

The EU Deforestation Regulation: What Do Companies Need To Do To Prepare?

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On 29 June 2023, the EU's new [Regulation \(EU\) 2023/1115](#) restricting sale in the EU of products that may cause deforestation or the degradation of forests (EUDR) entered into force.

The EUDR is expected to have global implications, so it is important for companies to start collecting the required information and data as soon as possible to ensure the review of all relevant supply chains. The EUDR is the first legislation of its kind aimed at deforestation and, along with the Corporate Sustainability Reporting Directive (CSRD) and Corporate Sustainability Due Diligence Directive (CSDDD), demonstrates the EU's commitment to its environmental, social and governance (ESG) goals and sustainability-linked legislative agenda.

Timeline for Implementation

For larger European companies, EUDR obligations are currently scheduled to apply from 31 December 2024. For European micro, small and medium-sized undertakings (SMEs), the EUDR obligations are scheduled to apply from 30 June 2025.¹

However, in response to calls by global stakeholders, on 2 October 2024, the European Commission (Commission) proposed to delay the implementation of the EUDR by 12 months to give companies more time to prepare and minimise disruption to supply chains.

If the delay is approved by the European Parliament and the European Council, **large companies would have to comply with EUDR obligations from 30 December 2025 and SMEs from 30 June 2026**. To support its proposal, the Commission also [published additional guidance](#) to help producers, trading organizations and partner countries prepare to implement the EUDR.

Purpose of the EUDR

The EUDR aims to prevent certain commodities and products linked to deforestation and forest degradation from being placed or made available on a European market or from being exported unless they:

- Are deforestation-free.
- Have been produced in accordance with the relevant laws of the country of production.
- Are covered by a due diligence statement.

FAQs

1. Which “relevant commodities” and “relevant products” are captured by the EUDR?

The EUDR initially applies to the following seven “relevant commodities”: cattle, cocoa, coffee, oil palm, rubber, soya and wood.

¹ SMEs are defined as firms meeting at least two of the following criteria: a balance sheet total of less than €20 million, a net turnover of less than €40 million or an average number of employees of fewer than 50 during the financial year.

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It also applies to “relevant products” that contain, have been fed, or made with the relevant commodities, including items such as: leather, chocolate, cocoa butter, palm oil derivatives, printed books and newspapers, and packaging. The full list of relevant products is available at Annex I of the EUDR.

The EUDR states that by 30 June 2025 the Commission must evaluate whether to amend or extend the list of relevant commodities, considering in particular the possible addition of maize and biofuels, to ensure the EUDR addresses the products most linked to deforestation or forest degradation.

2. Who does the EUDR apply to?

The EUDR applies to:

- **Operators:** Companies that place relevant products on the European market or export them into the European market.
- **Traders:** Companies, other than operators, that are in the supply chain and make relevant products available on the European market.

Companies that are not directly captured by the EUDR may need to provide information to EU operators or traders to ensure their compliance.

3. What do “deforestation-free” and “forest degradation” mean?

“Deforestation-free” means that:

- The relevant products do not contain, have not been fed with or made using, relevant commodities produced on land subject to deforestation since 31 December 2020.
- Wood and any wood relevant products also must not be harvested from forests undergoing degradation since 31 December 2020.

“Forest degradation” is specifically targeted at the wood and timber industry and means structural changes to forest cover by converting naturally regenerating forests into plantation forests, planted forests or other wooded land.

“Forest” means land spanning more than 0.5 hectares with trees higher than five meters and a canopy cover of more than 10%, or trees able to reach those thresholds, excluding predominantly agricultural or urban land.

“Deforestation” means the conversion of forest to agricultural use, whether human-induced or not.

4. What are the obligations of operators and traders under the EUDR?

Non-SME operators and traders must maintain a due diligence system that:

- Collects detailed information to ensure EUDR product compliance.
- Verifies and evaluates the risk of non-compliant products entering the supply chain.
- Takes adequate and proportionate steps to mitigate any risks of non-compliance becoming more than “negligible”.

All information, documents and data collected must be documented by the operator or trader, and must be made available to the competent authorities in the relevant member state upon request.

Before placing the relevant products on the market or exporting them, operators or traders must make a due diligence statement available to the competent supervisory authorities through an information system established for this purpose. Operators and traders must use the due diligence statement form specified in the EUDR to provide full product details and confirm due diligence compliance with the EUDR.

Unlike the CSRD, the EUDR has no requirement that the due diligence statement be audited by an external third party, but companies may choose to do so for accuracy, as is becoming more common with ESG obligations and disclosures. Third party advisers can provide the detailed geolocation data and access historic forest monitoring data required by the EUDR. Early engagement with advisers will assist companies in understanding the data required and information gathering.

5. What information must be collected on relevant products?

Operators and traders need to collect a wide range of information, including:

- Specifications and quantity of the relevant products.
- Country of production.
- Details of suppliers and recipients.
- Locations of all plots of land where relevant commodities were produced, and the date or time range of production.
- Conclusive and verifiable information that products are deforestation-free and produced in accordance with relevant legislation.

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6. What risk factors will need to be considered?

The EUDR sets out a non-exhaustive criteria for risk assessment, including supply chain complexities, the presence of indigenous peoples, and consultation and cooperation in good faith with impacted indigenous communities and, most controversially, the risk classification of the relevant country or region of production.

By 30 June 2025, the Commission will classify countries and, where relevant, particular regions into one of three categories: high-risk, low-risk and standard risk.

Operators and traders who can prove that products or commodities are from “low-risk” countries and have assessed supply chain complexity and EUDR circumvention risk will have access to a simplified due diligence process, though its practical implementation is yet to be determined.

7. How can risk be mitigated?

If, following the collection of the required information and verification and evaluation of such information, there is more than a negligible risk of the relevant products being non-compliant, the operator or trader will need to adopt risk mitigation procedures and measures to reduce any identified risks to a level that is less than negligible before placing the relevant products on the market or exporting them. The EUDR suggests that such procedures could include:

- Requiring additional information or documents.
- Independent surveys or audits.
- Other measures related to the information needed to be collected.

These procedures must be reviewed annually, and operators and traders must demonstrate how risk mitigation decisions were made.

8. What are the penalties for non-compliance with the EUDR?

Member states must lay down the national framework of penalties, which must include:

- Fines proportionate to the environmental damage and value of the relevant commodities or relevant products concerned, up to 4% of the operator’s or trader’s total annual turnover in the EU for the preceding year.
- Confiscation of relevant products or revenues generated from the relevant products.
- Exclusion from public procurement processes or access to public funding for up to 12 months.
- Temporary prohibition on placing or making available any relevant commodities or relevant products on the European market.

9. What can companies do to prepare?

Companies should consider whether any of their products or commodities fall under the EUDR and work with their suppliers and traders to determine whether any land used has been deforested and if so, when.

Given the volume of new data that will need to be collated, investment in technology or in-house capabilities may be suited to certain companies. In addition, updating current policies on supply chain due diligence would assist companies gather additional information and determine what further measures need to be adopted for the company to provide the EUDR due diligence statement.

Overall, it is expected that companies subject to the EUDR that also fall within the scope of the CSRD and the CSDDD will be able to leverage and draw synergies from the new systems and procedures they have (or will) put into place to comply with those directives.

Companies will need to continue to work alongside the suppliers and traders to determine, for example:

- Who will operate a forest monitoring system and whether a third party consultant will be required.
- How geolocation data will be gathered and verified.
- How deforestation-free relevant products will be kept separate and clearly identifiable.

If any relevant products are identified which are not “deforestation-free”, companies will also need to consider how these products are to be used and what steps the company can take either to make this part of the supply chain compliant or whether the company should look to terminate these business relationships.

10. Is similar legislation expected in other jurisdictions?

Prior to the recent general election, the UK government carried out a consultation and published the responses in June 2022, following which it announced its intention to amend the Environment Act 2021 to include more due diligence provisions on global supply chains and deforestation at the earliest opportunity. Whether the new UK government will choose to go ahead with the new legislative proposals remains unclear.

In the US, the proposed bill known as the FOREST Act (the Fostering Overseas Rule of Law and Environmentally Sound Trade Act) would build on existing legislation and ban imports of goods linked to illegal deforestation. However, obtaining the necessary backing for the bill to advance through Congress may prove to be a challenge.

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