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EU Regulation on Deforestation-free products (EUDR)

Questions & Answers

You can watch the recording of our EUDR webinar here.

What is the EU Deforestation-free Regulation (EUDR) and what commodities are in scope?

The EUDR bans the sale or export of certain goods into or from the EU unless it can be proven that they are deforestation-free and produced in compliance with the relevant legislation in the country of production. The EUDR will apply to all companies that sell, import or export the relevant products, listed in Annex I of EUDR, that contain, have been fed with or have been made using relevant commodities, namely cattle, cocoa, coffee, palm oil, rubber, soy, wood.

Why does the EU need a regulation specifically focused on deforestation?

Deforestation remains a critical global issue. According to data from the World Resource Institute's Forest Watch platform, the total amount of tropical primary forest lost in 2023 was 3.7 million hectares, the equivalent of losing almost 10 football fields of forest every minute. And according to the European Commission, the EU's consumption accounts for 10% of global deforestation. The EUDR reduces the EU contribution to deforestation and forest degradation around the world, as well as lowering GHG emissions and protecting global biodiversity loss.

What's the timeline?

The Regulation entered into force in June 2023 and will start to apply from 30 December 2024 (30 June 2025 for SMEs).

Which sectors will be most affected?

The regulation has not been designed to focus on a particular sector. It will affect any companies that import, produce or trade the relevant commodities or products. In particular, the food and beverage industries, retail, fashion and forestry but also healthcare and pharmaceutical.

What do affected companies need to do?

The main obligation placed on companies by the regulation is the need to conduct an extensive due diligence process on the value chain of a product (including the geolocation of all plots of land where the product was produced) to verify and disclose that the product is deforestation-free and has been produced in accordance with the relevant legislation of the country of production.

According to the regulation, what are the steps that companies should follow?

Due diligence is broken into three parts:

- First, information requirements, including for example the geolocation of all plots of land where the product was produced; and information such as contracts, court decisions, impact assessments etc. that verify the product has been produced in compliance with the regulation of the country of production. All "operators" must fulfil this requirement.
- If a product originates in a "standard" or "high-risk" country, the second part of due diligence requires the information collected to be subject to a risk assessment.

- And the third part, depending on the outcome of the risk assessment, is the possible implementation of risk mitigation measures.

Without a due diligence statement confirming due diligence has been conducted with no risk of deforestation or non-compliance, products cannot be sold in, or exported from the EU market.

What are the challenges companies are likely to face? Do the challenges differ for operators and traders?

The EUDR poses different but linked requirements on operators and traders. The principal burden will fall on operators placing products on the EU market for the first time, or exporting products from the EU.

- **Operators** must conduct due diligence in regard to all relevant products supplied by each supplier, and submit a due diligence statement. For operators, the focus will be on information gathering, technology implementation, supplier engagement and risk assessment and mitigation. The information needs to be kept up to date and provided every time the operator makes a product available on the market or exports it.
- **Large traders** are technically subject to the same obligations as operators in that they are required to file a due diligence certificate. However, they can rely on the due diligence previously carried out by the operators. In doing so they must "ascertain" that the due diligence has been exercised in accordance with the regulation. They also remain liable in case of a breach of the regulation. For traders, supplier engagement and documentation essential for compliance will be critical.
- Companies within the EU who transform a relevant product into another relevant product (e.g., use cocoa butter imported by a different company to make chocolate) will also be considered an **operator**. In this case, because the cocoa butter should have already been subject to due diligence, companies can rely on the previously conducted due diligence for that aspect of the chocolate, though non-SME companies need to ascertain that the due diligence was done correctly.

What happens if there is no due diligence statement confirming the absence of deforestation and non-compliance?

Without a due diligence statement confirming due diligence has been conducted with no risk of deforestation or non-compliance, products cannot be sold in, exported from, or imported to the EU market.

Can companies use existing certification schemes to comply with the EUDR?

Certification schemes cannot be relied on as an equivalent to compliance but can support companies in their compliance. In particular, information from certification schemes can be used to support companies in their risk assessment as part of due diligence.

Are the EUDR and DDS applicable if a parent company is selling goods intercompany between different legal entities, but both part of the same company?

As reported in the FAQ (question 53) document of the commission, 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.

Are there implications for producers outside the EU whose products are eventually destined for the EU market?

Upstream producers who do not directly place relevant commodities or products on the EU market do not have explicit obligations under the regulation, but practically speaking will be required to provide information to operators so they can fulfil their due diligence obligations. If producers cannot provide the information operators need, operators will not be able to import the products into the EU and therefore operators are likely to consider sourcing products from elsewhere. Operators remain ultimately responsible for the accuracy of the data, and need to verify and prove the data is correct.

How does the EUDR fit with a company's response to other sustainability-related legislation (CSRD, CBAM and CSDDD)?

An organisation's response to the EUDR can have synergies with its response to other pieces of EU sustainability regulation especially in regard to data processes and management, stakeholder engagement, reporting and strategy development:

- There are links with the Corporate Sustainability Due Diligence Directive – CSDDD, which also imposes a due diligence requirement on supply chains. Companies who fall within the scope of the CSDDD should be able to fulfil their EUDR reporting obligations by including the required information when reporting under the CSDDD.
- Similarly, for the Corporate Sustainability Reporting Directive (CSRD), significant investment and resource need to be channeled into data collection, reporting and assured.
- Companies can also consider links with new anti-greenwashing-related regulations - the Green Claims Directive and Empowering Consumers Directive, which are pushing companies to develop a more rigorous approach to their environmental marketing, with all claims underpinned by robust data and supplemented with verification. Companies will not be able to frame compliance as a differentiator because it is a legal requirement.
- Additionally, the Ecodesign for Sustainable Products Regulation – ESPR – requires companies to collect more data about their products' environmental footprint.

What sorts of technologies can support companies with the requirements?

Technology plays a key role. It is an enabler for collecting and integrating data along the value chain, e.g., blockchain and to effectively fulfil the EUDR requirements. Technology will be essential also for identifying geo-plots and coordinates (key requirement to prove deforestation-free). Consolidated end to end solutions to respond to all the requirements are under development on the market.

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