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What is the EU Regulation on deforestation-free products and why should you care?

Introduction

The European Union (EU) Regulation on deforestation-free products (EUDR) adopted in the summer of 2023 prohibits products that have caused deforestation and are illegally produced under national law to be imported into or exported from the EU market. Companies importing have to show proof of deforestation-free and legal production.

The EUDR applies to wood, palm oil, soy, coffee, cocoa, rubber and beef as well as most of the products derived from these commodities like hides, leather, chocolate, charcoal and (printed) paper.¹

The EUDR was initially supposed to become active by the end of December 2024, but due to a [last minute decision](#) by the Commission, the implementation was delayed². The EUDR will now apply to large companies from the end of December 2025 and to small companies from the summer of 2026.

The reason behind the EUDR

Deforestation is the second-largest source of human-induced greenhouse gas emissions, primarily driven by [agricultural expansion](#)³. This loss of forests threatens biodiversity, as they are essential to the survival of over 80% of all terrestrial species. As the world's second-largest importer of [deforestation-linked commodities](#)⁴, the EU plays a significant role in this issue. In response, the EUDR is Brussels' attempt to take responsibility for the deforestation driven, directly or indirectly, by European demand and consumption.



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Definitions in the EUDR: deforestation, degradation and forests (article 2)

“**Deforestation-free**” means that the commodities and products only contain, or have been fed commodities that were produced on land that has not been deforested after 31st December 2020. With regards to products containing wood, it also means “that the wood has been harvested from the forest without inducing forest degradation after 31 December 2020.”

Deforestation means the conversion of forest to agricultural use whether human induced or not. This definition also entails that deforestation for mining, transport or other purposes are not covered by the EUDR.

Degradation means “structural changes to forest cover, taking the form of the conversion of **primary forest or naturally regenerating forest** into **plantation forest** or into other wooded land and the **conversion of primary forest into planted forests** (see definitions below).” According to this definition, which is confirmed by the Commission’s [FAQ document](#) (October 2024)⁵, conversion from naturally regenerating forests to planted forest would not qualify as degradation. The implications, specifically for secondary tropical, temperate and boreal forests, need to be assessed. The degradation definition will be re-assessed after five years.

Forests are defined in the EUDR as “land 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”. The definition excludes land under predominantly agricultural or urban land use. The EUDR differentiates between four types of forests:

- **Primary forest** means naturally regenerated forest of native tree species, where there are no clearly visible indications of human activities and the ecological processes are not significantly disturbed.
- **Naturally regenerating forest** means forest predominantly composed of trees established through natural regeneration such as forests where it is not possible to distinguish between planted and naturally regenerated; forests with a mix of naturally regenerated native trees and planted trees, where the naturally regenerated trees are or expects to constitute the majority; coppice from trees originally established via natural regeneration; and naturally regenerated trees of introduced species.
- **Planted forest** means forest predominantly composed of trees established through planting and/or deliberate seeding, provided that the planted or seeded trees are expected to constitute more than 50 per cent of the growing stock at maturity.
- **Plantation forest** means a planted forest that is intensively managed and satisfies all the following criteria once it is mature: one or two species, even age class, and regular spacing.



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Due diligence requirements

Any company that imports the named commodities or products⁶ into the EU market (or exports them from it) must take reasonable care (known as due diligence) to ensure they comply with the EUDR. Before putting any product on the EU market, the company must produce **a due diligence statement** – including the company’s details, the products it relates to, the quantity, and the geolocation of all plots of land where the commodities were produced – stating that there is no – or only a negligible – risk of non-compliance.⁷

A **due diligence process** consists of three steps:

1. Gathering information (article 9) about the product, quantity, geolocation, proof of legality and proof of deforestation-free production.
2. Conducting a risk assessment (article 10) including consideration of the presence of Indigenous Peoples⁸ in the country, region and area of production of the commodity; whether there has been consultation and cooperation with Indigenous Peoples; whether there are existing land claims; and how complex the supply chain is.
3. Mitigating risks (article 11) which may include supporting smallholders to comply with the EUDR through capacity building and investment.

Companies must appoint a compliance person and an independent audit function to manage the risk of non-compliance.

A Competent Authority, to be appointed in each Member State will use a risk-based approach to **check** companies’ statements and due diligence processes. Each year they will check an agreed percentage of companies and products (see below under *benchmarking, checks and punishments*). They will also check companies where information is provided to them by third parties, including substantiated concerns (article 31). If a company is found to be non-compliant, products can be confiscated, the company can be denied market access temporarily, and/or fines can be issued.

Countries, or regions thereof, will be **benchmarked** as standard-, low- or high-risk. Imports from the high-risk countries or regions will have a higher percentage of goods and companies checked by competent authorities. Only high-risk countries will have goods as well as companies checked (see below under *benchmarking, checks and punishments*).

Benchmarking, checks and punishments

Countries or subnational jurisdictions will be rated high, low or standard-risk in terms of deforestation. Risk ratings will be primarily based on three assessment criteria (rate of deforestation; rate of agricultural expansion; and production trends) but may also include a country or region’s climate commitments; level of transparency; and existence/compliance with laws protecting human and customary tenure rights.



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For high-risk countries, nine per cent of operators and nine per cent of the quantity of each relevant product must be checked annually. For standard-risk countries, three per cent of the operators must be checked, and for low-risk countries at least one per cent of operators must be checked. Competent Authorities should ensure each relevant commodity meets the required percentage of checks (article 16).

Companies in breach of the EUDR can be fined at least four per cent of their total annual EU-wide turnover in the financial year preceding the fining decision, and their products confiscated. They may also be asked to cover the competent authority's costs.

Access to justice (article 32)

The EUDR provides that any person or company with a sufficient interest (as determined by the national Member State law) shall have access to administrative or judicial procedures to review the legality of the decisions, acts or failure to act of the Competent Authorities under the EUDR. The EUDR does not, however, foresee access to legal remedies to achieve redress or compensation of people or communities who have been harmed. Substantive concerns can be submitted, anonymously if so required, to the Competent Authority who will need to respond to the concerns raised within 30 days.

Monitoring

Each year, companies must publicly report "as widely as possible" on their due diligence system describing the products, the quantity and the source country/region, as well as the conclusion of their risk assessment and possible mitigation measures taken. As part

of their risk assessment they must describe "the process of consultation of Indigenous Peoples, local communities, and other customary tenure rights holders or the respective civil society organisations that are present in the area of production of the relevant commodities and products, where applicable."

Member States will be required to, by April 30 each year, make publicly available information about how they have applied the EUDR, including the number and results of checks carried out; the quantity of relevant products checked and the cases of non-compliance. The European Commission will be required to, by 30 October each year, publish a cross-EU overview based on the Member States' reports.

The Commission will publish a list on its website of all infringements of the EUDR, naming the company involved, the date, the activity and the nature and (if relevant) the penalties imposed.

Legality, human rights and Indigenous Peoples' rights

Products/commodities imported to or exported from the EU must comply with relevant national laws as well as international law applicable in domestic law. The definition of "relevant legislation of the country of production", states that it includes "human rights protected under international law" and "the principle of [Free Prior and Informed Consent] FPIC, including as set out in [the United Nations Declaration on the Rights of Indigenous Peoples] UNDRIP". However it is only to be concerned with the legal status of the area of production, and will most likely be difficult for the competent authorities to assess, as it will vary from country to country.

When companies do their risk assessment they must take account of: “the presence of Indigenous Peoples in the country, region and area of production of the relevant commodity”; “the consultation and cooperation in good faith with Indigenous People in the country, region and area of production of the relevant commodity” and “the existence of duly motivated claims by Indigenous Peoples based on objective and verifiable information regarding the use or ownership of the area used for the purpose of producing the relevant commodity (article 10).”

The country benchmarking (article 29) also suggests that the assessment may take into account “whether the country concerned makes relevant data available transparently; and if applicable, the existence, compliance with or effective enforcement of laws protecting human rights, the rights of Indigenous Peoples, local communities and other customary tenure rights holders.”

Smallholders

The EUDR starts by stating its intention that “when sourcing products, reasonable efforts should be undertaken to ensure that a fair price is paid to producers, in particular smallholders, so as to enable a living income and effectively address poverty as a root cause of deforestation.” But the only provision on smallholders in the text itself is under risk mitigation (article 11) – as part of the due diligence process – where it is suggested that companies include efforts to support their suppliers to comply with the EUDR, in particular smallholders, through

capacity building and investment—but this remains optional, rather than mandatory. The first full review of the EUDR, after five years, will assess its impact on smallholders.

There is no doubt that the EUDR will impose due diligence requirements on smallholders⁹. Smallholders will most likely be required by buyers to provide geolocation and data for traceability, which can come with substantial costs for the smallholders and cooperatives. If the economic burden of compliance on smallholders and cooperatives is too great, they could be excluded from the EU market, leading to less local income generation and potentially increased deforestation locally. This is acknowledged by the EU, which is one of the reasons why the EUDR contains an article focusing on cooperation with third countries (article 30). It is essential for the success of the EUDR that the EU takes upon itself to support third countries and in particular smallholders to comply with the due diligence requirements in the EUDR. Smallholder inclusion is crucial for the ability of the EUDR to combat deforestation.

Certification

The EUDR points out that certification or other third party verified schemes can only be used as a source of information in the risk assessment procedure; they cannot be used as a substitute for the operator’s responsibility to conduct due diligence. It is to be expected that certification schemes will work towards EUDR compatibility.

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Additional measures to tackle the root causes of deforestation

Although the EUDR may help clean up EU supply chains, it will not provide incentives to producer countries to tackle the root causes of deforestation, including poor forest governance and unclear land tenure. To solve this, the Commission has drafted a proposal, which was presented in October 2024, for a “[strategic framework for international cooperation](#)” as required under the EUDR¹⁰. International cooperation is a critical step, but the proposal by the Commission lacks concrete action and funding, and there is still a lot of work to be done to tackle the root causes of deforestation and support producer countries to ensure compliance¹¹.

The EU and some member states have launched the [Team Europe Initiative](#) – A key element to ensure EUDR compliance – with the purpose of creating deforestation-free value chains through support to partner governments to create sustainable value chains and support to smallholders, Indigenous Peoples and local communities to protect their rights¹².

The article on benchmarking (article 29) requires the Commission to engage in a specific dialogue with all countries that are high-risk or in danger of being classified as such, with the objective of reducing their level of risk.

The EUDR also states that the EU should work closely with consumer markets like the United States, China and India to ensure less demand for products causing deforestation. This will also be essential for the EUDR to succeed.

Conclusion

The EUDR has the potential to drastically reduce the role EU consumption plays in driving deforestation and in violating community tenure rights. It all depends, however, on implementation and enforcement. It will be critical to strengthen the position of smallholders so that they are not undermined by the geolocation and traceability requirements. Equally important is that competent authorities are given sufficient resources, support and guidance to do their work properly.

To really help halt deforestation, the EU must develop meaningful partnership agreements with producer countries that are inclusive of all stakeholders and rightsholders. Such agreements must include jointly developed roadmaps that create an enabling environment, improve governance, tackle deforestation and respect rights.

Thanks to Fern for providing the majority of the content for this briefing

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- 1 Annex 1 of the EUDR lists all commodities and products.
- 2 <https://www.consilium.europa.eu/en/press/press-releases/2024/12/18/eu-deforestation-law-council-formally-adopts-its-one-year-postponement/>
- 3 <https://www.fao.org/newsroom/detail/cop26-agricultural-expansion-drives-almost-90-percent-of-global-deforestation/en>
- 4 <https://www.wwf.eu/?2831941/EU-consumption-responsible-for-16-of-tropical-deforestation-linked-to-international-trade>
- 5 https://environment.ec.europa.eu/publications/frequently-asked-questions-deforestation-regulation_en
- 6 In this briefing we use commodities and products interchangeably to mean both commodities and products
- 7 A draft due diligence statement is included as Annex II of the EUDR.
- 8 The EUDR refers to Indigenous Peoples, not communities in the wider sense.
- 9 Briefing: Why smallholders must be favoured in the quest for traceability: https://verdensskove.org/wp-content/uploads/2024/10/Briefing_web_ny.pdf
- 10 Proposal for a strategic framework for international cooperation: [98053bb7-bb73-4157-bf35-a9fa35e2ee2_en](https://www.fern.org/fileadmin/uploads/fern/Documents/2024/Fern_Analysis_of_the_European_Commission%E2%80%99s_Strategic_Framework_for_International_Cooperation_December_2024.pdf)
- 11 https://www.fern.org/fileadmin/uploads/fern/Documents/2024/Fern_Analysis_of_the_European_Commission%E2%80%99s_Strategic_Framework_for_International_Cooperation_December_2024.pdf
- 12 <https://zerodeforestationhub.eu/#>