their level of risk.' This will ensure there will be no sudden announcement of risk status and will allow for more in-depth discussions. This dialogue will provide an opportunity for producer countries to provide additional relevant information.

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## 7. Digital implementation (the EUDR Information System)

### 7.1. What is the Information System and the 'EU Single Window'? (UPDATED)

The Information System (IS) is the IT system which contains the DDS submitted by operators and traders to comply with the requirements of the Regulation. The Information System is operational and provides users with the functionalities listed in Art. 33(2) of EUDR. Its functionalities are further set out in Commission Implementing Regulation (EU) 2024/3084.

The EU Single Window Environment for Customs (EU SWE-C) established by Regulation (EU) 2022/2399 is a framework that enables interoperability between customs systems and non-customs systems, such as the Information System established pursuant to Art. 33 of the Regulation. The central component of EU SWE-C, known as the EU Customs Single Window Certificates Exchange System (EU CSW-CERTEX), will interconnect the Information System with national customs systems and will enable sharing and processing of data submitted to customs and non-customs authorities by economic operators. The EU Customs Single Window will thus ensure information sharing in real-time and digital cooperation between customs authorities and competent authorities in charge of enforcing non-customs formalities, including in the field of environmental protection.

### 7.2. What data security safeguards will they have? (UPDATED)

The Information System and, subsequently, its interconnection with the EU Single Window Environment for Customs, will be aligned with the relevant and applicable provisions in terms of data protection and cybersecurity safeguards. In line with the Union's Open Data Policy, the Commission has to provide access to the wider public to the complete anonymised datasets of the Information System in an open format that can be machine-readable and that ensures interoperability, re-use, and accessibility. These datasets will be properly aggregated and anonymised.

### 7.3. How can operators and traders register?

**What can operators and traders use as an ID number/company registration number for the IS? How should domestic operators/traders, who do not have EORI numbers and may not have VAT numbers, register for the IS? (UPDATED)**

Operators that import or export relevant commodities and relevant products need to provide their valid **Economic Operators Registration and Identification** (EORI) number issued by an EU Member State or the United Kingdom in respect of Northern Ireland (XI) when registering in TRACES NT. Domestic operators/traders, who do not have an EORI number may register through one of the other identifiers supported by TRACES such as VAT number, National Company Number or Taxpayer Identification Number, allowing unique and individual identification of the operator or trader.

### 7.4. Can the system store frequently used data?

**Will it be possible to 'store' frequently used data (e.g., frequently used HS codes and scientific names) in the IS, so that it can be easily auto-filled rather than needing to be entered afresh for each new Due Diligence Statement? (UPDATED)**

The Information System does not include this functionality at the moment. Nevertheless, it will be possible to duplicate due diligence statements that have already been drafted or submitted, thus reducing the time needed to fill a new statement. It will be the responsibility of operators and traders to make the necessary changes in the duplicated statement to ensure compliance. In addition, an 'import' button is provided, which will allow economic operators to import the information about the production place from a predefined GeoJSON file.

### 7.5. Can the system help farmers identify the geolocation? Will orthophotos or satellite images be available for the map tool in the Information System? (UPDATED)

The Information System acts as the repository of the due diligence statements submitted by operators and traders pursuant to Art. 4(2) and Art. 5(1) EUDR. As such, it does not provide software or tools to identify geolocations coordinates, as it is not a primary tool for mapping coordinates.

The Information System utilizes Open Street Map (OSM) as its source for storing geographical information related to various countries involved in the system. However, it is not a comprehensive Geographic Information System (GIS) tool with advanced features such as

background satellite images. The system offers functionalities to select, enter, adjust, and visualise geolocation coordinates. While the Information System provides a platform for users to manage their geolocation data, users may wish to verify the accuracy of their geolocation information using other tools and resources, including free online map services.

### 7.6. Can a due diligent statement be amended? (UPDATED)

In accordance with Art. 5 of Commission Implementing Regulation 2024/3084, the withdrawal or amendment of a submitted due diligence statement (DDS) is possible within 72 hours after the due diligence reference number has been made available to the user by the Information System. Withdrawal or amendment will not be possible if the DDS reference number has already been used in a customs declaration, referenced in another DDS, if the corresponding product has already been placed or made available on the EU market or exported, or, if the operator or trader was notified about the intention to carry out a check on the DDS, for the period of the check.

### 7.7. Who can view the geolocation data stored in the Information System? (UPDATED)

The responsible authorities that enforce the EUDR by checking the information submitted by operators and traders under this Regulation will have access to the geolocation data submitted by the operators and traders. In addition, those supply chain members that have access to the DDS via reference number and verification number will have access if the user that submitted the statement allowed to reveal the geolocation.

### 7.8. Which data format is needed for the geolocation to be uploaded in the Information System?

Operators can provide geolocations in the Information System either by manual entry or by uploading them in a file. The format of the supported files in the Information System is GeoJson. The Information System supports currently WGS-84 coordinate format, with EPSG-4326 projection.

### 7.9. Is the Information System ready? (UPDATED)

The Information System as set out in Art. 33 of the Regulation was launched on 4 December 2024. Registration (for users of the system) opened in November 2024.

The Information System will be finetuned over time as implementation advances.

### 7.10. Do I need to create a new DDS number as a downstream operator or trader if I only handle commodities that are already imported into the EU and have a DDS reference number? (NEW)

Pursuant to Art. 4(8) of EUDR, the SME operators further down the supply chain do not have to exercise due diligence nor submit a DDS in the Information System for products that have already been subject to due diligence and for which a DDS have already been submitted. SME traders are also not obliged to submit DDS in the Information System. However, in accordance with Art. 4(9) of EUDR the non-SME operators and non-SME traders further down the supply chain shall submit a DDS for the relevant products they supply on the Union market or export,

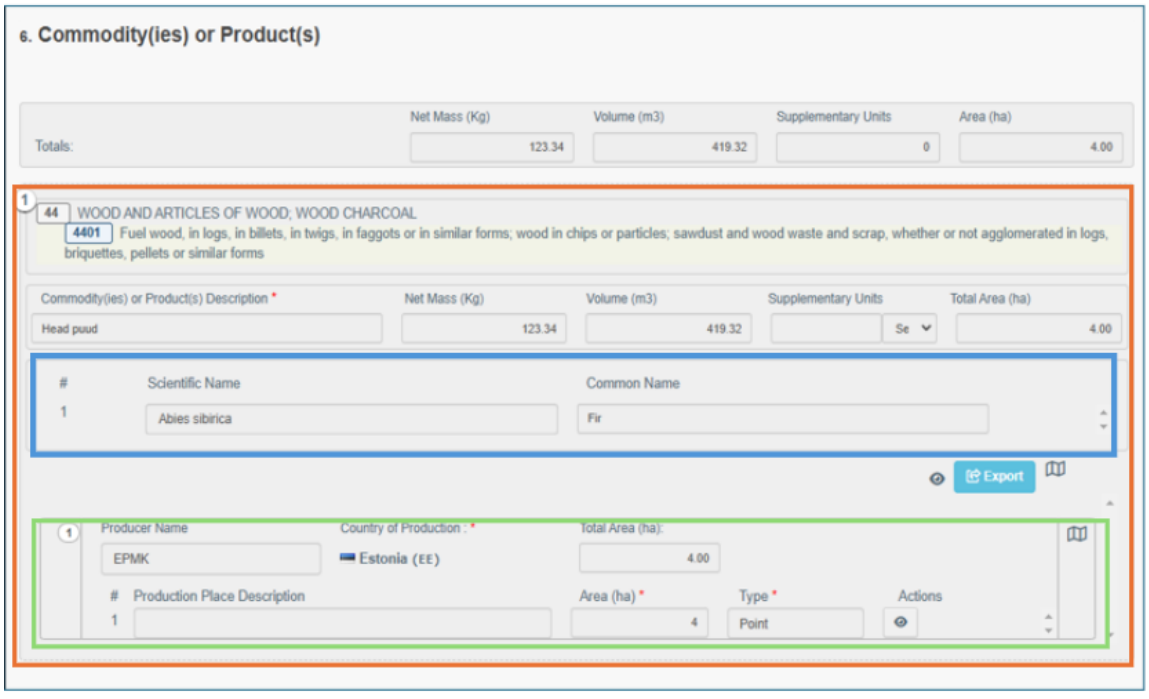
but in these DDS, they may refer to due diligence statements that have already been submitted after having ascertained that due diligence has been exercised (see FAQ 3.4.).

### 7.11. Is the production system always available, or will there be recurring downtime windows? (NEW)

The Information system is a dedicated domain in the TRACES infrastructure, designed to ensure high availability and continuous accessibility. To maintain optimal performance, short maintenance periods are scheduled to deploy necessary updates. These updates are announced in the News section due time in advance and are planned to avoid any impact on the user experience.

### 7.12. What are the data entry limitations of the Due Diligence Statement? In other words, what is the maximum content that a user can enter in a single Due Diligence Statement? (NEW)

A DDS is composed of various data fields. The product related data elements are organised and grouped together under the relevant products which are identified by HS codes. A single DDS can contain maximum 200 lines of relevant products (orange box). In each line of relevant product has the following maximum allowed limitations are defined 500 lines to record the pairs of Scientific Name(s) / Common Name(s) (blue box), and 1.000 lines to record the 'Production place' (green box), which also contain all geolocation coordinates related to the plots of lands where the relevant product was produced in the relevant country of production. The 'Producer Name' and the 'Production Place Description' are optional fields where the user can enter information for internal reference. As an additional rule, a single DDS can contain 10.000 'Production Place' in total.



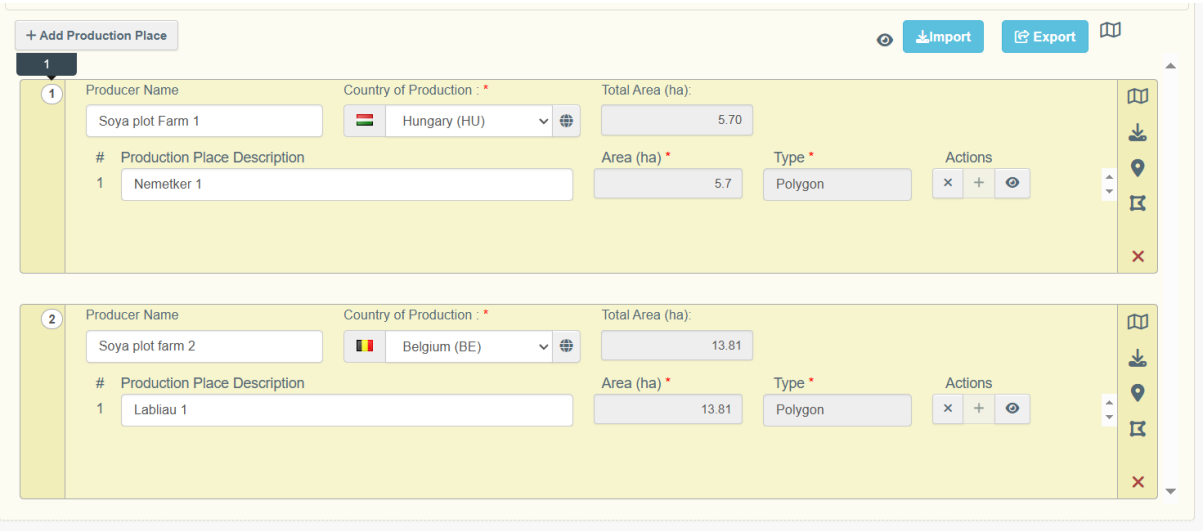

Regarding reference numbers and verification numbers, each DDS can reference up to 2.000 other DDS.

A registered natural or legal person in the Information System can maintain a maximum of 50 DDS in Draft status at any given time.

### 7.13. Is it possible to declare a production place with a GeoJSON file that consists of multiple coordinates in multiple countries? (NEW)

If a relevant product is produced in multiple countries, the user must enter the geolocation coordinates separately for each country, as required by Annex II, point 3, of EUDR.

To illustrate this requirement, consider a product produced on two plots of land, one in Belgium and one Hungary. In this case, the user must add the production places separately for each country and enter a “Production Place” with the related geolocation coordinates for the plots of land for Belgium and Hungary separately.




### 7.14. How long will be data of the DDS be saved in the Information system? Is it necessary to export and save data for purpose of archiving? (NEW)

The storage of personal data is limited to 10 years by Art. 12(5) of Commission Implementing Regulation (EU) 2024/3084. This storage period can be further extended on the individual request of the Information system users or relevant authorities if this is necessary to comply with their responsibilities and obligations under the EUDR. In line with this, data that does not constitute personal data, as defined, is also stored and accessible in the Information System for a period of 10 years.

Users of the information system have the option to export the contents of a DDS into a PDF file, as well as extract geolocation coordinates into a separate file to support their internal record-keeping purposes.

### 7.15. How can geolocation coordinates be shared along the supply chain if the previous suppliers have not approved to share the geolocation information via the reference number in the Information System? (NEW)

Art. 4(7) EUDR does not entail a legal obligation to share geolocation information along the supply chain, as ascertaining that due diligence was exercised upstream does not necessarily imply checking every single DDS upstream (see FAQ 3.4.).

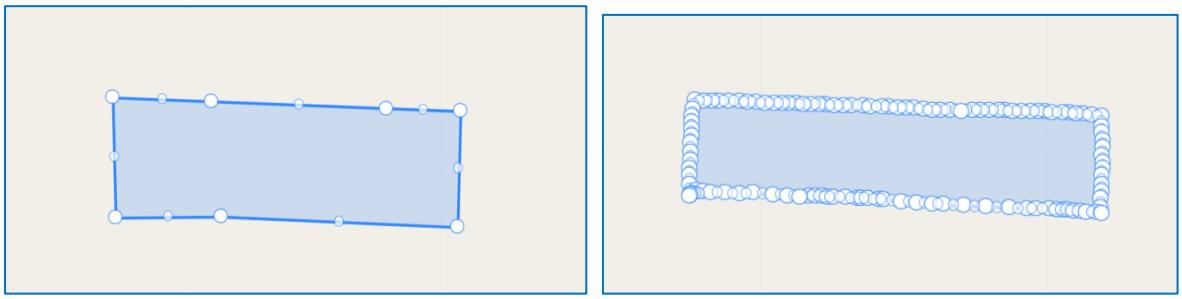
Data sharing among interested parties is not confined to the Information System. The information contained in Due Diligence Statements (DDS) can be shared through other means outside of the system. Parties are free to arrange data sharing in a way that suits their needs, in compliance with applicable EU and national legislation.

### 7.16. What if the size of the DDS exceeds the maximum file size of 25 MB? (NEW)

The 25 MB file limitation allows for more than 1 million geolocation points, or polygon vertexes in total.

In case the total size of the file exceeds the 25 Mb limitation there are multiple ways to decrease the size of the files. It is recommended to provide points instead of polygons for areas lower than 4 hectares and for products in the cattle supply chain. Furthermore, users can choose a resolution which decreases the details of the approximation whilst remaining a legitimate and complete representation, by e.g. providing a point only at the beginning and end of a straight line representing a side of the area or providing significant corner points instead of points every 0.5 meters to approximate a line.

In practice, when describing a rectangle shape, a geolocation can for example be described with 7 corner points instead of 168 corner points:



Free-to-use or commercial solutions exist to simplify compress polygon files. Furthermore, users should aim at localising the origin of their products accurately, and at limiting declaration in excess to the minimum. Further information as well as workarounds for main technical concerns are available in the GeoJSON file description[8].

[8] https://green-business.ec.europa.eu/deforestation-regulation-implementation/information-system-deforestation-regulation_en#the-eudr-information-system.

### 7.17. What if the geolocation file consists of different number of digits than required by the Regulation? (NEW)

According to Art. 2(28) the geolocation coordinates shall be provided by using at least 6 decimal digits both for latitude and longitude coordinates. When the user uploads geolocation files into the Information System, the system automatically validates the number of digits. To ensure a smooth data upload the system provides flexibility by automatically adjusting to six digits, and i) if the number of the provided digits is less than 6 then fills the remaining digits with zeroes, or ii) if the number of digits is more than 6 then cuts the irrelevant digits to reduce the file size of the uploaded file.

### 7.18. When importing or exporting products, must the net mass be declared, even though the product is usually traded in other units? (NEW)

In accordance with Annex II, point 2, of EUDR, for products entering the Union market under customs procedure 'release for free circulation' or leaving the Union market under customs procedure 'export' the quantity must be expressed in kilograms of net mass and, where applicable, in the supplementary unit set out in Annex I to Regulation (EEC) No. 2658/87. Supplementary units are also mandatory where they are defined consistently for all possible subheadings under the Harmonised System code referred to in the due diligence statement. These values are also part of the customs declaration.

### 7.19. Can DDS contain non-English text (e.g., provided in the language of the Member State)? (NEW)

To overcome language barriers, besides English, the Information system is available in all official EU languages.

Many fields and options are provided in translated dropdown lists, allowing users to select information in their preferred language. Much of the information required can be entered using numerical or coded values, minimizing the need for translation.

To ensure smooth procedures and efficient communication with the relevant authorities, it is recommended that users use the official language of the Member State that will handle the DDS. This will facilitate clear understanding and processing of the information provided.

### 7.20. Is there a need to create a separate DDS for each market to which the product is exported? (NEW)

When submitting a DDS for 'export' there is no need to enter the destination country. Therefore, there is no need to submit separate DDS in case of multiple destination countries.

### 7.21. Is there a need to include the EUDR reference number in the shipping documents such as delivery note or invoice and send the documents along with the shipments? Is it a mandate for customs clearance for imports/exports? (NEW)

In accordance with Art. 26(4) EUDR, the DDS reference number associated with the product which enters or leaves the Union market shall be made available to the customs authorities.

To comply with this requirement, importers or exporters of the product must include the associated DDS reference numbers on the customs declaration.

Regarding other shipment documents, including for intra-EU transport, there is no specific provision in the EUDR that requires the inclusion of DDS reference numbers or other information.

### 7.22. Does 'net mass' in a DDS refer to the mass of the entire product, or only to the portion of relevant commodity within the product, or to the entire consignment (i.e. the product plus pallet/packaging)? (NEW)

For the purpose of the DDS, net mass refers to the weight of the entire product itself, excluding any packaging materials (see question 2.5 about packaging). In other words, it is the weight of the product without taking into account the weight of the container, wrapping, or other packaging materials used during the transport or storage.

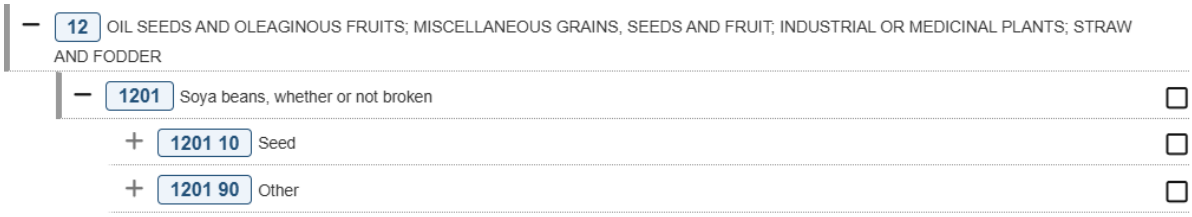
### 7.23. Can additional information, such as legal documents, be shared via the Information System? (NEW)

The EUDR Information System does not have functions to share documentation in the supply chain in addition to the data elements set out in Annex II to the EUDR.

While users can submit additional information for the attention of Competent Authorities, this information is not visible to other supply chain members who may be referencing this DDS. This means that any extra information provided by users will only be accessible to the Competent Authorities and will not be shared with other parties in the supply chain.

### 7.24. What is the level of HS codes that have to be declared in the Information System? (NEW)

When drafting a DDS, the user must enter the HS codes of the products which are subject to the DDS. It is mandatory to declare the HS codes at least to the number of digits as listed in Annex I of EUDR. Further to the mandatory level of digits, users can declare the HS also in more details up to 6 digits. As an example, the HS 1201 for '*Soya beans, whether or not broken*' is selectable. However, it is possible to provide also the subheadings to 6 digits:




Similarly, when Annex I of EUDR contains an HS code of 6 digits, then the user cannot select HS heading of 4 or less digits.

### 7.25. Is it possible to check the validity of the DDS reference and verification numbers in the Information System? (NEW)

Yes, it is possible to check the validity of the DDS reference number and verification numbers within the Information System. The interested operator or trader has to log in into the Information System and create a Draft DDS. It is to highlight that there is no need to submit the DDS to use this function. When the user drafts a DDS and saves it, the 'Referenced Statements' tab appears for the DDS. Under this tab the user can enter the reference numbers and verification numbers, which is also available using CSV files. Once the values are entered the system checks the validity of the DDS reference numbers and verification numbers and provides feedback on their validity. The content of the referenced DDS is also available for consultation at this stage by users who are in possession of both the reference number and verification number.

### 7.26. Why is only GeoJSON format allowed for uploading geolocation data in a file? (NEW)

GeoJSON is a general standard and the only non-proprietary system which allows submission of the extra properties needed, and where a very specific coordinate system is enforced. Using multiple formats in the Information System would increase the risk of erroneous or inaccurate information. The exclusive use of GeoJSON was announced in April 2024, allowing all stakeholders to prepare their respective systems accordingly.

### 7.27. Which list of scientific names does the Information System use? Is it sufficient to indicate only a genus, or must a specific species be mentioned? Is the scientific name mandatory for all products under commodity wood, such as pulp or paper products? (NEW)

Annex II to the EUDR requires the introduction of scientific names for products from the timber supply chain only. Voluntarily, scientific names can also be entered for other commodities and products. The system supports the entry of scientific names with the use of the EPPO database (EPPO Global Database).

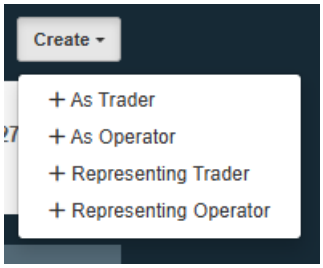
The Regulation mentions "*the common name of the species and their full scientific name*" in Art. 9(1)(a), and the '*full scientific name*' in Annex II, point 2. This requirement is further confirmed in Art. 4(2) of Commission Implementing Regulation (EU) 2024/3084, which stipulates that *'Where a relevant product contains or has been made using wood, Information System users shall enter in the Due Diligence Statement the common names and full scientific names of the wood species which the relevant products contain or have been made with*.' The scientific name is mandatory for all relevant products listed in Annex I to EUDR under commodity Wood. If an upstream supplier entered the scientific names of wood species that the product is made from and this DDS is used as a referenced DDS, then it is not necessary to re-enter the scientific names of relevant products.

### 7.28. Is there a need to re-enter scientific names when referencing another DDS? (NEW)

As the upstream supplier entered the scientific names of wood species that the wood products declared are made from, if this DDS is used as a referenced DDS, then it is not necessary to re-enter the scientific names of relevant products.

### 7.29. What are the economic operator account requirements for a person who performs multiple roles, such as operator, trader, and acting as an authorised representative? Can a single economic operator account be used for all roles, or must each role have a dedicated economic operator account within the Information System? (NEW)

Within the Information System in TRACES, a single economic operator account can be used by a natural person or a legal entity (e.g. a company), with the flexibility to add multiple roles to that economic operator account. This allows the economic operator account holder to perform different functions, including submitting data as an operator, trader, or authorised representative, as needed.




### 7.30. What should be done when faced with IT related issues with regard to the Information System? (UPDATED)

Please consult the website of the EUDR Information System: https://green-business.ec.europa.eu/deforestation-regulation-implementation/deforestation-due-diligence-registry_en which provides for relevant documentation to navigate the system efficiently, including the User Guide, training videos, and contact point for technical support.

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## 8. Timelines

### 8.1. When does the Regulation enter into force and into application? (UPDATED)

The Regulation was published in the Official Journal of the European Union on 9 June 2023. It entered into force on 29 June 2023 in accordance with Art. 38(2) EUDR, as amended by Regulation (EU) 2024/3234, the substantive provisions of the Regulation apply from 30 December 2025 (30 months transition). However, in accordance with Art. 38(3) EUDR, for micro- and small enterprises those provisions apply from 30 June 2026 (36 months transition).

Special rules apply to products that are also listed in the Annex to the EUTR, see Art. 37 and Art. 38(3) EUDR.

### 8.2. What about the period between these dates?

**Will the products placed on the Union market between the entry into force of the Regulation and its date(s) of applicability have to comply with the requirements of the Regulation? (UPDATED)**

The entry into application for large and medium enterprise operators and traders is foreseen 30 months after the entry into force of the Regulation (on 30 December 2025). This means that operators and traders do not have to comply with the requirements for products placed on the Union market before that date. For small- and micro undertakings this period is extended (36 months after the entry into force of the Regulation - on 30 June 2026).

### 8.3. How to prove that the product was produced before the Regulation entered into force? What are the rules for the production of cattle products?

**Who bears the burden of proof that the relevant commodity or relevant product which an operator wants to place on the EU market or export was produced before entry into force and the Regulation does not apply?**

The Regulation is applicable as stipulated in Art. 1(1) unless the conditions of Art. 1(2) are met, meaning unless the commodity contained in the product or which has been used to make the product was produced before 29 June 2023, as stipulated in Art. 2(14). For cattle, the relevant date of production is the date on which the cattle is born, meaning that the Regulation does not apply to cattle and cattle products if the cattle was born before the entry into force.

The operator bears the burden of proof for this exception and must be able to provide relevant information as reasonable proof that the conditions of Art. 1(2) of the Regulation are met. While in this case the operator is not obliged to submit a due diligence statement, the operator should keep necessary documents proving non-applicability of the Regulation and its obligations.

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## 9. Other questions

**9.1. What are the obligations for operators and non-SME traders when they place on the EU market or export a relevant product which is made of a relevant product or a relevant commodity that was placed on the EU market during the transitional period (i.e., the period between the entry into force of the Regulation (29 June 2023) and its entry into application (30 December 2025))? (UPDATED)**

This situation may be best explained with a few concrete scenarios:

1. A relevant commodity (e.g. natural rubber - CN code 4001) is placed on the EU market during the transitional period, hence not necessarily geolocalised, and is then used to produce a relevant derived product (e.g. new tyres - CN code 4011), which is then placed on the EU market (or exported) from 30 December 2025.

   If a commodity is placed on the EU market during the transitional period, i.e., before the entry into application of the Regulation, when placing on the EU market a derived product from 30 December 2025, the obligations of the operator (and of non-SME traders) will be limited to gathering adequately conclusive and verifiable evidence to prove that the relevant commodity (rubber) used to produce such relevant product (tyres) was placed on the EU market before the entry into application of the Regulation. This is without prejudice to Art. 37(2) of the Regulation with regard to timber and timber products. If the commodity is placed on the EU market or exported after the transitional period, i.e., from 30 December 2025, the operator (and the non-SME traders) will be subject to the standard obligations of the Regulation. Equally, for parts of relevant products that have been produced with commodities placed on the EU market from 30 December 2025, the operator (and the non-SME traders) will be subject to the standard obligations of the Regulation.

2. A relevant product (e.g. cocoa butter - CN code 1804) is placed on the EU market during the transitional period, hence not necessarily geolocalised, but is then used to produce another relevant derived product (e.g. chocolate - CN code 1806) which is placed on the EU market (or exported) by a downstream operator from 30 December 2025.

   In this case, the obligations of the operator (and of non-SME traders) placing on the EU market or exporting a derived product (chocolate), will be limited to gathering adequately conclusive and verifiable evidence to prove that the relevant derived product (cocoa butter) was placed on the EU market before the entry into application of the Regulation. For parts of the final relevant product that have been produced with other relevant products placed on the EU market from 30 December 2025, the operator (and the non-SME traders) will be subject to the standard obligations of the Regulation. This is without prejudice to Art. 37(2), with regard to timber and timber products.

3. An operator places on the EU market a relevant commodity or a product in the transitional period, which is then ‘made available’ on the market by one or more non-SME traders from 30 December 2025.

   In this scenario, the obligations of the non-SME trader will be limited to gathering adequately conclusive and verifiable evidence to prove that such relevant commodity, or

relevant product, was placed on the EU market before the entry into application of the Regulation. This is without prejudice to Art. 37(2) of the Regulation, with regard to timber and timber products.

**Specifically for micro and small enterprises,** which are subject to the deferred entry into application outlined in Art. 38(3) EUDR, the following scenarios would apply:

1. If an operator, qualifying as micro and small undertaking, places on the EU market from 30 June 2026 a relevant product made with a relevant commodity or relevant product placed on the EU market during the transitional period (from 29 June 2023 to 30 December 2025), the obligations of such operator would be limited to gathering adequately conclusive and verifiable evidence to prove that the relevant commodity or relevant product used to produce such relevant product was placed on the EU market before 30 December 2025. There is no need to exercise due diligence or to submit a DDS.
2. However, if the relevant product is made with a relevant commodity or a relevant product that has been placed on the EU market after the transitional period (i.e. 30 December 2025 onwards) and is accompanied by a due diligence statement, the obligations of an operator qualifying as small or micro undertaking, and placing a relevant product on the EU market from 30 June 2026, would be the same as those of any other operator.
3. If a large (or medium) company (company B) places on the EU market a product made of a relevant commodity which was placed on the EU market by a small or micro undertaking (company A) before 30 June 2026, the obligations of company B would be limited to gathering adequately conclusive and verifiable evidence to prove that the relevant commodity or relevant product used to produce the relevant product, was placed on the EU market before the deferred entry into application regarding company A (i.e. 30 June 2026). In this case, neither company A nor company B would need to carry out due diligence or submit a DDS. The same applies in case a large or medium company (company C) before company A in the supply chain has placed the product on the market and submitted a Due Diligence Statement previously. The deferred entry into application for small or micro company A limits the obligations of downstream companies (such as large or medium company B).

### 9.2. What evidence is necessary to prove that the product was placed on the EU market before the date of entry into application (i.e. what documents are accepted as evidence of 'placing on the market')? Do such products need to be declared in the Information System? (UPDATED)

In case of imported products, the customs declaration of the relevant commodities or relevant products in question will be accepted as evidence of having been placed on the EU market before the date of application. For EU produced goods, other documentation should be accepted as evidence, for example documentation relating to the production date e.g. felling tickets, ear tag and passport of cattle, invoices, or other documentation related to the production date of the commodity. The date of placing on the EU market can be supported e.g. by contracts between the parties, product order documents, shipment accompanying documents about the delivery to the customer including CMRs (Convention on the Contract

for the International Carriage of Goods by road), bill of lading, delivery notes, air-way-bill, and any other documents showing evidence that goods are transferred between 2 parties which can be linked directly to the relevant product in question. For details on the time of placing on the EU market, please refer to FAQ 5.20.

For products falling in the transitional period, no DDS needs to be submitted in the Information System. In case of export or re-import of a product which was initially placed on the EU market during the transitional period (itself or in the form of an upstream relevant product), a "conventional DDS reference number", meaning a universal reference number that can be entered in the customs declaration in cases of products falling in the transitional period, will be communicated by the Commission that can be used in the customs declaration submitted for export or re-import.

**9.3. Can products placed on the EU market during the transition period be mixed with products that comply with the Regulation and which are placed on the EU market after the transition period if it can be proven that each batch within was either placed on the EU market during the transition period, or is compliant with the Regulation?**

Provided that all conditions detailed in Art. 3(a) - (c) of the Regulation are fulfilled, products to be placed on the EU market from entry into application, and products placed on the EU market during the transition period (thus exempt), accompanied by evidence of having been placed on the EU market during the transition period, can be mixed together before being placed on the EU market.

**9.4. How will the mixing of commodities stocked during the transitional period with commodities to be placed on the EU market after 30 December 2025 work in practice, in particular in the Information System? (UPDATED)**

The Due Diligence Statement has to be uploaded to the Information System only for the relevant products that are subject to the due diligence obligations under the Regulation. If operators and traders mix commodities placed on the EU market during the transitional period with newer (post-transitional period) stocks, only the information relevant to commodities newly placed on the EU market should be part of the due diligence statement as this stock is subject to the due diligence exercise.

For "transition stocks", see Q. above.

**9.5. When does the transitional period start and end in practice?**

The transitional period started on the date of entry into force of the EUDR (30 June 2023) and ends on the day before its entry into application.

**9.6. How should Competent Authorities conduct checks on products which were placed on the EU market during the transitional period to ensure compliance with the Regulation?**

Competent Authorities can carry out checks on relevant products to establish whether the products were placed on the EU market during the transitional period. In this case, the

operator bears the burden of proof to provide evidence that the product is exempted from the Regulation, in accordance with FAQ 8.3.

### 9.7. Will the Commission issue guidelines? (UPDATED)

The Commission has published the Guidance document in the form of Commission Notice C/2024/6789 to elaborate on certain aspects of the Regulation, e.g. on the definition of "agricultural use", that will address issues related to agroforestry and agricultural land, certification, legality and on other aspects that are of interest to many stakeholders on the ground.

The Commission is also gathering inputs and promoting dialogue amongst stakeholders via the Multi-stakeholder Platform on Protecting and Restoring the World's Forests with a view to providing informal guidance on a number of issues. This document on Frequently Asked Questions already answers the most frequent questions received by the Commission from relevant stakeholders and will be updated over time. If needed, additional facilitation tools will be mobilised.

No additional guidelines are necessary to comply with the rules. The Commission aims to elaborate certain aspects to explain how the Regulation will work in practice, share good practice examples, etc.

### 9.8. Will the Commission issue commodity-specific guidelines? (UPDATED)

The Commission puts forward good practice examples and practical scenarios, including in the guidance document, which to some extent cover commodity-specific aspects.

Moreover, the Commission published a new document providing an overview of how the obligations apply to supply chains of the seven commodities in scope, depending on the company type (operator/trader), size and position in the supply chain within the EU, illustrated through 10 different supply chain scenarios on our webpage: EUDR compliance - Publications Office of the EU.

### 9.9. What are the reporting obligations for operators?

**Operators which are not SMEs will have to publicly report on their due diligence system annually. For those operators that are in the scope of Corporate Sustainability Reporting Directive (CSRD) and comply with EU Sustainability Reporting Standards (ESRS) in due time, is it sufficient to publish their report according to the requirements in CSRD? Or will there be additional reporting requirements?**

The Regulation provides that when it comes to reporting obligations, operators falling also within the scope of other EU legislative instruments that lay down requirements regarding value chain due diligence may fulfil their reporting obligations under the Regulation by including the required information when reporting in the context of other EU legislative instruments (Art. 12(3) of the Regulation).

### 9.10. What is the EU Observatory on deforestation and forest degradation? (UPDATED)

The EU Observatory builds on already existing monitoring tools, including Copernicus products and other publicly or privately available sources, to support the implementation of this Regulation by providing scientific evidence, including land cover maps on the cut-off date, regarding global deforestation and forest degradation and related trade. The use of these maps does not automatically ensure that the conditions of the Regulation are complied with, but they are a tool to help companies towards ensuring compliance with the Regulation, for example to assess the risk that a plot of land was deforested after 2020. Companies are still obliged to carry out due diligence.

The EU Observatory on deforestation and forest degradation covers all forests worldwide, including European forests, and is developed in coherence with other ongoing EU policy developments such as the Forest Monitoring Law and upgrading and enhancement of the Forest Information System for Europe (FISE).

The primary purpose of maps produced by the EU Observatory is to inform the risk assessment by operators/traders and EU MS Competent Authorities (CAs). As such, maps, including the Global Forest Cover map for the year 2020 (see 9.10.1), have the following features:

- **They are non-mandatory.** There is no obligation compelling operators/traders (or CAs) to use maps of the EU Observatory to inform their risk assessment.

- **They are non-exclusive.** Operators and traders (as well as CAs) may avail themselves of other maps that can be more granular or detailed than those made available by the Observatory. The regulation is not prescriptive on the modalities to inform the risk assessment. The Observatory is one of the many tools which are available and that the Commission offers free of charge.

- **They are non-legally binding.** Maps made available by the EU Observatory may be used for risk assessment. However, the fact that the geolocation provided falls within an area considered as forest does not automatically lead to a conclusion of non-compliance. On the other hand, it cannot be assumed that a product will be compliant or that it will not be checked if its geolocation falls outside an area considered as forest in a map. Reasons for this could be other risk factors not covered by the map, the accuracy and spatial granularity of the map, or the possible non-compliance of the product with relevant legislation of the country of production. Random checks will also consider plots of land that that do not correspond to forest in the map.

#### 9.10.1. Can the map of Global Forest Cover for the year 2020 be used as a definitive source of information for compliance with the EU Deforestation Regulation (EUDR), or are additional steps and data sources required to demonstrate compliance? (NEW)

The Commission produced a Global Forest cover map for the year 2020 (GFC 2020) as one of the support tools provided by the European Commission to implement the EUDR. Hosted on the EU Observatory on Deforestation and Forest Degradation, GFC 2020 indicates global forest cover presence/absence at 10m spatial resolution by 31 December 2020. The definition

of forest in the global forest cover map of 2020 follows the definition of forest in the EUDR as defined in Art. 2(4) EUDR. It should be noted that all plantations of relevant commodities other than wood, i.e. cocoa, coffee, oil palm, rubber, and soya, are excluded from forest. It is the first ever-available global map of forest cover at such fine resolution (10 m).

Forest cover data for the 2020 cut-off date represents a key source of information for operators. The GFC 2020 map is one of many possible sources (see FAQ 9.10.). Even though not legally binding, GFC 2020 could help operators comply with their obligations to assess the risk of deforestation under the EUDR.

The GFC 2020 map can also help EU MS competent authorities perform initial stages of their enforcement duties. Art. 18 EUDR regarding checks on operators (to be carried out by EU MS competent authorities) mentions “Earth observation data such as from the Copernicus program” as potential data to be used for such checks (among other sources for verification). There is no mention of any specific map to be used, and competent authorities might want to use global, regional or national maps or any other source they find appropriate. GFC 2020 is not intended as definitive source of information for compliance.

**9.10.2. What level of accuracy can be expected from global and national spatial maps, and can they be relied upon as a reference for due diligence and verification processes? (NEW)**

Errors are inherent to any spatial map. Overall accuracies of global spatial products are generally around 85% (depending on the number of classes and their spatial complexity). National maps may reach 90% overall accuracy. None of such global or national maps can be considered as ‘reference maps’ neither for the due diligence process nor for the verification process due to their unknown accuracy at local scale. FAQ 9.10.4. further explains the combination of complementary sources of data.

External stakeholders that are interested in the EU Observatory’s Global Forest Cover map for the year 2020 are invited to consider the revised version of the map (version 2 dated December 2024) with an overall accuracy of slightly above 90%.

**9.10.3. Is a commodity automatically non-compliant if produced on an area designated as forest in the map of Global Forest Cover for the year 2020? (NEW)**

Sourcing a commodity originating from land marked as forest in the Global Forest Cover map for the year 2020 does not automatically indicate non-compliance. This may however indicate a risk of deforestation. In such cases, it is suggested to undertake further investigation and additional steps with other sources of information.

**9.10.4. Can a stakeholder use national forest maps in conjunction with the map of Global Forest Cover for the year 2020? (NEW)**

In the framework of the EUDR, forest maps for year 2020 can represent a key source of information for assessing the risk that a relevant commodity or a derived product was produced in areas that have been subject to deforestation after 2020, in particular in the absence of alternative more accurate sources of information (see FAQ 9.10.2.).

While there is no obligation for stakeholders to use thematic maps, analysis shows that the combination of different complementary sources of data, e.g. different forest maps, can provide useful information for an assessment of the risks of deforestation after 2020.

**9.11 What constitutes high-risk, and how long can a suspension take place?**

**Art. 17 EUDR allows Competent Authorities to take immediate actions – including suspension - in situations that present high risk of non-compliance. What constitutes high-risk, and how long can the suspension take place?**

Competent Authorities may identify situations where relevant products present a high risk of being non-compliant with the requirements of the Regulation on the basis of different circumstances, including on the spot checks, the outcome of their risk analysis in their risk-based plans, or risks identified through the information system, or on the basis of information coming from another competent authority, substantiated concerns etc. In such cases, the Competent Authorities can introduce interim measures as defined in Art. 23 of the Regulation, including the suspension of placing or making available the product on the EU market. This suspension should end within three working days, or 72 hours in case of perishable products. However, the Competent Authority can come to the conclusion, based on checks carried out in this period of time, that the suspension should be extended by additional periods of three days to establish if the product is compliant with the Regulation.

**9.12. How does the Regulation link to the EU Renewable Energy Directive? (UPDATED)**

The objectives of the Regulation and Directive (EU)2018/2001 as amended by Directive (EU)2023/2413 (the Renewable Energy Directive – 'RED') are complementary, as they both address the overarching objective of fighting climate change and biodiversity loss. Commodities and products that fall within the scope of both laws will be subject to requirements for general market access under the Regulation and may be accounted as renewable energy under the Renewable Energy Directive (RED), provided that they comply with the requirements set in the RED. The EUDR and RED requirement are compatible and mutually reinforcing. In the specific case of certification systems for low Indirect Land Use Change (ILUC) according to Commission Regulation (EU) 2019/807 supplementing Directive (EU) 2018/2001, these certification systems may also be used by operators and traders within their due diligence systems to obtain information required by the Regulation to meet some of the traceability and information requirements set out in Art. 9 of the Regulation. As with any other certification system, their use is without prejudice to the legal responsibility and obligations under the EUDR for operators and traders to exercise due diligence.

**9.13. How are EFTA/EEA states considered in the Regulation? (NEW)**

Norway, Liechtenstein, Iceland, and Switzerland are all contracting parties of the European Free Trade Association (EFTA). As such, they are not subject to the rules of the Union Customs Code (Regulation (EU) No 952/2013). Therefore, they are not in the "customs territory" as defined in Art. 2(34) EUDR, determining them as "third countries" under the EUDR (Art. 2(35) EUDR).

The European Economic Area (EEA) links the EU member states and three of the four EFTA States (namely Iceland, Liechtenstein, Norway) into an internal market governed by the same

basic rules. The EUDR has been marked as an act with EEA relevance by the EU. It is currently under scrutiny for incorporation into the EEA Agreement by means of an EEA Joint Committee Decision (JCD) meaning that the EEA States, which are also members of EFTA, are considering whether or how EU legal acts should be incorporated into the EEA Agreement. Should the EEA States assess that the EUDR is to be incorporated into the EEA Agreement and should a draft JCD be adopted subsequently and this JCD enters in force after the constitutional requirements have been met, only then would the EUDR be applicable in Norway, Liechtenstein and Iceland. There is usually an inherent backlog of up to several years as the incorporation procedure only starts after the act has been published and due to the complex procedures to incorporate the act into the EEA Agreement and into the legal systems of the EEA States.

Therefore, for now, Norway, Liechtenstein and Iceland are considered third countries under the EUDR.

Switzerland did not join the EEA, therefore the above does not apply to Switzerland, meaning the EUDR applies to Switzerland and operators established there in the same way as it does for other third countries and third country operators.

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# 10. Penalties

### 10.1. What does it mean that the penalties laid down by the EU Member States are without prejudice to the obligations of Member States under Directive 2008/99/EC of the European Parliament and of the Council? (UPDATED)

The EU Member States must lay down the national framework of penalties, which should include at least the penalties listed in Art. 25(2) of the Regulation and must take all measures necessary to ensure that the rules are implemented. The level and type of penalties cannot be in contradiction with the Environmental Crime Directive. The provisions of the Directive are subject to the succession of law.

### 10.2. What is the maximum level of fine?

Member States have the discretion to define the penalties, including the level of fine. For legal persons the maximum level of the penalty cannot be lower than 4 % of the operator's or trader's total annual Union-wide turnover in the financial year preceding the fining decision, calculated in accordance with the calculation of aggregate turnover for undertakings laid down in Art. 5(1) of Council Regulation (EC) No 139/2004.

The level of fine should increase where necessary, particularly in case of repeated infringements. The penalties should ensure that they effectively deprive those responsible of

the economic benefits derived from their infringements, in accordance with the effective, proportionate, and dissuasive principle.

**10.3. With regards to the Public Procurement Directive, is it for EU Member States to decide, when implementing the Regulation, whether self-cleaning should be enabled?**

Apart from the requirements of Art. 25(1) and (2) EUDR, Member States will have discretionary power to decide upon whether they want to provide for self-cleaning or not. However, they would need to ensure that such a provision does not impede the effectiveness of the penalties by setting and applying clear rules on self-cleaning.

**10.4. According to Art. 25(3) EUDR, "Member States shall notify the Commission of final judgments" and penalties imposed on legal persons. The Commission will publish a list of these judgments on its website. Does this refer to all administrative decisions or to court rulings?**

This provision means that Member States should notify the Commission about final judgements against legal persons, which means Court rulings.

**10.5. I have cut down a few small trees on my property where I now raise some cows. I intend to sell the timber and the meat of the cows on a local market in the EU. Will there be penalties imposed on me for selling them as I cut the trees? (UPDATED)**

Generally, the responsibility for enforcement of the provisions lies with the Member States. Requiring operators and traders to take corrective measures, as stipulated in Art. 24 EUDR, falls under the discretion of Competent Authorities of Member States. In the EU, the principle of proportionality is one of the general principles of Union law which applies to the interpretation and enforcement of Union legislation.

Cutting down trees can only constitute a breach of the deforestation-free requirement under the Regulation if the trees are part of a forest as defined in the Regulation. This is the case if the trees are part of land which is not under predominantly agricultural or urban land use spanning more than 0,5 hectares with trees higher than 5 metres and a canopy cover of more than 10 %, or trees able to reach those thresholds in situ. If one of these criteria is not met, the area is not a forest and the cutting down the trees does not breach a provision of the deforestation-free requirement of the Regulation.

**10.6. (*DELETED and information moved to question 7.30*)**