

EU Deforestation Regulation: Is the European forest products industry content? **NO!**

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Introduction

The new European Union Deforestation Regulation (EUDR)¹, which is to take full effect in December 2024, is to guarantee that the products the European Union (EU) citizens consume do not contribute to deforestation or forest degradation worldwide. While the intention is noble, and widely supported, including by the US and European forest products sectors, its proposed implementation is not widely supported.

Following a Dovetail Partners article aimed at US wood products exporters, “Do you export to Europe? Urgent attention to the EUDR needed”², in our April 2024 newsletter, this article presents the perspective of the European forest products industries. Like their US counterparts, the Europeans are committed to sustainable forest management and sustainable forest products markets. Deforestation and forest degradation have no part in sustainability. And like their US counterparts, the Europeans find implementation and adherence to the full extent of the EUDR nearly impossible as now written.

What is the EUDR

The EUDR was passed by the European Parliament in June 2023, and is currently set to be effective and enforced from the end of 2024. Micro- and small-enterprises have a longer adaptation period and other specific provisions. Under the Regulation, any operator or trader who places certain commodities, including all wood-based products, on the EU market, or exports from it, must be able to prove that the products do not originate from recently deforested land or have not contributed to forest degradation.

The EUDR is part of the EU’s Green Deal.³ It aims to make Europe the first climate-neutral continent with net-zero greenhouse gas emissions by 2050. There are a number of regulations enacted to accomplish the Green Deal, amongst which was the EUDR’s predecessor the EU Timber Regulation (EUTR).

¹ https://environment.ec.europa.eu/topics/forests/deforestation/regulation-deforestation-free-products_en

² <https://www.dovetailinc.org/upload/tmp/1712585968.pdf>

³ https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/story-von-der-leyen-commission/european-green-deal_en

The passage of the EUDR largely repeals the EUTR which was to ensure that all imports to the EU were legal (for more information on the EUTR see Dovetail report “Responsible sourcing of forest products”⁴). One requirement from the EUTR which remains is the documentation of due diligence.

Upon passage of the EUDR, the European Commission Directorate of Environment⁵, stated, “By promoting the consumption of ‘deforestation-free’ products and reducing the EU’s impact on global deforestation and forest degradation, the new Regulation...is expected to bring down greenhouse gas emissions and biodiversity loss.”

The EUDR applies to forest products and several other commodities, including cattle, cocoa, coffee, oil palm, rubber and soya. It may expand to include other products later. Under “wood” the regulation lists the specific Harmonized System Combined Nomenclature commodity codes for primary products, e.g. logs, panels, packaging, pallets, pulp and paper, printed products, books, furniture, prefabricated buildings and other articles of wood. In short, it includes all wood-based products be they primary- or secondary-processed.



European forest sector’s concerns

Although the intention of the EUDR is honorable, as too often is the case, regulators have passed a law without sufficient consultation of those parties most affected and without sufficient consideration of the support necessary for an effective implementation process. The key concern is the requirement for geolocation of the sources of wood fiber and proof that the harvest of that fiber did not result in deforestation or forest degradation. The required proof includes providing specific longitude and latitude for “plots of land” from which the fiber was sourced. Data are to be provided in polygons indicating specific parcels of land. It is complicated at best and, in the case of mixed fiber products such as paper and particleboard, impossible to track all the parcels precisely associated with a given product.

For the first step in processing wood, i.e. harvesting logs, their source is known. Logs arrive at mills for processing from multiple sources and the primary-produced products have mixed sources—documentation becomes onerous as volumes and sources expand. Moving to secondary-produced products, such as furniture, the components come from many more sources, over long time periods, making the chain of documentation to the original fiber sources that prove there was no deforestation or forest degradation next to impossible. At the end of the value chain, imports and exporters also have to obtain the required documentation and evidence of their due diligence.

⁴ <https://www.dovetailinc.org/portfoliodetail.php?id=5e260b333c589>

⁵ https://environment.ec.europa.eu/topics/forests/deforestation/regulation-deforestation-free-products_en

European forest sector's actions

The EUDR is now law. It cannot be changed for 5 years and is to be implemented at the end of 2024. Through their trade organizations, the EU companies affected by the new law have pleaded with the European Commission (EC) to delay its implementation and to realize the consequences for the trade of all wood-based products and other commodities. Supported by a strong lobby from environmental non-governmental organizations, the Commission has not budged.

Like in the US, where Secretaries of Agriculture, Commerce and the Trade Representative addressed the EC to delay the EUDR implementation, European national and international trade organizations have also addressed the Commission. For example, responding to industry pressure, the German Bundesrat (the upper house of Parliament) where the Länder (states) are represented, passed a motion in May 2024 to call on the EC to delay implementation and to relieve their industry from unnecessary bureaucracy where there is no demonstrable risk of deforestation.⁶

The calls for a delay in EUDR implementation have also come from outside Europe. The American Forest and Paper Association (AF&PA), its member organizations, and perhaps foremost by the American Hardwood Export Council (AHEC), recognize the serious consequences imposed by the Regulation and have communicated concerns to the EC. Counterparts in Australia, Brazil, Chile, New Zealand, at least 17 producing countries in the tropics, and others have called on the Commission to delay.



Within the EC there is no unanimity in supporting EUDR implementation as written by the end of 2024. In Parliamentary elections in June 2024 the European People's Party (EPP) emerged as the largest political group. They are led by Ms. Ursula von der Leyen, who will continue as President of the EC for a second term. The EPP terms the EUDR a "bureaucratic monster" and with support from officials in the Commission, has called for a 2-year postponement. The EU Parliamentary elections reflect the outcome of many EU country elections with the rise of ultraconservative right-wing parties. Many of them are opposed to the EU Green Deal, of which the EUDR is part. Despite this opposition, political commitment to them remains strong in the EC Directorate of Environment and from some politicians.

⁶ American Hardwood Export Council Europe, Special Report, June 2024. <https://www.americanhardwood.org/sites/default/files/reports/download/2022-08/AHEC%20Comment%20on%20EU%20Deforestation%20Law.pdf>

A formal delay of the EUDR implementation would require agreement of the European Council, European Parliament, and the European Commission—a serious challenge to accomplish in the remaining months of 2024. The onus for control of the trade of all wood-based products falls on the individual Member States' Competent Authorities (CAs). These regulators were already established for the EU Timber Regulation, but must be ready for the increased complications of the EUDR, specifically geolocation data, but it appears many are not prepared as of mid-2024. If the Regulation is not delayed, the CAs will rely on some countries' designation of "low risk". Regulators and the national forest industries, including intra-EU and external EU, are depending on a low-risk designation to continue trading without exceptional scrutiny. As of mid-2024 there are no designations of countries that are low risk. As was the case with the EUTR, it is possible that there will be an informal transition period in 2025 before enforcement of the EUDR begins.

In a significant development, the German trade organization, GD Holz, which represents 900 companies in Germany, received clarification from EU officials at the Multi-stakeholder Platform on Protecting and Restoring the World's Forest held in June 2024 about the Regulation's due diligence requirements. As written, all parties within the supply chain must provide geo-coordinates in their due diligence statement which accompanies every shipment. However, the EC officials clarified that large downstream companies within the EU, i.e. those dealing with further-processed products, do not have to supply geolocation data. This is a surprising interpretation of the EUDR! It indicates that despite the specific text of the Regulation, there is room for its interpretation and flexibility for its implementation for *EU companies*.

If large EU companies do not need to provide geolocation data in their mandatory due diligence statements, then what about non-EU exporters? Certainly non-EU countries will challenge in arenas such as the World Trade Organization if the requirement is not generalized to countries outside the EU. GD Holz also raised concerns about countries such as China that do not disclose information about its sources of wood fiber "for security reasons". China is a major exporter to the EU, especially of secondary-processed wood-based products. The Commission insists that without geolocation data, trade would be stopped.



Many EU Member States and non-EU countries' national trade organizations have expressed opposition to the implementation of the EUDR. On 13 March 2024, 19 French wood trade organizations sent a joint letter to the French Environment Minister stating similar concerns as GD Holz. In an Open Statement⁷ on 12 March 2024 the following six European trade associations expressed "great concern about EUDR": European Confederation of the Woodworking Industries (CEI-Bois), European Furniture Industries Confederation, European Organisation of the Sawmilling Industry, European Panel Federation, European Timber Trade Federation, and European Parquet Federation. Their foremost concern is about the delay in designation by the European Commission of high-, standard- and low-risk countries. As the EUDR covers other commodities besides wood⁸ it is not easy to give a blanket risk designation to a country or region.

Risk benchmarking has a crucial role in the successful implementation of the EUDR. It enables CAs to target imports from high-risk countries and would allow simplified due diligence statements, presumably without substantial geolocation data, from low-risk countries. Specifically, "The obligations for operators and Member States' authorities will vary according to the level of risk that the country of production represents, with simplified due diligence duties for low risk and enhanced scrutiny for high risk countries."⁹

Another important European trade association covering the paper and pulp sector is the Confederation of European Paper Industries (CEPI) and they have called for recycled content to be exempt from the Regulation. Most often, fiber for paper products stems from multiple sources making geolocation difficult, if not impossible, for further-processed products. CEPI tries to clarify the application of the EUDR to products with recycled fiber in "Briefing: EUDR and recycled paper"¹⁰ dated 8 February 2024. Many paper products have a percentage of reclaimed fiber, which can be pre-consumer, e.g. from manufacturing byproducts, or post-consumer, e.g. recycled. Cardboard (paperboard) is made mainly from recycled fiber. CEPI interprets from European Commission's documents that:

"... for both post- and pre-consumer recycled material the obligation of the Regulation does not apply....To answer the question whether paper for recycling is exempt from the scope, the key words are *this 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...(the waste framework directive)*. This is the case for paper for recycling discarded at households and supermarkets, but also for off-cuts from printing shops or shavings from converting plants. The printers waste or converting scrap has completed its lifecycle and would otherwise have been discarded as waste. They are not byproducts of a manufacturing process."

⁷ Open Statement. 12 March 2024. <https://www.cei-bois.org/position-papers>

⁸ Currently includes cattle, cocoa, coffee, oil palm, rubber and soya but may expand to include other products later.

⁹ Proposal for EUDR. 17 November 2021. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52021PC0706>

¹⁰ <https://www.cepi.org/wp-content/uploads/2024/03/FOR-24-006-Briefing-EUDR-and-recycled-paper.pdf>

While the trade associations for primary products are concerned about the complexities of the EUDR, it is not simple for forestland owners and managers either. The European Landowners' Association (ELA) issued a statement on 25 March 2024, following the Multi-stakeholder Platform, titled "European primary producers are asking for practical solutions and postponement of the EUDR".¹¹ Cosigned by the Confederation of European Forest Owners, the European Farmers and Agri-Cooperatives, and the European State Forest Association, the statement asserts that there is no deforestation or forest degradation in Europe. And more importantly, that the EUDR "will oblige them to fulfil the same set of costly, complex and comprehensive new due diligence obligations as operators in those countries where deforestation is a risk. Such bureaucratic hurdles are unnecessary." As does CEI-Bois and its partner organizations, they call for country risk benchmarking. They want alignment with existing national traceability systems to reduce reporting requirements. They express concern about data protection saying that publishing geolocation data will "endanger property rights and business information and might be against competition legislation." The statement ends calling for practical solutions to their concerns and a delay in implementation, with a pilot phase.

Conclusion

In conclusion, while the European forest sector supports the goals of the EUDR to eliminate deforestation and forest degradation, as does the US forest sector, it has strong reservations about the implementation of the EUDR as written (as does the US forest sector). The fast-approaching deadline for its full implementation, at the end of 2024, is felt by many to be impossible to meet. And the necessity for precise polygons for geolocation of all fiber, proving no deforestation or degradation at the source, also is felt to be impossible. Thus European trade associations are asking for a delay in implementation, with further specific guidance, e.g. country risk designations, especially for low-risk countries and regions which would then have less rigorous due diligence requirements.

¹¹ https://europeanlandowners.org/wp-content/uploads/2024/04/CEPF-COPA-ELO-EUSTAFOR_High-Concerns-on-EUDR.pdf

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