Frequently Asked Questions

Implementation of the EU Deforestation Regulation

Table of Contents

Traceability

(1) Why and how must operators collect coordinates?

The Regulation requires operators and traders which are not SMEs 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 is no deforestation occurring on a specific location**. 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 that operators are required to submit to the Information System ahead of the placing on the market or export of the products. It is therefore a core part of the Regulation, which prohibits the placing on the 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 provide 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 (and traders which are not SMEs) 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.

(2) Should all commodities (imported, exported, traded) be traceable?

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

The Regulation requires that operators (or traders which are not SMEs) trace **every relevant commodity** back to its plot of land before making a relevant product available or placing it on the 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 market.

(3) How does it work for bulk-traded or composite products?

For products traded in **bulk**, such as soy or palm oil, this means that the operator (or traders that are not SMEs) 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 relevant commodities (wood for example) used for the manufacturing process has been produced. The relevant commodities' components may be neither of unknown origin nor from areas deforested or degraded after the cut-off date.

(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 market or exported, are deforestation-free. Therefore, the commodities placed on the 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.

(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 market or exported, and that part may be neither placed on the 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 Article 3 of the Regulation are met and therefore it may be neither placed on the 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 product non-compliant.

This is with no prejudice to other situations, however defined, where 100% of relevant commodities or relevant products placed on the market 1) can be traced to the plot of land, 2) is legal and deforestation free by the meaning of the regulation, and 3) at no point in time has been mixed with commodities of unknown origin or non-deforestation-free.

(6) What does 'plot of land' mean?

The "plot of land" – the subject of geolocation under the Regulation – is defined in Article 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."

(7) 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 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).

(8) What if property registers or titles are unavailable?

How can operators and traders that are not SMEs obtain geolocation data in countries where there are no property registers and where farmers for instance might lack IDs or titles over their land?

Farmers can collect the geolocation of their plots of land regardless of the absence of 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 land they cultivate is sufficient, for example via application on a mobile phone.

As regards the legality requirement, the Regulation requires compliance with national laws. If farmers are legally allowed to farm and sell their product under the 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 generally be able to meet the legality requirement when sourcing from those farmers. Operators (or traders that are not SMEs), nonetheless, would need to verify that there is no risk of illegality in their supply chains.

There are many different means that operators (or traders that are not SMEs) already use today to collect the geolocation and legality 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

(9) 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 (i.e smallholders) which do not

place products on the Union market themselves (and thus do not fall under the definition of operators and traders).

In such a case, the operator will have to guarantee that the area where the relevant commodity was produced is correctly mapped and that the geolocation corresponds to the plot of land. Among the risk assessment procedures and measures which the operator can use are supporting measures for suppliers to meet requirements of this Regulation, in particular for smallholders, through capacity building and other investments.

(10) Should operators verify the geo-location?

Operators and traders which are not SMEs **need to verify and prove that the geo-location is correct.**

Ensuring the truthfulness and precision of geolocation information is a crucial aspect of the responsibilities that operators and traders must fulfil. Providing incorrect geolocation details would constitute a breach of the obligations of operators (and traders that are not SMEs) under the Regulation.

(11) Should due diligence be repeated for products from the same land?

The geolocation information obligation to be provided in the due diligence statements, 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 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.

(12) 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**. Several polygons must be provided in one due diligence statement where a relevant product is made of commodities from several plots of land. A polygon cannot be used to trace the perimeter of a random land area that might include plots of land only in some of its parts.

(13) 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.

(14) How should the origin of mixed goods be declared?

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

For example, if compliant goods from multiple origins are mixed into the same silo, and then some of those goods are shipped to the EU:

- The origin declared on arrival in the EU **must include the origin of all goods that entered the silo since it was last empty** (and could therefore potentially be included in the shipment to the EU)

- Declaring the origin of x amount of goods that entered the silo, where x is the amount shipped to 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.

(15) Can operators include land that did not produce the commodity?

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. However, **an operator can, in specific circumstances, provide geolocation coordinates for a number of plots of land higher than those where the commodities were produced.**

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 has also to carry out full due diligence in compliance with articles 9, 10 and 11, for ALL plots of land declared (including those in excess) and has to provide evidence that 1) the risk of non-compliance has been assessed in accordance with article 10.2 for ALL plots of land, and 2) that, in such assessment, the operator has taken particular account of criteria (i) and (j), of article 10 and 3) that such risk is negligible for ALL plots of land

(16) How will geolocation allow claims to be checked in practice?

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 (or traders that are not SMEs) 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 s/he shall not place that product on the market or export them, in accordance with Article 3 of the Regulation.

Operators (and traders which are not SMEs) and enforcing authorities could 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. However, the operators (and traders that are not SMEs) remain liable.

(17) 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 market or exported, come from deforestation-free plots of land and were produced legally (as per their obligation under Art. 16). 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 Articles 18 and 19 of the Regulation.

(18) Will Competent Authorities use the definitions from the Regulation?

In the context of the implementation of this Regulation, Competant Authorities of EU Member States **will use the definitions set out in Article 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.

(19) How should polygons in shapefile format be declared?

The detailed rules for the functioning of Information System will be established through an implementing act. Stakeholders will be informed and consulted on these developments via the Multi-Stakeholder Platform on Protecting and Restoring the World's Forests. The Information System will, where possible, facilitate the work of operators by **allowing some widely used geolocation formats to be uploaded directly into the system when declaring polygons in a due diligence statement.** The Information System will evolve and become more sophisticated over time, based on feedback from users.

(20) What is supply chain traceability?

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

Operators (and traders which are not SMEs) shall exercise due diligence with regard to all relevant products supplied by each particular supplier. Therefore, they shall put in a 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; risk mitigation measures as referred to in Art. 11. The requirements for the establishment and maintenance of due diligence systems, reporting and record keeping are listed in Art. 12. 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.

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.

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.**

(21) 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 has contributed to the shipment.

(22) What is the 'date or time range of production'?

Operators (and traders that are not SMEs) are required to collect information on the date or time range of production under the obligations set out in Article 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 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).

For relevant products other than live animals in the cattle commodity, the time range of production refers to the lifetime of the animal including the date of slaughtering.

N.B: information on date or time range of production of a product operators wish to place on the market or export does not need to be included in the due diligence statement, but operators are required to collect, organise and keep it for five years (Art.9).

(23) How does traceability work for cattle?

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 market cattle products must geolocate all establishments associated with raising the cattle, encompassing the birthplace, farms where they were fed, grazing lands, and slaughterhouses.

(24) What if upstream suppliers do not provide required information?

If an operator (or trader that is not an SME) placing a commodity on the market is unable to obtain the information required by the Regulation from upstream suppliers, they must refrain from placing the relevant products on the market or exporting them as that would result in a violation of the Regulation, which could lead to potential sanctions.

(25) Should coordinates be provided for land in low-risk countries?

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). 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 shall fulfil all of the obligations under Articles 10 and 11 and shall immediately communicate any relevant information to the competent authority.

(26) Does the legality requirement apply for deforestation-free land?

Relevant commodities and relevant products cannot be placed on the market or exported unless they have been produced in accordance with the relevant legislation of the country of production as per the requirement set out in Art. 3(b).

The obligations under Art. 3 are cumulative: **the legality requirement (Art 3(b)) has to be fulfilled in addition to the 'deforestation-free' requirement** (Aricle3(a)) and the requirement for the commodities or products to be covered by a due diligence statement (Art.3(c)).

(27) Are there obligations for non-EU countries?

There are no legal obligations applicable to non-EU countries. This Regulation sets out obligations for operators and traders (see 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.

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Scope

(28) 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.

(29) What about listed products that do not contain listed commodities?

	… made of a commodity listed in Annex I	**… not made of a commodity in Annex I**
Relevant product listed in Annex I…	Subject to the EUDR	Not subject to EUDR
Other product not listed in Annex I…	Not subject to EUDR	Not subject to EUDR

Products included in Annex I that do not contain, or are not made of, the commodities listed in 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.

(30) 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 market or exporting a relevant product included in Annex I, whatever its quantity, are subject to the obligations of the Regulation.

(31) What about products produced in the EU?

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

For instance, if an EU company produces chocolate (code 1806, which is included in Annex I), then it will be considered as an operator subject to the obligations of the Regulation, even if the cocoa powder used in the chocolate has already been placed on the market and fulfilled the due diligence requirements (see also question 38 on operators down the supply chain).

(32) How does the regulation apply to wood used for packaging?

For example, in the case of a producer selling packaging 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 under Wood HS code 4415** should be understood as follows:

If any of the concerned packaging is placed 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 due diligence requirements apply.

If packaging, as classified under HS code 4415, is used to 'support, protect or carry' another product, it is not covered by the Regulation.

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

User manuals accompanying shipments are also falling under this exemption unless they are purchased in their own right.

(33) Does all recycled paper/paperboard fall under the scope?

Most recycled paper/paperboard products contain a small percentage of virgin pulp or pre-consumer 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 Article 3, point (1), of Directive 2008/98/EC. So, no obligation applies under the Regulation in respect of the recycled material.

On the contrary, **if the product contains a percentage of 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.

(34) What are CN and HS Codes and how should they be used?

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 article 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 article 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

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Subjects of obligations

(35) Who is considered an operator?

As defined in Article 2(15) of the Regulation, an operator is a natural or legal person who places relevant products on the market (incl. via an import) or exports them in the course of 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. 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 market, both company A and B would be considered operators under the Regulation.

Operators placing on the market a product listed in Annex 1 I that has 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 filing a due diligence statement.

(36) 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” (Article 2.15) and of ‘in the course of a commercial activity’ (Article 2.19) imply that any person, which places a relevant product on the market for selling (with or without transformation) or as a gift, 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 present the due diligence statement.

(37) What does ‘relevant legislation of the country of production’ mean?

Relevant commodities and products can only be placed on the EU market if they are deforestation-free and comply with the relevant legislation of the country of production, Art. 3 (b), Art. 2 (40) EUDR.

"Relevant legislation" may include, among others, national laws (including relevant secondary law) and jurisprudence as well as international law as applicable in domestic law. The Regulation presents a non-exhaustive 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 letters (a) to (h) must be interpreted as being linked to the area of production. For the legislation on environmental protection, the meaning and purpose stipulated in Art. 1 EUDR should be taken into account. Therefore, 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, Art. 9 (1) (h), 10 EUDR. Such documentation may, for example, consist of official documents from public authorities, contractual agreements, court decisions or impact assessments and audits 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.

The Commission will issue a specific guidance document on legality in due course.

(38) What are the obligations of operators further down the supply chain?

Operators further down the supply chain are those who transform a product listed in Annex I (which has already been subjected to due diligence) into another product listed in Annex I. Their obligations vary depending on whether they are Small and Medium-sized Enterprises (SMEs) or not.

When submitting their due diligence statement in the Information System, non-SME operators further down the supply chain 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. However, they are obliged to ascertain that due diligence was carried out and they retain legal responsibility in the event of a breach of the Regulation. For parts of relevant products that have not been subject to due diligence, non-SME operators shall exercise due diligence in full and submit a due diligence statement.

SME operators further down the supply chain are subject to the same obligations as an operator and retain legal responsibility in the event of a breach of the Regulation. However, in respect of parts of their products that have been subject to a due diligence, they are required a) neither to exercise due diligence for parts of their products that were already subject of due diligence exercise; b) nor to submit a due diligence statement in the Information System. But they still have to provide due diligence reference numbers obtained from previous steps in the supply chain. For parts of relevant products that have not been subject to due diligence, SME operators shall exercise due diligence in full and submit a due diligence statement.

(39) How does the regulation apply to exports?

The Regulation applies both to exports and to imports. Operators exporting relevant products will have to include the reference number of the due diligence statement in their export declaration. Operators exporting products made with commodities that were already covered by a due diligence statement may also avail themselves of relevant simplifications in article 4 (see information for products produced in the EU).

(40) 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 Article 2(30) of EUDR. This provision refers to the definitions provided in Article 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 1 on the market, for instance, large supermarket or retail chains.

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

(41) Who is liable in case of a breach of the Regulation?

All operators retain responsibility for the compliance of the relevant product they place on the market or export. The Regulation also requires operators (or traders which are not SMEs) to communicate all necessary information along the supply chain.

Traders also retain responsibility for relevant products they make available on the market or export.

Therefore, in case of breach of the Regulation (if products have already entered the market or in case information is not properly disclosed by the operator), each actor of the supply chain concerned by the placing or making available on the market or the export of a relevant product retains responsibility and may be held liable.

(42) Who is the operator in the case of standing trees or harvesting rights?

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 market or exporting it.

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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.

(43) 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 Article 2 (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.

(44) Which criteria does wood need to comply with?

The wording of the deforestation-free definition in Art. 2 (13) (b) ("….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 Article 3 (a) 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.

(45) 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 be compliant? In 30 years, once the forest will have been regenerated, could the same operation take place with the same conclusion on the EUDR compliance?

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 (Article 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.

(46) Will "forest degradation" affect existing sustainable forest management systems?

Forest degradation under the Regulation means the conversion of certain types of forests into other kinds of forests or other wooded land. Sustainable forest management systems can be employed and encouraged, provided they do not lead to a conversion that meets the degradation definition.

(47) How to apply "trees able to reach those thresholds in situ"?

How shall we apply the clause "trees able to reach those thresholds in situ" related to tree height and canopy cover in the forest definition in Article 2 (4)?

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 m or more, it should be classified as "forest", based on the FAO definition. E.g. young stands that have not yet but are expected to reach a crown density of 10 percent and tree height of 5 m are included under forest, as are temporarily unstocked areas, whereas the predominant use of the area remains forest.

(48) Which forest land use change is compliant?

Deforestation is defined in Article 2 (3) 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.

(49) 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 dues to nature disasters. A forest that has experienced a fire and is then subsequently converted into agricultural land (after the cut-off date) would be considered 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 deforestation, and an operator could source wood from that forest once it has regrown.

(50) Will 'other wooded land' or other ecosystems be included?

The Regulation relies on the definition of 'forest' of the Food and Agriculture Organization 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.

The first review of the Regulation to be done within one year of the entry into force will assess the impact of further expanding the scope to 'other wooded land'. The second review to be done within two years of the entry into force of the Regulation will assess the impact of expanding it to ecosystems beyond 'forests' and beyond 'other wooded land'.

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 market or exported.

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Due Diligence

(51) What are my obligations as an EU operator?

As a general rule, operators (and traders which are not SMEs) will have to set up and maintain a Due Diligence System, which consists of three steps.

As step one, they would need to collect the information referred to in Article 9, such as the commodity or product which they intend to place (or make available in case of non-SME traders) on the 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 (or traders which are not SMEs) cannot collect the required information, it must refrain from placing (or making available in case of non-SME traders) on the 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 (or traders which are not SMEs) cannot collect the required information, it must refrain from placing the affected products on the 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 Article 10. 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 Article 11. 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 Article 13, they will need to collect information in line with Article 9, but they will not be required to assess and mitigate risks (Articles 10 and 11) unless the operator obtains or is made aware of any relevant information, including substantiated concerns submitted under Article 31, that would point to a risk that the relevant products do not comply with this Regulation (Article 13.2).

(52) What is an 'authorised representative'?

According to Article 6, the operator and the trader may mandate authorised representatives to submit a due diligence statement on their behalf. In this case, the operator and trader 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.

(53) 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 market or exports a relevant product, is responsible for the compliance of the product and for the overall compliance with the Regulation. Hence, it is its name that shall figure in the due diligence statement and it shall retain the full responsibility under the Regulation.

(54) What about re-importing a product?

What are my due diligence statement obligations if I am re-importing a product that was previously exported from the EU?

Where an operator (or trader that is not an SME) re-imports a product that was previously exported and places it under the customs procedure 'release for free circulation', the same obligations apply as if the product was placed for the first time on the market. When exported, the relevant product looses its customs status of 'Union good' and that relevant product is considered to be a new product when subsequently re-placed or re-made available on the market. Already existing due diligence statements can help the operator to exercise due diligence.

(55) 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 EUDR.

(56) What is the role of certification or verification schemes?

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.

(57) How long should documentation be kept?

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

Operators shall collect, organise and keep for five years from the date of the placing on the market or export of the relevant commodities and relevant products the information gathered based on Article 9, accompanied by evidence. Based on the provisions of Article 10 (4) and Article 11 (3), the 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 market or exporting it. In that regard, non-SME traders have the same obligations as the operators.

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

(58) 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 market or exported, 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 Article 3, point (a) or (b).

(59) Are 'negligible risk products' exempt?

Can we understand negligible risk under Article 2 (26) EUDR read together with Article 10(1) EUDR as exemption criteria of EUDR?

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 market or exporting relevant products) **as a result of conducting due diligence** (as per Article 4(1)). Conducting due diligence is a core obligation of operators and traders under this regulation, which is not subject to any exemption.

N.B. The 'negligible risk' element does not apply to commodities (there is no 'risk status' per commodity in the Regulation).

(60) 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.

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Benchmarking and partnerships

(61) What is country benchmarking?

A 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 in such countries commodities that are not deforestation-free.

The criteria for the identification of the risk status of countries or parts thereof are defined in Article 29 of the Regulation. Article 29 (2) mandates the Commission to develop a system and publish the list of countries, or parts thereof, no later than 18 months after the entry into force of the Regulation when the main obligations of the Regulation kick in. 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.

(62) What is the methodology?

The methodology is currently being developed by the Commission and will be presented in future meetings of the Multi-Stakeholder Deforestation Platform and other relevant meetings.

(63) 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 Article 29(5) 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.

(64) 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 Article 29(5)?

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 Article 29(5) of this Regulation on benchmarking or in a different context.

(65) 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 is described in Article 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 Article 29 (3) and 29 (4) of the Regulation. The relevant quantitative criteria are: (a) rate of deforestation and forest degradation, (b) 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.

(66) What support is provided for producer countries and smallholders?

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 through a global Team Europe Initiative 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 entered already in 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

(67) 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?

This Team Europe Initiative (TEI) Hub (short: "Zero Deforestation Hub") will provide information and outreach to partner countries on deforestation-free value chains and will conduct knowledge-management to coordinate relevant pre-existing projects from EU and Member States, with upcoming activities dedicated to the goals of the TEI. This will ensure 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)** project is the most important pillar on the cooperation side of the TEI. SAFE is currently being implemented in Brazil, Ecuador, Indonesia and Zambia. Further country components will be added in Vietnam and DRC in 2024. The SAFE project will be further scaled up to cover more countries through upcoming financial contributions from Member States.

The **Technical Facility on Deforestation-free Value Chains** will be a flexible and on-demand instrument to assist producing countries with expertise on technical requirements, such as geolocalization, land-use mapping and traceability, with a particular focus on smallholders. These activities will be closely coordinated with EU Delegations and aligned with pre-existing projects as well as SAFE, in order to create synergies and avoid duplications.

(68) How does the Team Europe initiative relate to the CSDDD?

In view of the ongoing legislative process on the Corporate Sustainability Due Diligence Directive (CSDDD), 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 EUDR and CSDDD.

(69) How can we mitigate the risk of false 'high risk' benchmarking?

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-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.

(70) 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, as per 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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Supporting implementation

(71) What is the Information System and the 'EU Single Window'?

The Information System (IS) is the IT system which will contain the due diligence statements submitted by operators and traders to comply with the requirements of the Regulation. The Information System will be operational by the entry into the application of the Regulation and will provide users with the functionalities listed in Art. 33(2) of the Regulation.

The EU Single Window Environment for Customs (EU SWE-C) is a framework that enables interoperability between customs IT 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 EU CSW-CERTEX system, will interconnect the Information System with national customs IT systems and will enable sharing and processing of data submitted to customs and non-customs authorities by economic operators. The 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.

(72) What data security safeguards will they have?

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. In line with the Union's Open Data Policy, the Commission shall 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.

(73) 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?

Operators that import or export relevant commodities and relevant products need to provide their **Economic Operators Registration and Identification** (EORI) number 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.

(74) Can the system store frequently used data?

Will it be possible to 'store' frequently used data (e.g. an operator/trader's main suppliers) in the IS, so that it can be easily auto-filled rather than needing to be entered afresh for each new DDS?

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 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 file (Format GeoJSon).

(75) Can the system help farmers identify their geolocation?

No, 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). As such, it does not provide software or tools to identify geolocations coordinates.

(76) Can a due diligent statement be amended?

Cancellation or amendment of submitted DDS will be possible within 72 hours after the due diligence reference number has been provided by the System. Cancellation or amendment will not be possible if the DDS reference number has already been used in a custom

declaration, in another DDS, or if the corresponding product has already been placed or made available on the market or exported.

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Timelines

(77) When does it enter into force and into application?

The Regulation was published in the Official Journal of the European Union on 9 June 2023. It entered into force on 29 June 2023. However, the applicability of certain Articles listed in paragraph 2 of Article 38 will enter into application on 30 December 2024 (18 months transition) and on 30 June 2025 (24 months transition) for micro- and small enterprises.

(78) 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?

The entry into application for large and medium enterprise operators and traders is foreseen 18 months after the entry into force of the Regulation (on 30 December 2024). 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 (24 months after the entry into force of the Regulation - on 30 June 2025).

(79) How to prove that the product was produced before the Regulation entered into force?

Who bears the burden of proof that the relevant commodity or relevant product which an operator wants to place on the market or export was produced before entry into force and the Regulation does not apply?

The Regulation is applicable as stipulated in Article 1 (1) unless the conditions of Article 1 (2) are met. 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 Article 1(2) are met. While in this case the operator is not obliged to submit a due diligence statement, the operator should save necessary documents proving non-applicability of the Regulation and its obligations.

(80) What are the obligations for operators and non-SME traders when they place on the market or export a relevant product which is made of a relevant product or a relevant commodity that was placed on the market during the transitional period (i.e., the period between the entry into force of the Regulation (30/6/2023) and its entry into application (30/12/2024)

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 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 market (or exported) after 30/12/2024.*

If a commodity is placed on the market during the transitional period, i.e., before the entry into application of the EUDR, when placing on the market a derived product, the obligation 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 market before the entry into application of the Regulation. This is without prejudice to Article 37.2 with regard to timber and timber products.[1]

If the commodity is placed on the market or exported after the transitional period, i.e., after 30/12/2024, 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 market after 30/12/2024, 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 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 market (or exported) by a downstream operator after 30/12/2024.*

In this case, the obligation of the operator (and of non-SME traders) placing on the 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 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 market after 30/12/2024, the operator (and the non-SME traders) will be subject to the standard obligations of the Regulation. This is without prejudice to Article 37.2, with regard to timber and timber products.

3. *An operator places on the 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 after 30/12/2024.*

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 market before the entry into application of the Regulation. This is without prejudice to Article 37.2, with regard to timber and timber products.

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[1] Regulation (EU) No 995/2010 shall continue to apply until 31 December 2027 to timber and timber products as defined in Article 2, point (a), of Regulation (EU) No 995/2010 that were produced before 29 June 2023 and placed on the market from 30 December 2024

Other questions

(81) Will the Commission issue guidelines?

The Commission is working on **guidelines** to elaborate on some of the aspects of the Regulation, notably 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. These documents are planned to be published before the entry into application of the Regulation.

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.

N.B: 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 best practice examples, etc.

(82) Will the Commission issue commodity-specific guidelines?

No. However, the Commission aims to put forward best practice examples, including in guidance documents, which will to some extent cover commodity-specific aspects.

(83) 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 (Article 12.3).

(84) What is the EU Observatory on deforestation and forest degradation?

The Observatory will built 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 will not automatically ensure that the conditions of the Regulation are complied with, but will be a tool to help companies to ensure compliance with this Regulation, for

example to assess the deforestation risk. Companies will still be obliged to carry out due diligence.

The EU Observatory on deforestation and forest degradation will cover all forests worldwide, including European forests and will be 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 reference maps produced by the EU Observatory will be to inform the risk assessment by operators/ traders and EU MS Competent Authorities (CAs). As such, reference maps will have the following features:

- **They will be non-mandatory.** There will be no obligation compelling operators /traders (or CAs) to use the reference maps of EU Observatory to inform their risk assessment

- **They will be 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 will be available, and will be a tool that the Commission will offer free of charge

- **They will be non legally binding.** Therefore, reference maps may made available by the EU Observatory may be used for risk assessment. However, the fact that geolocation provided falls within an area considered as forest does not automatically lead to conclusions of non-compliance. On the other hand, one should not assume that if geolocation falls outside an area considered as forest the shipment/commodity will not be checked (there can be random checks, and there may be other risk factors) or that the commodity will be automatically compliant (first, due to the absence of 100% accuracy, and second, because a deforestation-free commodity could anyway be illegal)

(85) What constitutes high-risk, and how long can a suspension take place?

Article 17 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 Article 23, including the suspension of placing or making available the product on the 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 products is compliant with the Regulation.

(86) How does the Regulation link to the EU Renewable Energy Directive?

The objectives of the Deforestation Regulation and the Renewable Energy Directive 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 acts will be subject to requirements for general market access under the EUDR and for being accounted as renewable energy under the Renewable Energy Directive (RED). These requirements 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 EUDR to meet some of the traceability and information requirements set out in its Article 9. 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.