

10 THINGS TO KNOW ABOUT THE NEW EU DEFORESTATION REGULATION (EUDR)



The European Union (EU) recently reached an agreement on a new first of its kind piece of legislation – the EU Deforestation Regulation (EUDR) – to prevent companies from selling commodities that are linked with deforestation and forest degradation around the world on the EU market. Since 10% of global agricultural commodities are consumed within the EU market, limiting deforestation driven by European consumption can be a strong lever of change in the fight against climate change and biodiversity loss.

The following 10 points will help you get up to speed with the EUDR:

1. **Scope – Which products are in scope? Why is coffee included?**

There are seven commodities in scope of the EUDR, including coffee, palm oil, beef, timber, cocoa, rubber and soy, as well as some of their derived products. So why is coffee included? The EU market is the largest global importer of coffee (44% of world trade), representing an import value of EUR 8 billion in 2021. While deforestation driven by coffee production is smaller than several other commodities, it is projected to grow significantly due to impacts of climate change. In 2017, 9% of the EU deforestation footprint was linked to coffee imports - which is equivalent to deforestation linked to cocoa imports into the EU.

2. **Definitions – How are forests and deforestation defined? What will this mean for coffee?**

The legislation uses the internationally accepted FAO definition of 'forest' as "land spanning more than 0,5 hectares with trees higher than 5 meters and a canopy cover of more than 10%, or trees able to reach those thresholds in situ, excluding land that is predominantly under agricultural or urban land use". In addition, 'deforestation' is defined as the *conversion of forest to agricultural use, whether human-induced or not.*

3. **Prohibitions for traders & operators – Which actors in the coffee supply chain will need to comply with the legislation?**

The legislation sets ambitious rules to halt global deforestation and forest degradation through innovative and comprehensive legislative measures. In essence, this law mandates that coffee can only be placed on, sold within or exported from the EU market if it is:

- Deforestation-free: Produced on land that was not subject to deforestation after 31 December 2020 (AKA the cut-off date); and,
- Legal: produced in compliance with all relevant applicable laws in force in the country of production.

The rules apply to all companies that sell coffee (import, trade or export) in the EU market. The legislation differentiates two (somewhat confusing) types of actors – traders and operators – each have specific requirements to comply:

- Operators (e.g. coffee importer/ trade house): Companies that place relevant commodities on, or export them from, the EU market
- Traders (coffee roaster or retailer): Companies that are selling relevant products which are already placed on the EU market.

It should be noted that the requirements are adapted for SMEs Operators and Traders (see point #4).

4. **Mandatory due diligence requirements: What is expected from coffee companies in terms traceability and risk assessment? Are there different requirements for SMEs?**

To comply with the legislation, companies – operators and traders – will be required to:

- **Collect geolocation information:** Operators will have to collect the geographic coordinates (latitude and longitude) of all the plot(s) of land where the relevant commodities and products of a shipment/batch were produced - for plots above 4 hectares, polygons are required. Operators need to provide this data in the due diligence statement (see below) that is to be submitted on the information system (to be set up by the Commission) and are responsible for storing and sharing relevant information that was used for the deforestation risk assessment (with national authorities, upon request).
- **Conduct risk assessment and mitigation measures:** Operators need to carry out due diligence prior to any placing of relevant commodities and products on the EU market. If the conclusion of the risk assessment is that the risk of non-compliant commodities or products entering the EU market is non-negligible, the operator needs to take risk mitigation measures. If the risk cannot be mitigated to a negligible level the operator, shall not place the relevant commodities or products on the EU market. In addition to Operators, large coffee roasters and retailers – other than SMEs – will also be required to take the same due diligence measures.
- **Communicate due diligence information:** Operators must communicate to operators and traders further down the supply chain of the relevant products they placed on or exported from the Union market, all information necessary to confirm that due diligence was carried out and no or only negligible risk was found, including the reference numbers of the due diligence statements associated to those products. Operators are required to publicly report as widely as possible on an annual basis, including online, on their due diligence systems and the steps they have taken to ensure compliance with their obligations.

The requirements are less strict for SMEs. For instance, SME traders and operators are only required to collect the names and contact information of their suppliers and clients, and keep them for 5 years in case they are controlled by a competent authority.

5. Due diligence statement: How will compliance be checked when coffee enters the EU market?

For every shipment of coffee entering the EU market, the operator will need to submit a due diligence statement. The statement needs to include the country of production as well as the traceability information for all plots of land of production included in the shipment. A central information system will be developed to receive and record Operators' due diligence statements, which will accompany applications for customs clearance.

6. Risk ratings per producing country: how will the EU determine the risk that coffee production could contribute to deforestation in a given country?

The European Commission will establish a central benchmarking system that will categorize and assign risk ratings – low, standard, or high – per country (or subnational region) of commodities being associated with deforestation. This system will guide the required level of due diligence, as simplified due diligence will be allowed for 'low-risk' countries. Obligations for national authorities to enforce the regulation and carry out checks will also vary according to the level of risk assigned to the countries of production. This means enhanced monitoring for high-risk countries and reduced for low-risk countries.

7. Certification: I'm already sourcing sustainably certified coffee, will this help with compliance?

The legislation is clear that certification or other third party verified schemes represent relevant tools that could be used in the context of traceability as well as risk assessment/mitigation processes, provided that the scheme meets the information requirements of the regulation. Certification can help bring companies a step further towards compliance. However, there is no green lane for certification schemes and purchasing certified products does not substitute the company's legal responsibilities.

8. Key dates: When does the law enter into force? When do I need to be ready?

The adoption of the legislation is expected to take place in May or June 2023, with immediate entry into force. Once the law enters force, companies will have 18 months to implement the new rules (Dec. 2024 /Jan. 2025) and SMEs will be allowed 24 months to transition (July/Aug. 2025). The legislation also includes several reviews in the first years after the legislation enters into force.

9. Impact on smallholders: doesn't this legislation lead to (unintended) consequences on smallholder farmers?

Many civil society organizations, producing country governments as well as industry associations have expressed concerns that the legislation could have unintended consequences and negative impact on smallholder farmers. For instance, exclusion from the EU market may further increase poverty and thereby

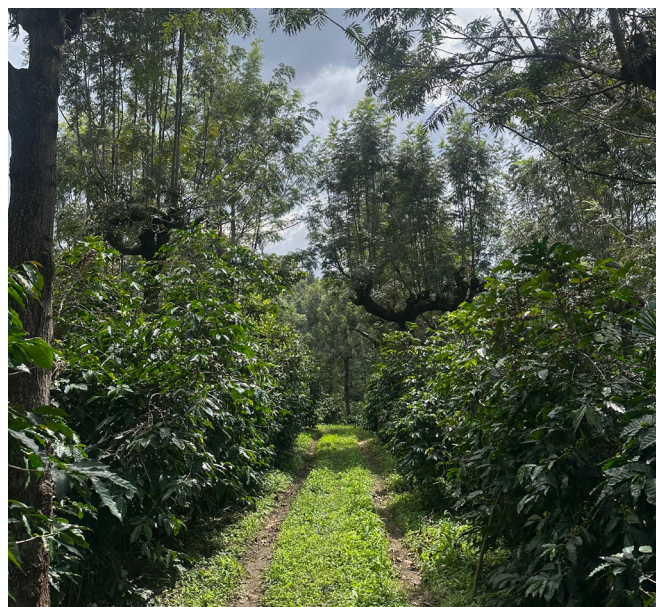
increase rather than halt deforestation. Despite efforts to call for an impact assessment before the legislation would enter into force, the final legislation states that a review on the impacts on small holders would be conducted after five years into force. In this context, it is important to clarify and stress that smallholder farmers are not directly responsible for implementation and compliance.

10. Supply-side measures: how will the EU be supporting producing countries to address root causes of deforestation?

To complement the demand-side measures (i.e. due diligence requirements), the legislation mentions that the Commission shall engage with producer countries around supportive supply-side measures. Via the use of existing and future partnerships and other relevant cooperation mechanisms – in particular those identified as high-risk – the Commission will support joint efforts to address the root causes of deforestation and forest degradation. Whereas the Commission developed "Forest partnerships" and launched the five first ones at the COP 27 (with Mongolia, Zambia, the Republic of Congo, Uganda and Guyana), there is limited information on the next steps and the available resources to finance relevant programs.

The new EUDR fits in a broader trend of inevitable legislative measures to address the ongoing climate and biodiversity crisis. Governments are starting to recognize the need for a level playing field as well as the limitations of voluntary systems. In many consuming markets, companies will be facing increased legislative pressure to ensure that environmental (as well as human rights) risks within food supply chains are mitigated. In several other consuming countries (e.g. UK and USA) legislative processes are in development to adopt policies and laws similar to the EUDR.

Sources: [ING](#) and [Preferred by Nature](#) with expert input from Conservation International and Rainforest Alliance



© LORENA GARCIA-BUSTOS/CI