BUSINESSEUROPE

THE DIRECTOR GENERAL

Ms. Florika Fink-Hooijer
Director General
Directorate General for Environment
European Commission
Avenue d' Auderghem 19
1049 Brussels
Belgium

3 February 2025

Dear Director General,
Dear Ms. Fink-Hooijer,

On behalf of BusinessEurope, I would like to address this letter to you to express our gratitude for the European Commission's proposal to postpone the entry into implementation of the Regulation on Deforestation-Free Products (EUDR) by 12 months, to 30 December 2025.

As we have stressed previously, this extension will allow to authorities and the private sector alike more time to prepare for the effective implementation of the EUDR, also with a view to minimising supply chain disruptions and potential negative impact on the EU's competitiveness.

Now that the additional period for the implementation of the Regulation is secured, we need to focus on ensuring that the next 12 months will be used to complete the work on all the remaining elements that are necessary for the EUDR to deliver. In this respect, I would like to share our priorities.

Review of Annex I

The review of Annex I under Article 34.3 of the Regulation is planned to be launched by June 2025, with the view to amending the scope of the EUDR by verifying the relevance of commodities included in Annex I vis-à-vis the objectives of the Regulation. A thorough assessment is indeed necessary to ensure that the list of products included in Annex I is updated accordingly. At the same time, the assessment should also reflect a supply chain approach that is critical to ensure a level playing field for European companies. In this respect, it is important to ensure a more comprehensive approach for all product groups to avoid potential cases of circumvention, for instance by bypassing a listed HS code by importing non-listed individual raw materials for this product and producing the listed mixture in Europe. Although this may be fully compliant with the current rules, it is not supporting the Regulation's objective to address deforestation, while it could also shift European production to non-EU production. As the timeline for the review of Annex I approaches, we appreciate the efforts of the European Commission to engage with stakeholders, for instance through the dedicated study conducted by the Institute for European Environmental Policy (IEEP).

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Having said that, we would also like to understand better how the European Commission envisages the broader review of the Regulation under Article 34, for instance regarding the extension of the scope of the Regulation to other wooded land and more natural ecosystems, including opportunities to seek input from stakeholders for instance through a public consultation.

Benchmarking system

The benchmarking system of countries' classification needs to be approved early enough – by 30 June 2025 at the latest – before the entry into implementation of the EUDR. This is crucial to avoid overwhelming the system with unnecessary controls by customs and market surveillance authorities for countries and products that do not pose risks. Without the benchmarking system in place, it would also be challenging for companies to properly assess risks and develop their due diligence systems accordingly.

Information system

Early implementation of the Single Window System is fundamental to address any remaining technical problems, including issues related to data protection and the handling of high volumes of due diligence statements (DDS). The system shall be able to support both manual entry and automated data exchanges, particularly for geolocation data, allowing operators to accurately plan their Application Programming Interfaces (API) integration development timelines. Seamless integration between operators, traders, and the EU system is essential to ensure compliance without delays or unnecessary complexity that may risk holding goods in transit and disrupt supplies. As we have also raised in previous exchanges with the European Commission services, we are also of the view that non-EU companies are allowed to register as traders (not only as importers as under the current rules).

Guidance / FAQs

We acknowledge the European Commission's efforts to provide updated Frequently Asked Questions (FAQs) and launch the framework on international cooperation as important additional guidance. However, we continue to receive requests for clarifications. A few examples:

Clarifications for downstream traders and operators

A concrete concern shared by the business community is the potential burden for downstream traders and operators. Although they do not have to collect the information already covered in the DDS if they have received assurances by their suppliers that they have conducted due diligence, important questions remain. How can traders and operators "ascertain" the due diligence carried on the upstream part of the supply chain? Which data should an operator/trader provide to downstream traders to enable them to do their due diligence assessment? Does this have to be per shipment or per batch? Moreover, the main obligations traders (in particular retailers) have to comply with are

still not clear and urgently need to be clarified to manage expectations from customers. It must be clarified that downstream traders and operators should not have to collect such data outside the system, which would be an unnecessary added cost and burden and would also invalidate the privacy of the first operator adding the geolocation data to the Information System. It is our view that all necessary information should be effectively communicated along the value chain via the DDS, which will be accessible to relevant stakeholders through the Information System, without the need for separate channels.

Further clarification is required for the scenario where an EU operator re-imports a product previously exported from the EU and covered by an existing due diligence statement (DDS). This includes cases where semi-finished or finished products (e.g., chocolate or furniture) made from relevant materials originally sourced from EU-based suppliers are exported from the EU with a DDS and later re-imported into the EU market. In such scenarios, it should be possible to refer to the previous DDS, rather than re-uploading all information previously submitted in the EU information system. The loss of 'Union goods' status – see also below – and the related loss of EUDR compliance status would create significant administrative burdens for companies without adding value to address deforestation. We urge the European Commission to provide a reasonable way to guarantee compliance without unnecessary trade barriers.

Treatment of products during the transition period

The exemptions for the transition period must be applicable for manufacturers of processed products, which are based outside the EU in the same way they are for EU-based companies. Due to the fact that the required data will in many cases not be provided before the end of the transition period by suppliers, manufacturers of processed goods outside the EU will not be able to import their products produced during the transition period after the date of application of the EUDR. The European Commission should urgently clarify how producers outside the EU need to proceed with their current stocks and further deliveries arriving during the transition period in order to process these goods and import them into the EU after the date of application of the EUDR.

The latest FAQ and Guidance specify that a product loses its 'Union good' customs status when exported from the EU and is considered a new product when re-entering the EU market. There is a need for clarification on how to handle in-scope goods imported into the EU during the transition period (and are held in stocks), for which no EUDR data is available, that are exported from, transformed and re-imported into the EU after the application date. How should companies manage the lack of data available upon re-import, and can these goods be declared under a specific Taric code with proof of EU import during the transition period?

It should also be clarified that raw materials sourced during the transition period and placed on the market before the entry into implementation of EUDR, and derived products made from that material, regardless of when they are placed on the market, are not subject to the provisions of the EUDR. We can offer the example of derived products made from wood that was produced and placed on the market during the transition

period, which may lead to potential overlap between the EUDR and the EU Timber Regulation.

Clarifications the Scope of definitions "making available on the market" and "exporting" on printed paper products

It should be clarified whether EUDR also covers cases of printed paper products, such as business letters, through the definitions of "making available on the market" / "exporting".

Clarifications on centralised purchasing

It should be clarified that transactions between companies within the same group that act as end consumers and do not involve resale to other companies are exempt from compliance with the Regulation.

Clarifications on re-imports

It should be clarified that, when reimporting into the EU products via a third country, the operator should be able to use the information already present in the Information System by using the reference and verification numbers provided by the non-EU supplier and should not be asked to collect again and separately all the geolocation and other relevant data.

Clarifications on "Groups"

The "Group" perspective needs to be considered. A product should need a DDS only the first time it enters into a Group, not every time it is transferred between different legal entities in the same Group. This implies unnecessary administration that does not contribute to the objective of the Regulation. Moreover, if a product during the transitional period is transferred between legal entities in a Group from the EU to a third country, it will not be possible to re-enter into EU after the transitional period due to lack of a DDS.

Clarifications on scope for synthetic and recycled products

There is a need to clarify and strive for harmonisation regarding the treatment of products such as synthetic rubber and recycled materials and what is deemed acceptable proof for excluding them from the scope of the EUDR. It must be clarified that evidence used in one Member State to keep those products out of the scope of the Regulation should be accepted by all Member States in order to facilitate and not jeopardize recycling targets set by sectoral acquis.

Clarifications on products imported for research and development

It should be clarified that products solely used for research and development purposes are exempt from compliance with the Regulation. It is understood that companies

importing samples for research and development purposes, have to comply with the EUDR, leading to an extremely large bureaucratic effort.

Treatment of violations

More guidance is required regarding the treatment of violations of the EUDR that are discovered after a product has been placed on the EU market. These cases should be handled by national competent authorities in a manner that is proportionate and in dialogue with the operator concerned. Sanctions or other penalties should be proportional to the violation committed, taking into consideration the operator's intent and the actual environmental impact, and ensuring that operators that did not have control over the situation are not disproportionately affected. Such differentiation is essential to protect responsible operators striving to comply with the rules but who may make unintentional mistakes, while effectively deterring and addressing serious misconduct.

Access to operators originating in third countries

A significant challenge arises when EU operators, despite their best efforts, are unable to obtain geolocation coordinates from third-country operators due to legal constraints in the operators' jurisdictions. The European Commission should therefore permit non-EU operators, including those that do not directly place a relevant commodity or product on the EU market but anticipate their product will eventually reach the EU market, to register in EU TRACES and submit their DDS proactively.

Multi-stakeholder platform

In conclusion, we would like to make a formal request for BusinessEurope to be granted observer status in the multistakeholder platform on the EUDR. We understand that this platform is already operational and includes experts from a number of stakeholders – business associations, non-governmental organisations as well as representatives from the Member States. Given the representativeness of BusinessEurope that includes European companies, both small and big, in different sectors impacted directly and indirectly by the EUDR, we would kindly ask for your consideration and hopefully positive response to our request.

We hope that you will find these suggestions useful in your deliberations, as all the relevant stakeholders prepare for the effective implementation of the EUDR. My team in BusinessEurope and I remain at your full disposal.

Yours sincerely,

Markus J. Beyrer