

THE EU DEFORESTATION REGULATION KEY INFORMATION

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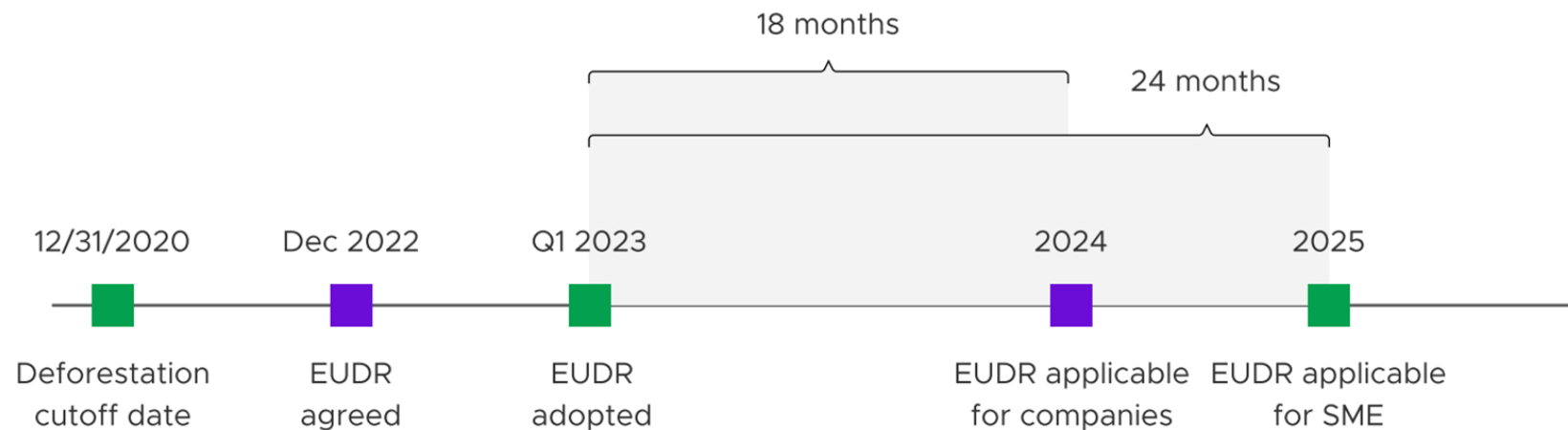
71st
International

SOFTWOOD CONFERENCE

Vienna 2023, 11th – 12th October

BACKGROUND:

On 9 June 2023, Regulation (EU) 2023/1115 concerning the making available on the EU market and the export from the EU of certain commodities and products associated with deforestation and forest degradation (“Deforestation Regulation”) was published.



PURPOSE: reducing EU consumption of products coming from supply chains associated with deforestation or forest degradation, and therefore the EU contribution to greenhouse gas emissions and global biodiversity loss.

COVER PRODUCTS & MARKETS:

Seven commodities listed in Annex I: cattle, cocoa, coffee, oil palm, soya, rubber and wood (furniture, printed paper and plywood are also “covered products”).

The Regulation applies to products listed in Annex I, whether they are produced in the EU or imported.

General prohibition on placing or making available (including importing) on the EU market, or exporting from the EU market, the covered products unless they meet the three requirements:



REQUIREMENTS:

Substantive requirements



The covered products are **deforestation free** (produced on land that has not been subject to deforestation (and forest degradation) **after 31 December 2020**)

The covered products have been produced in accordance with the **relevant legislation of the country of production** (*land use rights; environmental protection; forest-related rules, including forest management and biodiversity conservation, where directly related to wood harvesting; third parties' rights; labour rights; human rights protected under international law; the principle of free, prior and informed consent, including as set out in the UN Declaration on the Rights of Indigenous Peoples; tax, anti-corruption, trade and customs regulations.*)

Formal Requirement



The covered products are covered by a **due diligence statement – as per Annex II**



WHO MUST COMPLY:

OPERATORS:

A natural or legal person who, in the context of a commercial activity, places the covered products on the EU market or exports them from the European Union.

TRADERS:

A person in the supply chain other than the operator who, in the context of a commercial activity, makes available on the EU market covered products.

SMEs:

Operators that are SMEs shall not be required to exercise due diligence for relevant products that have already been subject to due diligence and for which a due diligence statement has already been submitted.

DUE DILIGENCE – 3 STEPS

Collection of information

Collect (and retain for 5 years) information relating to: (i) the description of the covered products; (ii) their quantity; (iii) (parts of) the country of production; (iv) **geo-localisation** coordinates; (v) the name and contact details of their relevant suppliers and customers; and (vi) adequately conclusive and verifiable data that the covered products are deforestation-free and have been produced in accordance with the relevant legislation of the country of production.

Risk assessment

Operators must assess the risk of the products being non-compliant with the EUDR. Only if the risk assessment identifies no or only a negligible risk, may the product be placed (including imported) on the EU market or exported from the European Union. That risk assessment must be annually reviewed.

Risk mitigation

If non-negligible risk => adequate and proportionate risk mitigation measures must be taken before the products may be placed (including imported) on the EU market or exported from the EU. Available risk mitigation measures include implementing model risk management practices, reporting, and independent audits as well as appointing a compliance officer at management level (for non-SME operators).

GEO-LOCALISATION



‘the geographical location of a **plot of land** described by means of latitude and longitude coordinates corresponding to at least one latitude and one longitude point and using at least six decimal digits;

The format of the geolocalisation information provided can differ according to the size of plots:

< 4 hectares -> one latitude and one longitude point

> 4 hectares -> perimeter polygon identified by sufficient latitude and longitude points

The "plot of land" => land within a single real estate property, as recognised by the law of the country of production, been produced or harvested on the land designated as a plot of land.

Collecting the geolocation coordinates of a plot of land can be done via mobile phones and widespread and free-to-use digital applications

CERTIFICATION & FLEGT LICENCES:

Sustainability certification schemes represent another tool that operators can use to help them comply with the EUDR.

The EUDR is clear that certification or other third party verified schemes represent relevant tools that could be used in a risk assessment/mitigation processes.

However, it also states that there is no green lane for certification schemes and purchasing certified products does not substitute the operator's responsibility as regards due diligence

FLEGT licenses will be accepted as proof of legality, but not as proof that the item is deforestation-free. Although FLEGT-licensed timber will automatically qualify as legal, it will not be given green lane access, meaning that operators would still have to do due diligence to ensure the timber is deforestation-free.

The role of certification schemes/FSC within the EUDR



- Certification schemes can be used in the **risk assessment / mitigation** due diligence phases – if they **provide geo-location data**.
- Schemes **cannot exempt** companies in carrying out their due diligence obligations **“green lane”**
- **Companies’ responsibility** checking to which **extent** schemes are **aligned** with the EUDR requirements
- The role of schemes will depend on whether the **EU Competent Authorities** will consider them **effective or not**.



How FSC can help companies with EUDR compliance

- FSC **+10 years of experience** with EUTR and due diligence
- FSC is already **strongly aligned** with the EUDR **legality** and **sustainability** requirements
- FSC has unique features and can help a lot with the **degradation-free** and **FPIC requirement**
- FSC is developing **voluntary "add on"** to help companies comply with the EUDR
- FSC is working on **new generation blockchain** to help meeting EUDR **traceability requirements.**
- FSC has **well-established relationship with EU CAs** due to the EUTR experience





PEFC will be positioned to respond to the EUDR

by putting in place a modular approach that will ensure alignment with the EUDR requirements

to benefit certificate holders and to facilitate their EUDR compliance

PEFC: your partner in the EUDR

PEFC IS WELL POSITIONED BECAUSE OF:

- **PEFC robust standards** that address sustainability and legality
- **PEFC's global reach**, including the work in and with VPA/FLEGT countries
- PEFC **new documentation** that covers a range of issues that already contribute to the **alignment of PEFC** with the EUDR
- 10+ years of experience and alignment with the **EU Timber Regulation**, but also engagement with the EU on other relevant legislation
- PEFC keen to provide **solutions that will be implementable** and **optimal** for PEFC certificate holders to benefit from, not leaving anyone behind, especially the smallholders

PEFC'S ONGOING WORK

- Assessment of the EUDR requirements
- Discussion in relevant PEFC working groups to form consensus on the solutions
- Understanding stakeholders' situation and needs
- Gradual involvement of relevant public through consultations
- Participation in the European Commission's platform on EUDR

THE INFORMATION SYSTEM:

Operators must prepare a due diligence statement, and submit it via an information system that will be accessible to Member State competent authorities and customs authorities.

Operators must communicate to other operators and traders further down the supply chain all information necessary, including the reference numbers of due diligence statements filed with the authorities, to confirm that the appropriate due diligence was carried out.

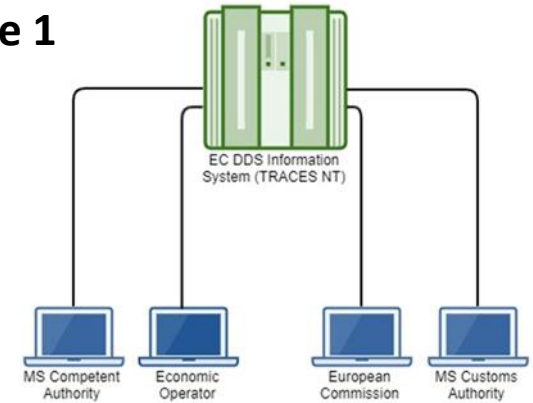


- End 2023: Finalisation of the development of the DDS Information System;
 - pilot testing (realistic data testing and feedback collection)
- Q2 -2024 User training with the support of the CAs
- Q4-2024 Preparation for GO LIVE
 - system go live

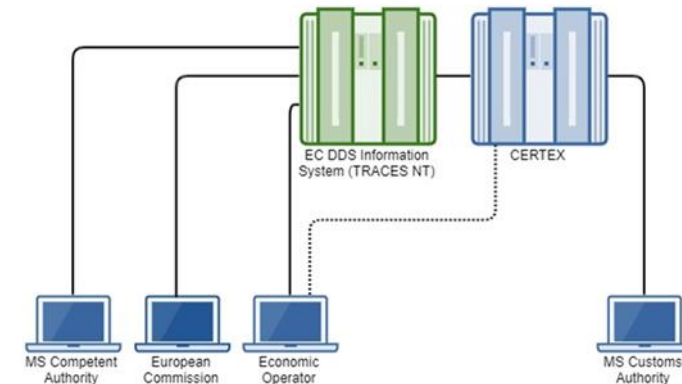
THE INFORMATION SYSTEM:

1. Allows filling in and submitting of DDS
2. Records and verifies DDS data
3. Assigns a unique reference ID to the submitted DDS
4. Supports Competent Authorities in the performance of Risk Assessment on referenced products, production areas and economic operators in the DDS
5. Allows consultation of the DDS by relevant stakeholders
6. Registers the outcome of checks on DDS and supports communication between Competent Authorities
7. Generates aggregated anonymised datasets as per the regulation requirements

Phase 1



Phase 2



BENCHMARKING:

High

Elevated risk of commodities and products originating from these countries/regions not being deforestation-free and/or not being legally produced.

Low

Sufficient assurance that commodities and products originated from these countries/regions comply with the requirements and, if risks exist, they are exceptions.

Standard

Level of risk assigned to countries/regions when these do not fall in any of the other two categories (default).

By 30 December 2024, the Commission will publish an implementing regulation listing (parts of) countries that present a low or a high risk. DELEGATE ACT

BENCHMARKING:

EU Member States must designate a CA;

The EC must be informed of this choice by 30 December 2023 and the full list of designated CAs must be publicly available online.

CAs will have to meet minimum thresholds on the checks performed annually (each of the relevant products separately) which are based on the classification of risk of the country benchmarking.

Country risk classification	Minimum amount of checks performed by CAs
High	<ul style="list-style-type: none">• Operators/traders: 9% per year• Product quantity: 9% per year
Standard	<ul style="list-style-type: none">• Operators/traders: 3% per year
Low	<ul style="list-style-type: none">• Operators/traders: 1% per year

RISK BASED APPROACH:

CAs should use a risk-based approach and analyze the likelihood of non-compliance on the basis of criteria such as complexity and length of the supply chains, stage of processing of the product, location of plots of land of production (and their proximity to forested areas), and history of non-compliance of the operators/traders potentially involved.

Additionally, CAs can be made aware of cases of non-compliance through the complaint mechanism, where substantiated concerns can be submitted.

“duly reasoned claims based on objective and verifiable information regarding non-compliance with the Regulation”,



FINES – UP TO 4% OF COMPANY'S EU TURNOVER:

Potential fines of up to 4% of the company's EU turnover, confiscation or exclusion from public funding or contracts.

Penalties for non-compliance will be laid down under national law, but under the EUDR itself, penalties may include:

- Fines proportionate to the environmental damage and value of the items (it will gradually increase with repeated infringements) with a maximum of at least 4% of EU turnover in the preceding year and may be increased to exceed the potential economic benefit;
- Confiscation of the covered products or confiscation of the revenues gained from the items;
- Temporary exclusion from public procurement processes and public funding; and
- for serious or repeated infringements, temporary prohibition from dealing in the EU in those items, or a prohibition from using the simplified due diligence process.

THANK YOU FOR YOUR ATTENTION

Silvia Melegari

Joint Secretary General

CEI-Bois: European Confederation of Woodworking Industries

EOS: European Organisation of the Sawmill industry

