



Deforestation-free Global Value Chains Navigating EUDR Due Diligence Obligations

Customized Training Handbook for Kenya Coffee Sector

(Latest update: 5 November 2024)

DISCLAIMER

This handbook is not an official document of the European Union. It has been developed by the International Trade Centre (ITC) and its partners to assist businesses in navigating the implementation mechanisms of the new EU Deforestation-Free Products Regulation (EUDR). This document is subject to continuous updates to ensure it remains current with evolving regulations and industry practices. The latest version of this handbook can be accessed online on the ITC's website.



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Acknowledgment

The International Trade Centre (ITC) has been deeply engaged in addressing the issue of deforestation within global value chains since early 2022. This initiative has been supported by a robust network of key stakeholders, including global value chain actors, industry associations, international cooperation agencies, public sector institutions, civil society, and non-governmental organizations. As a joint agency of the United Nations and the World Trade Organization, ITC plays a crucial role in facilitating neutral and inclusive dialogues among all relevant parties. This collaborative approach is essential for designing and implementing effective regulations, standards, and due diligence mechanisms to mitigate the risks of deforestation in global value chains.

The development of this business guide on the new EU Deforestation-Free Products Regulation (EUDR) would not have been possible without the invaluable contributions of our diverse partners. Their expertise has been instrumental in crafting comprehensive business scenarios, concrete examples, and detailed case studies that elucidate compliance mechanisms. These contributions have also been pivotal in clarifying the obligations and responsibilities of companies concerning their business partners, whether they are clients or suppliers.

This document will be continuously updated and enriched to reflect new developments and insights. We encourage all users and readers to check for the latest versions available on ITC's dedicated webpage (www.intracen.org).

ITC would like to extend special thanks to the various partners who have generously shared their knowledge and experience. Their collaboration has greatly enriched the preparation of this handbook, ensuring it serves as a practical and insightful resource for businesses navigating the complexities of the EUDR. This guide stands as a testament to the collective effort and shared commitment to fostering deforestation-free global value chains.

Acronyms

CBI	Centre for the Promotion of Imports from Developing Countries
COLEAD	Committee Linking Entrepreneurship Agriculture and Development (COLEAD)
CSDDD	Corporate Sustainability Due Diligence Directive
EU	European Union
EUDR	European Union Deforestation-free products Regulation
ITC	International Trade Centre

Introduction

The European Union Deforestation Regulation (EUDR), effective as of June 29, 2023, marks a significant paradigm shift in the operation of global value chains in commodities such as coffee, cocoa, palm oil, cattle, rubber, soya and wood, as well as selected derived products such as chocolate, leather, tyres or furniture.

This series of business handbooks provide insights into the intricate landscape of EUDR implementation and is written for businesses engaged in EUDR-affected value chains, enabling a methodical understanding of steps towards compliance.

Through business scenarios, the handbooks outline the fundamental principles and responsibilities inherent in the EUDR. These scenarios are instrumental in demystifying the core concepts, obligations, scope, and implementation processes associated with the regulation. Furthermore, this resource equips businesses with ways to assess their current standing, identify areas for improvement, and clarify the extent of their responsibilities, liabilities, and potential risks under the regulation.

Additionally, the handbooks showcase potential areas for external support and offers a list of resources that businesses can leverage in their journey towards EUDR compliance, which becomes obligatory, for most companies placing commodities on the EU market, from 30 December 2024.

We trust that these handbooks will prove to be a valuable resource and invite feedback and comments from all interested stakeholders. Your inputs will be instrumental in enriching the document with real-world stories, examples, and testimonials from businesses, bridging the gap between theoretical business-case scenarios and practical experiences on the ground.

By continuously updating and enriching this guide, we hope to underscore the complexities and solutions for the EUDR context. If you would like to contribute to this living document and provide your comments, experiences, and feedback, please reach out to Mathieu Lamolle, Senior Advisor, Green and Inclusive Value Chains, at the International Trade Centre (ITC), via email at: lamolle@intracen.org.

MARKUP II programme

The Market Access Upgrade Programme (MARKUP II) is funded by the European Union (EU) and runs from 2023-2027. With a view to contribute to economic development in the East African Community (EAC) through increased sustainable intra-African and EU-Africa trade, MARKUP II has been designed to improve livelihoods, employment, export competitiveness for MSMEs and economic growth in Africa through supporting the development and strengthening of key export-oriented priority value chains with high potential.

The programme covers activities in Burundi, Kenya, Rwanda, South Sudan, Tanzania and Uganda through the provisions of partnerships with national, regional and international institutions. Among other objectives, the second phase of the MARKUP II aims at strengthening MSMEs' export competitiveness by enhancing value addition and diversification and by promoting business to the regional and international markets.

This includes among others, the identification of market regulations (e.g. EU, regional African country markets), current and foreseen requirements in areas of environment (climate change, deforestation, carbon emissions etc.) as well as social criteria.

In the context of MARKUP II it was recognized that support is needed to enhance EAC countries preparedness for compliance with the European Union Regulation on Deforestation-free Commodities and Products (EUDR).

Against the backdrop of MARKUP II's overarching objectives, it has been identified that concerted support is imperative to enhance EAC countries' readiness for compliance with the European Union Regulation on Deforestation-free Commodities and Products (EUDR).

Recognizing the multifaceted engagement of numerous stakeholders within EAC, the resources allocated through the International Trade Centre (ITC) MARKUP initiative represent a pivotal opportunity to ensure coherence and coordination across endeavours.

This entails optimizing efficacy through the facilitation of awareness campaigns, provision of EUDR compliance training, and dissemination of clarity regarding technical solutions, encompassing services related to verification, traceability, or geolocation data collection from farms, supplemented by evidence demonstrating adherence to deforestation-free practices post the EUDR stipulated cut-off date of December 31, 2020.

This EUDR compliance handbook has been developed by the ITC team in collaboration with various partners. This document has been carefully customized for Uganda and its coffee sector, providing tailored information and practical steps to help Ugandan coffee stakeholders comply with the EUDR requirements.

Visit MARKUP website: <https://www.eacmarkup.org/> and follow us on X: [MARKUP X \(formerly Twitter\)](#).

The EUDR at a glance

The EUDR constitutes a key element of the EU Green Deal, a wide-ranging programme of EU policies and legislation in line with the EU's goal of reaching net zero emissions by 2050.

Most of the elements of the Green Deal relate to decarbonising energy and resource use inside the EU – for example, aiming to making food systems healthier and environmentally friendlier. Given that the EU market also consumes a multitude of goods imported from other countries that have significant environmental impacts associated with their production, the EUDR is one of the Green Deal measures affecting imports, though it also applies to the EU's own production, and exports, in order to ensure non-discrimination.

Globally, deforestation, which is a major contributor to climate change and biodiversity loss, is often driven by the expansion of agricultural land. Hence, the EUDR is part of a wider EU approach aimed at forest conservation and mitigating the repercussions of deforestation and forest degradation globally.

The EUDR builds on the 2010 EU Timber Regulation (EUTR), which addressed exclusively deforestation resulting from illegal timber harvesting (the EUDR has now replaced this regulation). In contrast, the EUDR includes a more comprehensive range of traded goods and applies to legal as well as illegal deforestation in the producing countries.

Published in the EU's Official Journal on 9 June 2023, the EUDR ([Regulation 2023/1115](#)) entered into force 20 days later, on 29 June 2023. Its full timeline is set out in Box 2 below.

The EUDR's scope encompasses seven commodities – cattle products, cocoa, coffee, palm oil, rubber, soya and wood – as well as many products manufactured using these commodities, such as leather, chocolate and paper. The commodities and products in scope are listed in Annex 1 of the regulation by their customs code.

Under the EUDR, any company that places any of these products on the EU market, or exports them from the EU, must meet the two key requirements of the regulation, which are that the products must be *both*:

- Free from deforestation (after 31 December 2020); **and**
- Legally produced, in accordance with the laws of the country of production.

Any company that places the products on the EU market or exports them from the EU – the “operator”, in EU terminology – is required to exercise “due diligence” to ensure the compliance of the products with these criteria, and also to declare this through a “due diligence statement” filed with the authorities. These obligations apply equally to products imported into the EU, produced within the EU and exported from the EU.



Box 1 EUDR At a Glance: Must-Know Summary

(See [Annex 1](#) for further definitions)

Commodities covered

Cattle products, cocoa, coffee, palm oil, rubber, soya, wood, and many products manufactured from them, such as chocolate, furniture or tyres (see complete list in Annex 1 of the EUDR). Possible extension to other commodities and products (maize and biofuels are explicitly mentioned) is to be reviewed no later than two years after entry into force (i.e. June 2025).

Criteria for products to enter the EU market or be exported from the EU

1. [Deforestation-free](#): means produced on land free of deforestation after 31 December 2020 (and, for wood products, also free of forest degradation) (this applies to both legal and illegal deforestation);
2. [Legal](#), i.e. produced in accordance with the relevant legislation of the country of production; and
3. Covered by a [due diligence statement](#) filed by the company placing the product on the market. This confirms that the products meet the zero-deforestation and legality criteria and that due diligence has been carried out, and contains information about the products, including their origins. The EU is developing an electronic Information System through which the due diligence statements will be submitted.

Definitions

[Deforestation](#): means the conversion of forest to agricultural use, whether human-induced or not.

[Forest](#): Land spanning more than 0.5 hectares with trees higher than 5 metres 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. (This is the definition of “forest” used by the UN Food and Agriculture Organization (FAO).)

Due diligence obligations

The due diligence procedure involves:

1. [Collecting detailed information](#) on the products, including [geolocation](#) data on their origin, and evidence that they comply with the deforestation-free and legality criteria. (This information will be included in the due diligence statement; the supporting evidence must be kept for five years by the EU operator.)
2. Carrying out a [risk assessment](#) for each product to ascertain the risk of non-compliance with the criteria.
3. [Mitigating any risks](#) found in the risk assessment step, for example by carrying out independent surveys or audits, gathering additional documentation, working with suppliers through capacity-building and investments, etc. etc.

This three-stage process must be followed even if the product itself is not the original commodity, as long as it contains the commodity or has been made using it, and as long as the product itself is listed under the EUDR.

For example, any company placing chocolate on the EU market must collect this information for the cocoa beans from which the chocolate was made, since both cocoa beans and chocolate are listed under the EUDR. A company placing soap made from palm oil on the EU market has no obligations, since although palm oil is listed under the EUDR, soap is not.

Responsibility

1. The responsibility to ensure that the products meet the zero-deforestation and legality criteria lies with the company first placing the product on the EU market, or exporting it – the “[operator](#)”. This

company, in turn, will need to ensure it obtains all the necessary information from its suppliers in the country of origin.

2. Companies which buy listed products from operators and transform them into other products which are listed (e.g. make chocolate from cocoa beans) – sometimes called “downstream operators” – may rely on the due diligence carried out by the original operator, and refer to the due diligence statements already submitted, as long as they are sure that due diligence has been properly exercised for the original product. If the downstream operator is an SME, it is exempt from these requirements.

3. Companies further down the supply chain inside the EU, which buy products from operators, are known as “traders” –

a. If the trader is larger than an [SME](#), its responsibilities are exactly the same as those of downstream operators.

b. If the trader is an SME, it only needs to keep records of who it buys the products from and who it sells them to, and details of the accompanying due diligence statements.

4. Operators and non-SME traders are also required to communicate all necessary information along the supply chain, and must report publicly, at least once a year, on their due diligence efforts.

[Benchmarking \(risk classification\)](#)

By the end of the 18-month transition period, all countries (or, for larger countries, parts of them), will be classified as high, standard, or low risk after an assessment of information such as the country’s deforestation rates, agricultural production trends, whether national laws are effectively enforced. This classification will be regularly reassessed in the light of any new evidence. Companies sourcing from low-risk countries are not required to undertake steps 2 and 3 of the due diligence process per above description (risk assessment and risk mitigation).

[Enforcement](#)

Each EU Member State will nominate a “competent authority” to check companies’ compliance with their obligations. Checks on companies will be more frequent for companies sourcing from high-risk countries.

Penalties will be set by EU Member States and could include product recalls, fines and exclusion from public procurement contracts. NGOs or other bodies can raise “substantiated concerns” with competent authorities if they detect evidence of non-compliance.



Box 2 Timeline of the EUDR

Initial proposal published by European Commission: 17 November 2021.

Debated by European Parliament and Council (representatives of the EU member states): 2021–2023.

Publication of final agreed text in *Official Journal of the EU*: 9 June 2023.

Entry into force: 29 June 2023.

Full implementation by most companies (EU companies placing products on the EU market or exporting from the EU) expected after 18-month transition period: 30 December 2024, **but latest news from European Commission (2 October 2024) is a proposal for an extra 12 months of phasing-in time,^[1] hence new deadline for full implementation: 30 December 2025.**

Full implementation by [small companies](#) and [micro-enterprises](#), i.e. those with 50 employees or fewer and turnover of €8 million or less (EU companies placing products on the EU market or exporting from the EU), after 24-month transition period: 30 June 2025, **but latest news from European Commission (2 October 2024) is a proposal for an extra 12 months of phasing-in time, hence new deadline for full implementation: 30 June 2026.**

[Country benchmarking process](#) complete (assessment of countries of origin as low, standard or high risk, which affects due diligence obligations and number of checks on companies): 30 December 2024, **but latest news from European Commission (2 October 2024) is a proposal for an extra 6 months, hence new completion date: 30 June 2025.**

Review of possible extension of definition of “forest” to include “other wooded land”: 30 June 2024.

Review of possible extension to include other ecosystems, possible extension to other products, and assessment of whether financial institutions should be covered: 30 June 2025.

General review of EUDR, including impacts on farmers: 30 June 2028.

[1] Latest news from EC on 02 October 2024: [EU Deforestation Regulation implementation \(europa.eu\)](#)

Kenya Coffee Sector

Introduction

Coffee is grown in over 33 counties out of 47 in Kenya, according to the AFA coffee yearbook 2022/23, the national area under coffee was 111,902 ha. Coffee is grown by both smallholders and Estate farmers, the differentiating factor being the fact that smallholders primarily process their coffee communally, while estates – those above 5 acres with a production of 20 tons of cherry get individual primary processing licenses.

The highest national production since independence was realized in season 1987/88 of 128,862 MT. However it has declined by nearly 64% to a national average of 45,000 MT. In the year 2022/23 production was at 48,648 MT. This translates to position 17 in the world coffee production. (ICO Feb 2023)

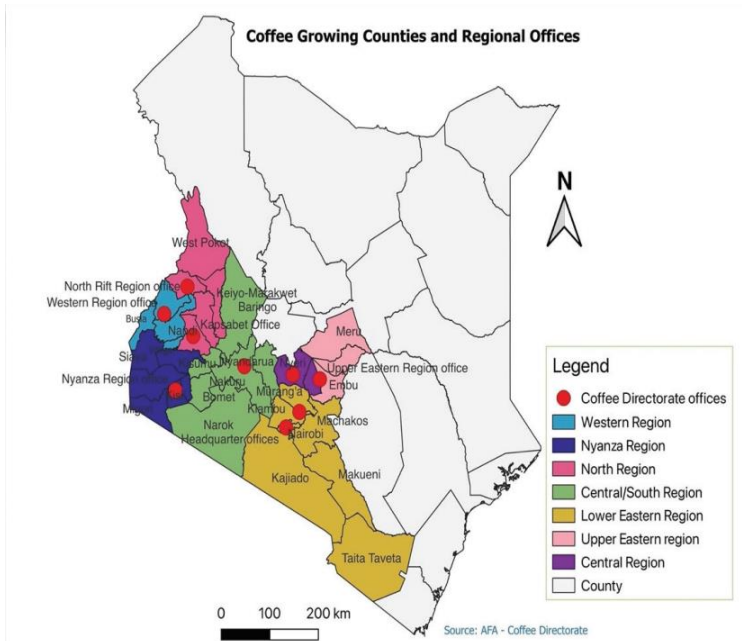


Figure 1 Coffee Growing Counties (source AFA)

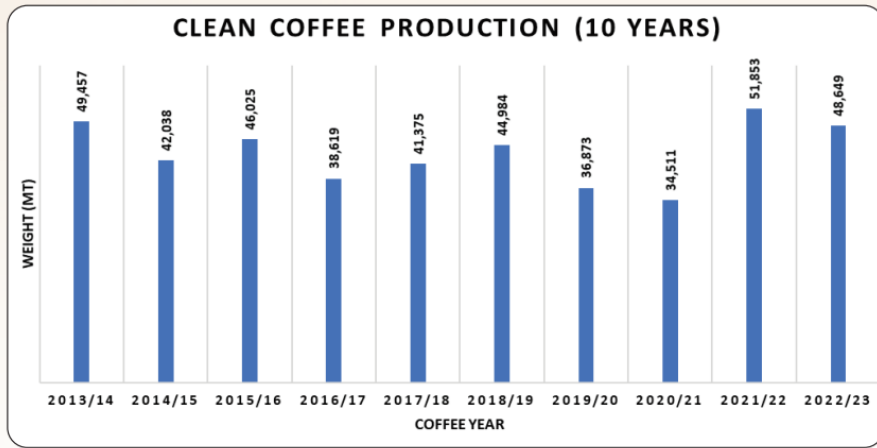
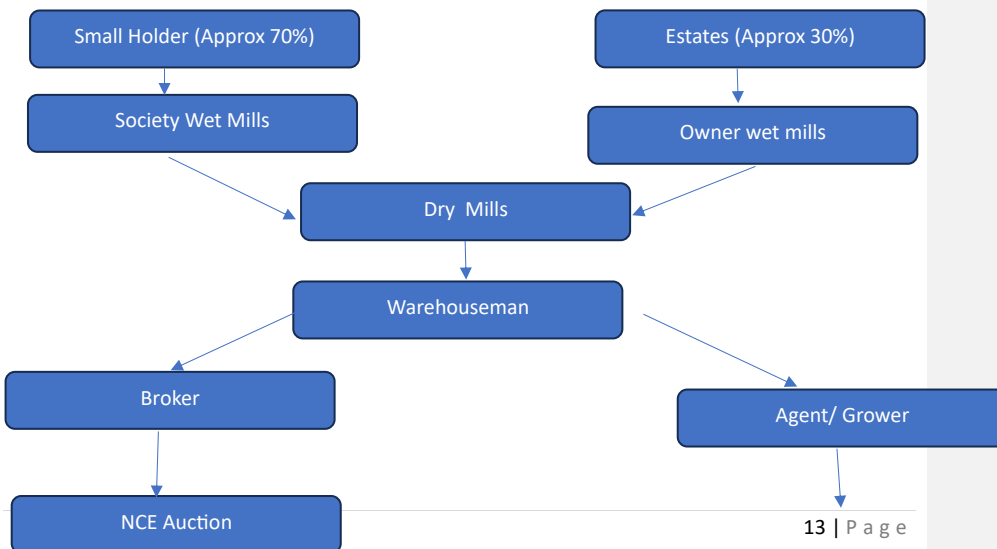


Figure 2 Kenya coffee production last 10 years in MT (Source AFA)

The socioeconomic benefit of coffee subsector is critical given its contribution to foreign exchange earnings, agro-processing, infrastructure and social investments, job creation and food security. Specifically, coffee contributes 3.7% of the country foreign exchange earnings and 0.3% to the Gross Domestic Product (GDP), hence a major source of livelihood to Kenya and rest of the world (KNBS, 2024).

The coffee sector is also very structured due to regulation that allows the identification of the different players involved in the industry as well as the processes as many of these need licenses or permits to happen.

Most of Kenyan coffee is washed arabica, and as such the coffee processing and marketing value chain looks as follows:



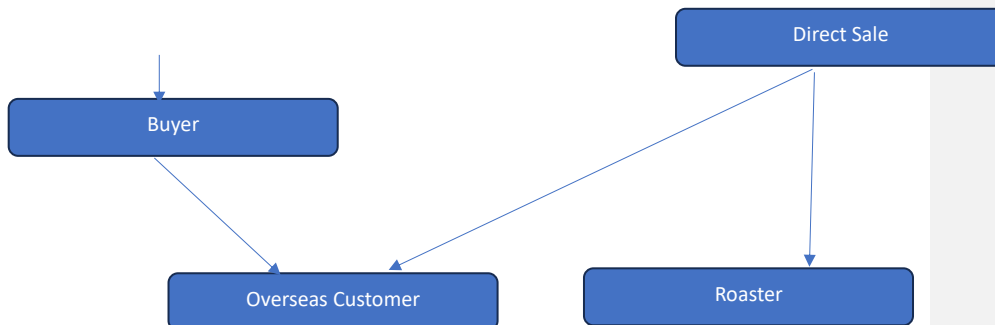


Figure 3 Coffee Processing and marketing Chain

Smallholders vs. Estates

A significant majority of coffee farmers in Kenya are smallholders. Approximately 70% of coffee production comes from smallholders who own less than 4 hectares of land. They represent 75% of all the land in the country under coffee production. There are over 800,000 registered coffee smallholders who process their coffee communally in 1,122 factories that are part of 605 Cooperative Societies. Their average size is about quarter an Acre or 0.1 ha with about 250 coffee trees. They have an average yield of 410 kg/ha

The remaining 30% comes from estates, which often have more resources for advanced farming techniques and higher yields. They cover 25% of the land under coffee. There are about 4000 registered estates , with 2,749 being active in the year 2022/23. Active means they produced and sold coffee in that year. Over 2,000 of these are above 4ha. Estates have an average yield of 559 kg/ha

Key Institutions in the Sector

The main players in the sector are

Private sector

- **Small Holders** , - Farming and primary processing of coffee happens at this level for those below 5 acres (2.023 Hectares). They are registered through cooperatives. They come together in cooperative societies and unions , they are represented by their unions, the National Alliance of Coffee Cooperative Unions (NACCU) as well as the Kenya Coffee Producer Association. (KCPA).
- **Estate Farmers**,- This are farmers above 5 acres who have a pulping licence. At times come together as associations and are represented by the Coffee Estates and Planters Association (CEPA) and Coffee United Planters and Producers Association (CUPPA).
- **Grower-owned commercial dry mills**- This perform the dry milling but are important as they issue the out-turn number and the milling statement for the farmer for traceability and accountability.
- **Warehousemen** – They provide the service of storing coffee in a registered warehouse and issue a warrant to facilitate trade and logistics.
- **Brokers** – These are persons cleared by the exchange and licensed by the Capital Markets Authority (CMA), who may be appointed by a grower, to sell their coffee on their behalf through the Exchange;

Commented [NW1]: To now include a section on the current status of EUDR preparedness as implemented by the institutions and/or private sector

- **Direct Settlement scheme Provider** - a banking facility provided by commercial banks regulated by the Central Bank of Kenya for clearing and settlement of coffee sales proceeds.
- **Licensed buyers** - incorporated company licensed by the Authority to buy clean coffee at the exchange for export, local sale or value addition or to import clean coffee for secondary processing in Kenya;
- **Licensed Roasters** - licensed by the respective county government to buy clean coffee for value addition for local sale.
- **Licensed Agents** - registered person who may be appointed by a grower for purposes of facilitation of overseas direct sales with regard to logistics.
- Other **support institutions** include financial institutions, input and service providers, implementing NGOs and platform in the sector

Public Sector Authorities:

- **Coffee Directorate** - Agriculture and Food Authority – Coffee Directorate (CD-AFA): Oversees regulation, policy formulation, and quality control.
- **Coffee Research Institute**: - Kenya Agriculture and Livestock research Organisation – Coffee Research institute- Research coffee varieties and farming techniques.
- **County Governments**: - Provide extension service and license coffee operations.
- **Capital Market Authority**: - Oversee exchange activities at the Nairobi Coffee Exchange and licence brokers
- **Nairobi Coffee Exchange** – Auction platform where over 90% of Kenyan Coffee is traded
- **Ministry of Agriculture and Livestock Development** – Develops and enforces national policy on crops and livestock.
- **Ministry of Co-Operatives and Micro, Small And Medium Enterprises (MSME) Development** - Develops and enforces national policy on cooperatives and MSME
- **Ministry of Trade and Industry** – develops trade policy and ensures trade facilitation.

Harvesting and Processing

Coffee is harvested by hand, often by smallholder farmers or laborers in estates. After harvesting, coffee cherries are taken to cooperative factories wet mills or private wetmills for Primary processing. This is the removal of coffee pulp from cherry, fermentation, washing, and drying. Cooperatives play a crucial role in pooling resources and providing processing facilities. They also facilitate market access. Once the coffee is washed and dried, it is taken to a dry mill for mechanical hulling or de-husking of parchment.

At the point of delivery to the dry mill, the law requires that an out-turn number is generated. This is “an identifying number issued by a miller in respect of coffee delivered to a mill for purposes of traceability”.

The out-turn number serves as the unique number for traceability of the coffee all the way to export. It also links a lot of coffee to the factory wet mill where it was primary processed for smallholders, or the farm for the Estate. This makes it possible to know all the farmers that have contributed to a lot of coffee.

Example of information contained in an outturn number.



NCE SALE 30 ALL INCLUSIVE SALE CATALOGUE										
LOT	SEASON	OUTTURN	MARKS	MILL	W/H	GRADE	BAGS	PKT	KG	CERT/COMMENTS
6043	2023/2024	16SM0030	GITURA/XAB13F08	SCM	AGL	AB	44	51	2,704	FLO,CAFÉ
6044	2023/2024	23MM0035	GITURA/XAB13F08	MCM	AGL	AB	22	45	1,354	FLO,CAFÉ

Figure 4 - Sale Catalogue extract - source NCE

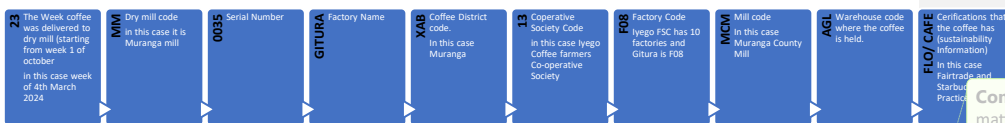


Figure 5- Breakdown of the OUT-TURN Number

Each licensee has a role in terms of collecting data and making it available.

- Small holder, - Join a Cooperative society and register your coffee plot with a factory near you , they give the details where the farm is located and how many coffee trees they have planted.
 - For EUDR geolocation data of the plot would require to be collected as extra information at this level
- Cooperative society, - They register farmers and keep an updated list of members and their number of coffee trees. Farmers also deliver coffee to the factory, and the factory traces that coffee to the mill and market, since lots are milled separately per factory
 - The first point of a complete list of farmers and their location for EUDR purposes,
 - They aggregate and process the coffee and keep data of a coffee lot all the way to sale to the buyer. And have an indication on which farmers contributed to what lot.
- Cooperative Society Factory- Keep production information of the producer and share the proceeds of coffee after expenses according to how much coffee each producer contributed to the total. - Traceability of coffee from the factory level would need to be linked to the farmers and their plots from cooperative society data.
- Estate- For EUDR The estate farmer would need to collect and make available their geodata to be connected with the current outturn traceability data.
- County Government- Register growers and coffee nurseries as well as local roasters and keep updated information on area under production. –
 - For EUDR new registrations would need to consider adding geodata to the requirements.
- Dry mill- issue outturn number, as well as milling statement to identify all the coffee delivered and milled as well as its grade. Make monthly returns to the Coffee directorate on production.
 - For EUDR the outturn form an important part of the traceability
- Warehouse men, store processed coffee and issue warrants to allow trade of the coffee ,
 - For EUDR all coffee stored in the warehouse is referenced by its outturn number
- Buyers, Roasters and brokers, - keep a clear record of coffee bought or sold and by who
 - For EUDR would need to keep the traceability data provided by the ones upstream, and refer to it when exporting
- Coffee Directorate – issue ICO certificate to exporter for coffee consignments
 - For EUDR as they offer coffee certificate of origin , then they would be the appropriate custodian of data in a Digital Public Infrastructure to share it with exporter as part of the certificate of origin as long as the exporter carefully identifies the outturn.
- The green coffee is then either auctioned or sold directly to buyers and roasters.
-

Commented [GU2]: This is being done currently as a matter of course? It is legislated to do so? How often is such a list updated? Meaning for example, in the cases of subdivisions, inheritance, sale, renting vs owning etc. Who is registered - ie, single person or family or multiple owners possible?

Commented [GW3R2]: Yes the law - coffee regulations 2019 requires the smallholder register with a coop (or other legal entity like association or company , but practically most smallholders register with Coops)- registration includes paying for a share in the coop and having the coop confirm where you are farming and where you got your seedlings from. But this is more in the coop bylaws.

The list is a live list and is reported to the coop department at the county every year . There is an annual return. For subdivisions , joint ownership , Death of members , the bylaws direct , so you can inherit a number or get a one and the previous owner struck from the list. Since payment is made to the registered member account, there is an incentive to the farmer to ensure details are updated.

Commented [GU4]: same questions as above

Commented [GW5R4]: The society makes an annual return to the coops department , but also for payment of proceeds to farmers , updates are required.

Commented [GU6]: they all do or just some? How often are such lists updated? (as per earlier questions)

Commented [GW7R6]: Law requires they are but grower according to the law and licencing is either the plantation above 5 acres (Estate) or cooperative of farmer. - so not the small farmers as those are under the grouping. But everyone must be registered to do coffee .

Commented [GU8]: this is also used for direct exports? or only for the exchange?

Commented [GW9R8]: Mainly exchange as this is how coffee is traced and proceeds repatriated . For direct sale the grower has the number but is not required to share this information to export , some choose to for traceability , since it tells the origin and production time. However all warehoused will trace the stocks by this number even if you are storing coffee from different farmers , unless you request for blending , for instance from 60kg bags to open container loads as some exporters may do for commercial coffee

Bottlenecks and Traceability Risks

The benefits of a structured system are that the bottlenecks are eliminated, and the traceability risks are reduced. There are only two scenarios in the dry mill that complicate traceability.

- 1- bulking- this is where very small lots of similar quality are put together to make a millable lot. The miller is however required to file a log and share it with the owners of the coffees being bulked, stating their names, volumes, and quantities of the batches being bulked for purposes of enabling each person in the bulk to get an indication of the distribution of the value of the same upon sale. This is thus more an issue of collecting the logs of the coffee, than a traceability risk.
- 2- The second is spills in the process of milling the coffee, this a collected together but may be difficult to allocate to a grower, such occurrences are also minimal quantities.

Since the farmers own the coffee until it is milled and presented as green coffee either for auction or direct export, it is a value necessity to ensure that the coffee is traceable until it is sold either at the auction or at through a direct sale.

Any mixing is thus out of choice rather than accident, for instance in blending , however, any subsequent mixing can always be traced back to the lots that comprise the blend.

A lot for smallholders can also be traced to the farmers that delivered it , however at times due to small deliveries it is technologically taxing and maybe unnecessary to further segregate beyond the farmers that delivered in one whole season.

Bottlenecks occur at the processing and marketing stages, where different batches of coffee can be mixed, risking traceability.

Currently the out-turn number gives traceability to the estate or the factory that small holders delivered coffee to.

Trade Dynamics

Coffee in Kenya is only traded after it is processed to the form of green coffee, Farmers either through their cooperatives or estates process the coffee to green form before they can sell it.

Coffee is traded through 2 main channels, through auction at the Nairobi Coffee Exchange (NCE), and direct sales to an overseas buyer or local roaster. The main parties in trade are the Grower, the grower's broker, the grower's agent, the local buyer. Local roaster and Overseas buyer. Local buyers can only buy coffee at the auction. As shown in Figure 3 Coffee Processing and marketing Chain

Throughout the whole trading process, coffee is stored in licensed warehouses and identified in lots with out-turn numbers.

There are also instances of sale and export of roasted coffee, for roasters it is possible for them using the out-turn to trace the coffee they roast.

Coffee is exported to 76 countries with EU taking 55%, (Germany 19%, Belgium 17%, Sweden 8%) USA 16% and South Korea 7%. See 10-year data from AFA – Coffee Directorate 2012 to 2022

Commented [GU10]: meaning only in context of selling at the auction? or also for direct export?

Commented [GW11R10]: Yes both for direct and auction channels coffee is sold only in green coffee form (clean coffee it is called) although the farmer receives money for the cherry he delivered from her coop , the coop processes and sells it as green then shares the revenue less costs as per the proportion delivered by the farmer.



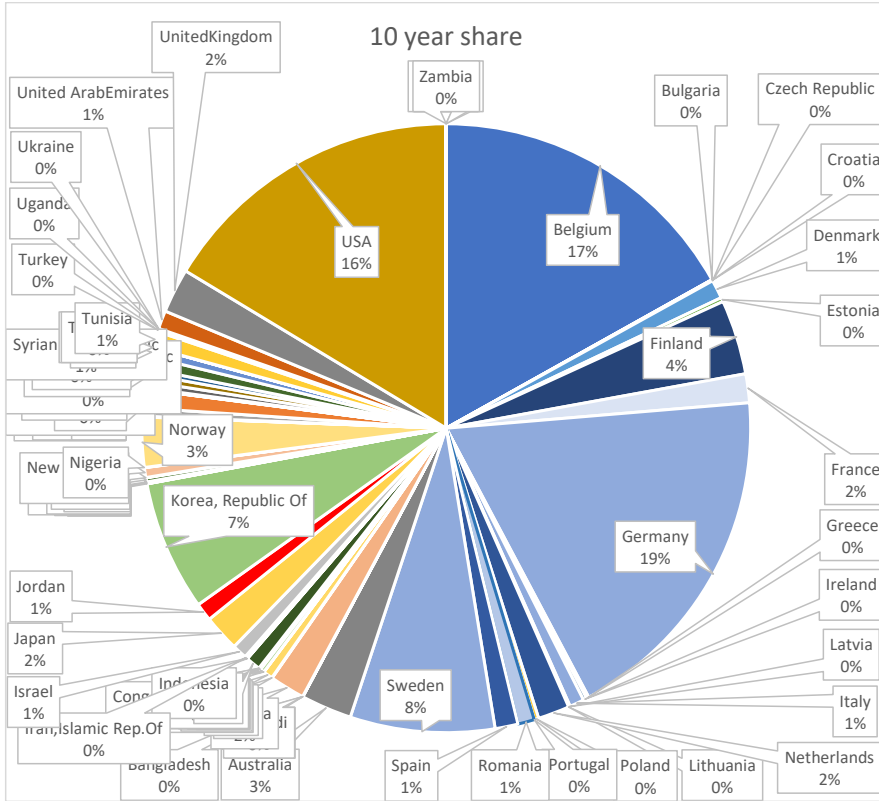


Figure 6- Country average share of exports over the last 10 years 2012-22

Trade Dynamics with EU?

Over the last 10 years 2012-2022 according to AFA export data , the average amount of coffee exported to a European Port is 55%.

2023 Exports to EU destinations

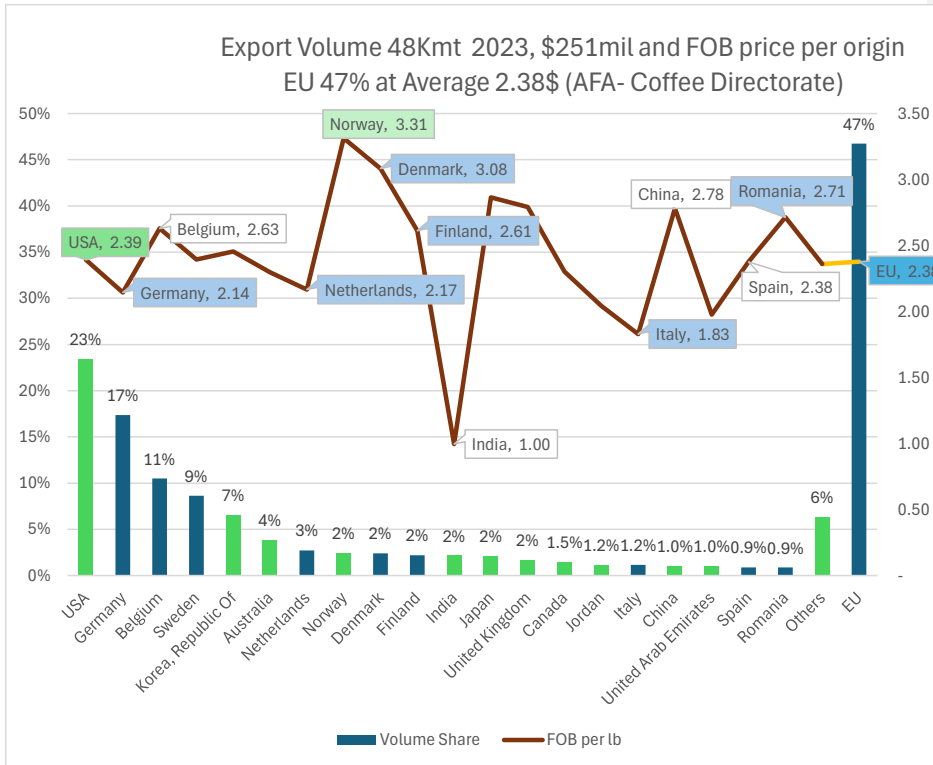


Figure 7 2023 Exports compared to EU Destination (Data Source AFA-CD)

References

1. Crops Act (2013): Title: Crops Act, 2013, Act No. 16 of 2013, Source: Kenya Law
2. Legal Notice 102 - The Crops (Coffee) (General) Regulations 2019: Title: The Crops (Coffee) (General) Regulations, 2019 (Legal Notice No. 102 of 2019) Date: 1st July 2019 Source: Kenya Gazette Supplement No. 100
3. AFA coffee yearbook 2022/23
4. KS 2366:2021 Coffee industry- code of practice.

Practical steps for compliance to EUDR

4 categories of companies

Category 1: Operators

Operators are the first companies to place products on the EU market falling under the scope of EUDR (e.g. companies that import products into the EU market). Operators must create a due diligence system to ensure products are deforestation-free and legally produced. This involves conducting a risk analysis and taking steps to reduce any risks identified. While the EUDR doesn't specify exact procedures, it's up to each company to develop and implement this system. Operators need to submit a "due diligence statement" (DDS) online in the EU Information System before placing products on the market. This statement must include geolocation details of the production areas. Operators should be prepared for inspections by EU authorities to prove their due diligence system is effective and that the risk is negligible.

Category 2a: Downstream operators that are not SMEs

Non-SME downstream operators are large companies (non-SMEs¹) that are the first companies to place products on the EU market although they source at least part of their products (or component to create their product) from suppliers that are themselves Operators (or other downstream Operators). Downstream operators have very similar obligations as Operators, although they will have to build their due diligence system on previous operators' processes, ensuring all necessary information from their suppliers is complete and accurate. They also need to assess and mitigate risks before submitting their own DDS, linking it to any previous statements related to the product.

Category 2b: Downstream operators that are SMEs

SME downstream operators are SME companies that are the first companies to place products on the EU market although they source at least part of their products (or component to create their product) from suppliers that are themselves Operators (or other downstream Operators). Downstream operators have very similar obligations as Operators, although they will have to build their due diligence system on previous operators' processes, ensuring all necessary information from their suppliers is complete and accurate. They also need to assess and mitigate risks before submitting their own DDS, linking it to any previous statements related to the product.

Category 3: Traders that are not SMEs

Non-SME traders must perform due diligence, connect to any existing DDS, conduct risk assessments, and submit a new DDS before trading products within or outside the EU.

Category 3b: Traders that are SMEs

SME traders are required to keep records of their suppliers, including transaction details, but are not responsible for the full due diligence process.

Category 4: Suppliers

Suppliers are companies involved in the production or trading of products under scope of EUDR but not placing these products on the EU market (hence these companies are based outside the EU) – as



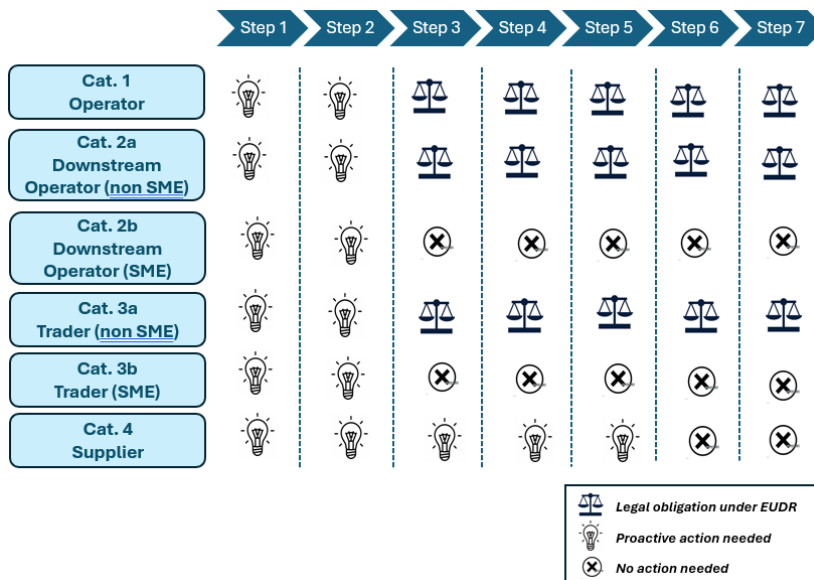
such they cannot be classified as Operators or Traders, as per EUDR definitions. These companies may be suppliers to Operators as they may contribute to the global value chains, however they are not legally obliged under the EUDR to perform due diligence. They should nevertheless be ready to provide information to support operators' due diligence processes, ensuring products are deforestation-free and legally produced. Rwanda coffee producers and exporters fit in this category.

EUDR Step-by-step compliance

In the framework of the EUDR, each category of company bears distinct responsibilities and obligations concerning compliance. The pathway to adherence is structured into systematic steps that encapsulate the entire due diligence process. These steps include:

- Step 1: understanding your obligations;
- Step 2: grasping the specifics of EUDR due diligence requirements;
- Step 3: conducting thorough data collection;
- Step 4: performing risk assessment;
- Step 5: implementing risk mitigation strategies;
- Step 6: submitting the due diligence statement; and
- Step 7: monitoring and maintaining accurate reporting.

The requirements for each step vary significantly across different company categories—ranging from mandatory legal duties to highly recommended proactive actions, or in some cases, no direct action required under EUDR. The guidance provided here aims to clarify these responsibilities, helping each entity identify and execute its required actions efficiently and effectively. The upcoming sections will detail these steps and outline the specific actions required by each category of company, thereby ensuring a clear understanding and comprehensive compliance with the EUDR.

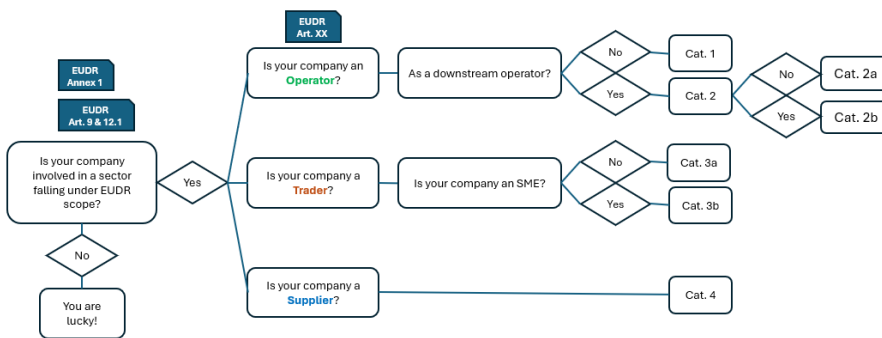


Step 1: Understand your obligations

The first essential step for all companies towards compliance with the new EUDR is to thoroughly understand their role and potential obligations under the regulation. This involves assessing whether your company operates within a sector that falls under the scope of the EUDR. If so, it is crucial to determine the specific category your company belongs to: Operator, Trader, or Supplier.

For Operators and Traders, further classification is required to identify if your business qualifies as a Small or Medium Enterprise (SME).

This initial evaluation is vital to prepare effectively and ensure that the necessary actions are taken to meet the requirements of the EUDR.



For companies falling under category 4: As a **Supplier** company based outside the EU, you are **not legally bound to EUDR** obligations, however as potential supplier to Operators you need to be ready to provide them with all the necessary information that will be used in their due diligence process.

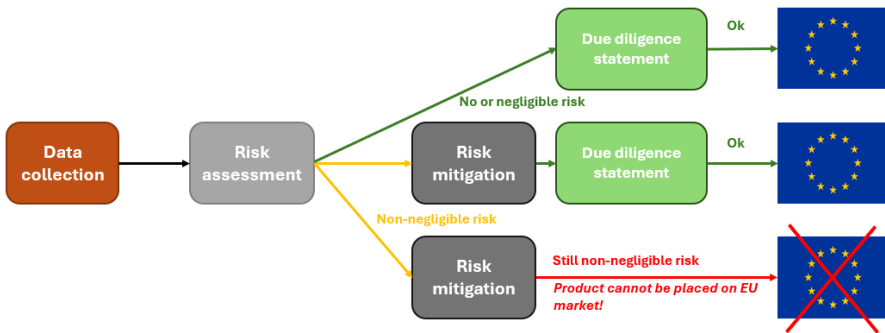
Step 2: Understand EUDR due diligence requirements

The second critical step toward EUDR compliance is gaining a comprehensive understanding of the due diligence obligations set out by the regulation. This step allows each company to clearly define the specific actions required to fulfil these obligations and ensure full compliance with the EUDR's standards.

The EUDR due diligence requirements are designed to ensure that only deforestation-free and legally produced products are placed on EU market. This process begins with extensive data collection, which gathers key information such as product origins, geolocation, and evidence of compliance with national legislations in producing country.

Following this, a thorough risk assessment needs to be conducted to evaluate the likelihood of deforestation or illegality in the supply chain. If any non-negligible risks are identified, companies must implement risk mitigation measures to address these issues.

Only after successfully completing these actions can a company prepare its "Due Diligence Statement" and proceed to place its products on the EU market.



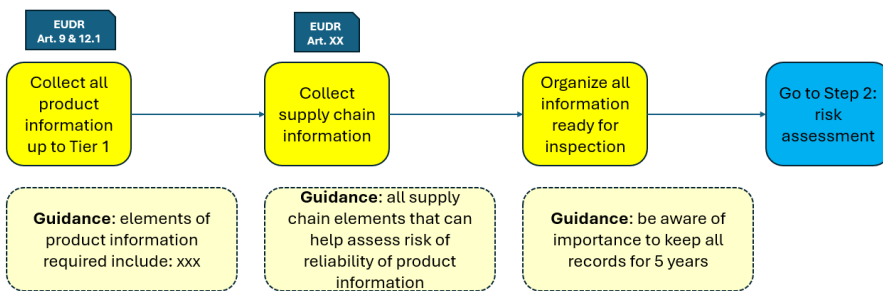
Each category of companies involved in the supply chain—whether Operator, Downstream operator, Non-SME Trader or SME Trader, Supplier—has a distinct role in implementing the due diligence process. While the level of obligations and responsibilities varies depending on the company’s position in the chain, all parties must contribute to the collective effort to ensure compliance. Suppliers are primarily responsible for providing accurate and complete data, while Operators and Traders must thoroughly assess this information, perform risk assessments, and mitigate any identified risks.

Understanding these specific obligations and roles is crucial for ensuring that every company plays its part in meeting the EUDR requirements and protecting EU markets from products linked to deforestation or illegal production.

Step 3: Data collection

This step focuses on the essential process of data collection, which forms the core of the due diligence requirements under the EUDR. A workflow has been developed, alongside specific guidance for each of the five categories of companies, to streamline this process.

Additionally, a proposed checklist is provided to help ensure compliance. This checklist is indicative and based on the minimum elements mandated by the regulation, but it can be enriched and adapted to suit different company contexts and specific needs.



Operational guidance for Suppliers:

For this category of companies—Suppliers—which includes those located outside the EU but supplying products directly or indirectly to Operators within the EU, the role is crucial despite having no direct legal obligations under the EUDR. Suppliers play a pivotal role in the due diligence process by providing comprehensive data necessary for Operators to fulfil their obligations under the regulation.

Essential role of Suppliers to support Due Diligence processes of Operators

Suppliers, ranging from producers/farmers to intermediaries and exporters, must collect and transmit accurate and comprehensive data to their EU counterparts. The initial data collection often occurs at the producer or farmer level, especially geolocation data, which is critical for tracing the origins of the product. As data moves through the supply chain, each intermediary or exporter must ensure its accuracy and completeness before it reaches EU Operators.

Guidance for Suppliers (Exporters and Intermediaries):

1. Data Collection by Exporters:

Exporters dealing directly with European Operators must gather extensive product data to comply with the EUDR requirements. This includes:

- ✓ Detailed product descriptions including trade and common names, as well as scientific names for wood products.
- ✓ Accurate quantification of the products, adhering to the specified units.
- ✓ The country of production, specific production areas, and geolocation of all production plots.
- ✓ Evidence of deforestation-free status and legality of production.
- ✓ Complete contact details of businesses or persons from whom the products were sourced.

2. Data Collection by Intermediaries:

Intermediaries not directly linked to EU Operators must also prepare and maintain similar data, ensuring it is ready to be passed along the supply chain. This includes:

- ✓ Collecting and verifying the same extensive set of data as exporters.
- ✓ Ensuring that any transferred data is accompanied by adequate verification of its credibility and legality.
- ✓ Establishing mechanisms to regularly update data to reflect any changes or new compliance standards.

3. Key Types of Information Required (As Specified by EUDR):

Product Description: Clearly list all relevant commodities or products used in manufacturing, including scientific names where applicable.

Quantity Measures: Document quantities in net mass or other specified units, ensuring clarity for each product code.

Geolocation: Record precise locations of all plots where commodities were grown or cattle were kept, including specific dates or ranges of production.

Supplier and Customer Details: Maintain updated records of contact information for all parties in the supply chain.



Deforestation and Legality Proofs: Provide conclusive evidence that products are deforestation-free and legally compliant within the country of production.

4. Special Considerations:

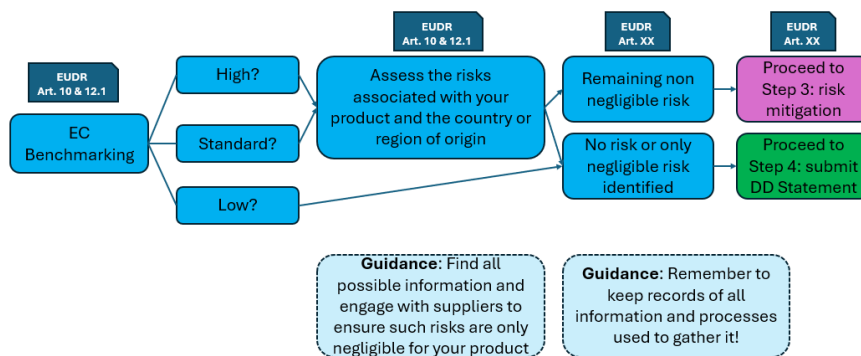
- ✓ Ensure that data gathering processes are robust and can withstand scrutiny by Operators and regulatory bodies.
- ✓ Develop and maintain a secure digital system for storing and transmitting data, which can easily be accessed and audited by Operators or compliance officers.

By following these guidelines, Suppliers—including both exporters and intermediaries—will effectively contribute to the EUDR compliance of their EU partners, ensuring the sustainability and legality of the products entering the EU market.

Step 4: Risk Assessment

Following the initial data collection phase, the next crucial step in implementing due diligence under the EUDR is Risk Assessment. This step involves a thorough evaluation of the potential risks associated with deforestation and legal compliance in the supply chain. Each category of companies, as outlined in the previous sections, has specific obligations and roles to play in this collective effort.

In the upcoming guidance, we will detail how each type of company—Operators, Downstream Operators, Non-SME Traders, SME Traders, and Suppliers—needs to approach the risk assessment process to ensure that all potential risks are identified, assessed, and appropriately managed. This is a vital component of the due diligence process, ensuring that the products placed on the EU market adhere to the stringent standards set forth by the EUDR.



Operational guidance for Suppliers:

For this category of companies, Suppliers, although there is no legal obligation under the EUDR to conduct due diligence or risk assessment processes, their role is nonetheless crucial. Suppliers are fundamental in providing the initial layers of data required for the comprehensive due diligence efforts undertaken by Operators and Downstream Operators. They play a critical role in ensuring that the information they provide is accurate, trustworthy, and verifiable, which in turn supports the risk assessment processes further up the supply chain.

1. Accurate and Detailed Information Provision:

Ensure that all information related to product descriptions, quantities, and geolocations is precise and thoroughly detailed. This includes providing scientific names for products when applicable, detailed production locations, and clear quantity measurements.

2. Verification of Information:

Implement internal verification processes to confirm the accuracy and legitimacy of the data before it is sent to Operators or Traders. This might involve third-party audits or the use of certified systems to validate data.

3. Transparency and Traceability:

Maintain high levels of transparency in your operations. Provide clear and traceable records that can link products directly back to their points of origin. This supports Operators in connecting products to specific plots of land, crucial for effective risk assessments.

4. Regular Updates and Communication:

Keep all data up-to-date and communicate any changes in production, supply chain, or compliance status promptly to your EU partners. This helps in maintaining current risk assessments and adapting to any new risks that may emerge.

5. Compliance with Local and International Standards:

Ensure that all commodities are produced in compliance with both local legislation and international standards related to deforestation and environmental protection. Documentation of such compliance should be readily available and verifiable.

6. Support for External Audits:

Facilitate external audits by providing access to your production sites and records. Cooperating with auditing processes instills confidence in your data's validity and supports your EU partners in their compliance efforts.

By following this guidance, Suppliers can effectively contribute to the risk assessment efforts of their EU partners, ensuring that all information provided upholds the rigorous standards required under the EUDR. This collaboration not only aids in regulatory compliance but also enhances the sustainability and ethical standards of the entire supply chain.

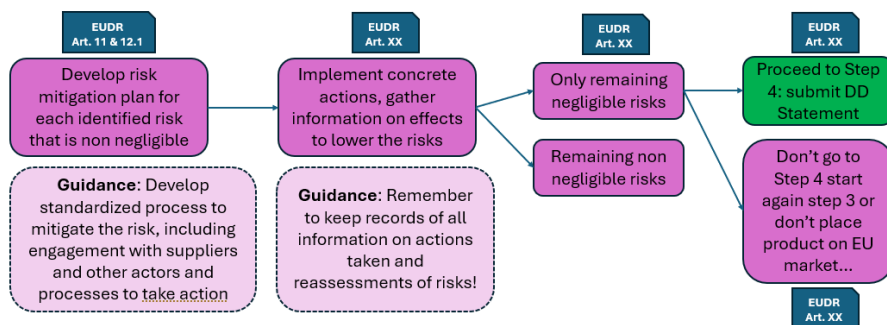
Step 5: Risk Mitigation

The next critical step in the due diligence process outlined by the EUDR is Risk Mitigation. This stage is pivotal for addressing and resolving any risks identified during the Risk Assessment phase. The approach to risk mitigation varies significantly depending on the category of the company involved, as each holds different roles and responsibilities within the supply chain.

According to the EUDR, risk mitigation actions are required unless the products being assessed originate from a country or region that has been officially benchmarked and rated as "low risk." For such low-risk areas, the regulation acknowledges that the existing measures and governance are sufficient to ensure compliance with deforestation and legal production standards, thereby negating the need for further mitigation efforts.



In this section of the training handbook, we will explore specific guidance tailored to each company category, detailing how they can implement effective risk mitigation strategies when necessary. This guidance will help ensure that all actors in the supply chain contribute appropriately to minimizing the risks associated with non-compliance and supporting sustainable and legal trade practices.



Operational guidance for Suppliers:

For Suppliers—companies outside the EU market supplying products directly or indirectly to Operators and Traders within the EU—their role in risk mitigation, while not legally mandated by the EUDR, is critically supportive. Suppliers are instrumental in providing the foundational data and compliance assurances that Operators and Traders rely on for their own risk mitigation efforts.

1. Provide Comprehensive and Verifiable Information:

Ensure that all information supplied to Operators and Traders is comprehensive, accurate, and verifiable. This includes detailed product descriptions, quantities, production locations, and evidence of legal compliance and deforestation-free operations.

2. Maintain Transparency and Accessibility:

Keep all records and documentation transparent and easily accessible to support the due diligence and risk mitigation processes of your EU partners. This may involve digital systems that allow for real-time data sharing and updates.

3. Proactive Communication:

Engage in proactive communication with EU partners to quickly relay any changes in production processes, supply chain configurations, or compliance status that might impact risk assessments or mitigation measures.

4. Support Audits and Verifications:

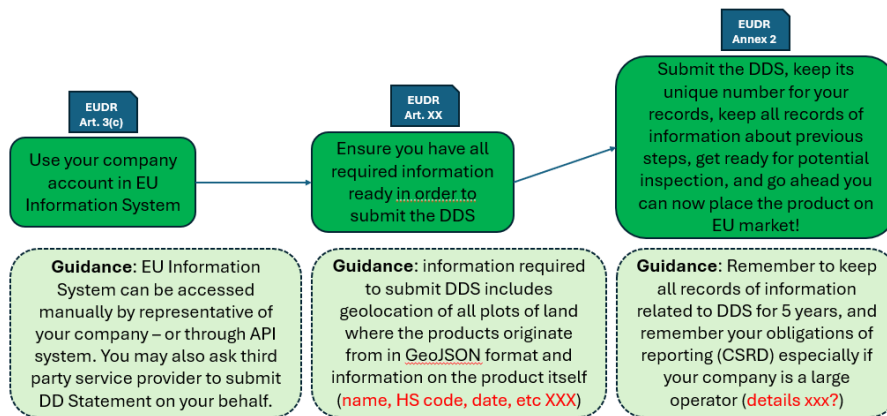
Facilitate and support third-party audits or independent verifications requested by Operators or Traders to confirm the authenticity of the information provided and the adherence to environmental and legal standards.

5. Continuous Improvement and Compliance Support:

Invest in continuous improvement programs that enhance compliance with deforestation and legal production standards. This might include training for local producers, adopting new technologies, or enhancing traceability mechanisms.

By following these guidelines, Suppliers can effectively contribute to the risk mitigation strategies of their EU counterparts, ensuring that the entire supply chain operates within the regulatory frameworks and sustains the high standards required by the EUDR. This collaborative approach not only aids in compliance but also enhances the overall sustainability and integrity of the supply chains involved.

Step 6: Submit Due Diligence Statement



Under the EUDR, specific obligations are assigned to Operators and non SME Downstream Operators regarding the submission of due diligence statements prior to placing products on the EU market or exporting them - suppliers do not need to submit a Due Diligence Statement but need to provide accurate information to their buyers (Operators) who submit the Due Diligence Statement.

EUDR Step-by-step compliance: Key takeaways

- Any business, regardless of its size, that first places products listed in the EUDR on the EU market is an “Operator”. It is required to adhere to the due diligence obligations to ensure that the products are compliant with the criteria listed in the EUDR: free from deforestation after 2020 (and, for timber products, also free from forest degradation) and legal, according to the laws of the country of origin.
 - This is just as true for products produced in the EU as products imported from outside.
 - And is also just as true for products exported from the EU.
- This means carrying out the three steps of the due diligence process – information collection, risk assessment and risk mitigation – and filing a due diligence statement when the products are placed on the market or exported.
 - The only exception to this is where the products are sourced from a country, or part of a country, which has been assessed as low risk under the benchmarking process. In this case the business only has to carry out the information collection step of the due diligence process and file a due diligence statement.
- This means in turn that the business must be able to collect the necessary information from its suppliers outside the EU: evidence that the products have been produced in compliance with the EUDR, and information on their origin, including their geolocation data for the point of harvesting.
- If a business sources listed products from another business and transforms them into another product that is listed in the regulation, it is still an operator, but its obligations are rather different; it is sometimes called a “downstream operator”:
 - If it is larger than an SME, it must satisfy itself that due diligence has been exercised on the products it has sourced in accordance with the requirements of the EUDR and must file a due diligence statement.
 - If it is an SME, it is exempted from these obligations, and only has to provide the competent authorities with the reference number of the due diligence statement upon request.
- If a business sources listed products from another business and sells them on to another company, it is a “trader” rather than an “operator”, and its obligations vary depending on its size:
 - If it is larger than an SME, it must still exercise due diligence, but since it is sourcing products that have already been through the due diligence process, it must satisfy itself that due diligence has been exercised in accordance with the EUDR.
 - If it is an SME, it only needs to keep a record of who it buys the products from, and the details of the accompanying due diligence statements, and who it sells to.
- Suppliers in the countries of origin of the products have no direct obligations under the EUDR. It is only companies with a presence in the EU that are subject to its requirements.

- But the suppliers must be able to collect and pass on the information necessary to enable their products to be placed on the EU market: evidence that the products have been produced in compliance with the EUDR, and information on their origin, including their geolocation data for the point of harvesting.

EUDR in practice: examples of business scenarios

In this section, we describe two simplified business scenarios that will directly or indirectly be impacted by the implementation of the EUDR from the perspective of entities based outside the EU and targeting EU markets. These scenarios provide a foundational framework for understanding the diverse situations in which businesses may find themselves:

1. **Scenario 1: EU-Based Operations with Suppliers from outside the EU:** In this scenario, businesses operate within the EU, but source their raw materials from suppliers located outside the EU. This scenario embodies the complexities associated with international value chains and trade.
2. **Scenario 2 : Operations outside the EU, Targeting EU Markets:** Businesses operating beyond the borders of the EU produce products which are either exported directly to enterprises based in the EU, or indirectly, via other links in the supply chain; in this latter case, the original producer may not know that their products will end up in the EU. This scenario delves into the intricacies of compliance requirements for non-EU entities wishing to access the EU market, and explores the broader implications of EUDR on global value chains, including the significance of traceability and responsible sourcing.

These two basic scenarios serve as reference points for a more comprehensive examination and analysis within the context of EUDR implementation. By understanding these scenarios, businesses can better tailor their compliance strategies to their specific roles and relationships with the other actors in global value chains.

In each scenario, the responsibilities of the companies involved are determined by their position in the supply chain, both in terms of geography (are they based inside or outside the EU?) and in terms of the stage of the supply chain they are at (are they placing products listed in the EUDR on the EU market, and if so, for the first time, or are they supplying them to other companies which place them on the EU market?). So, within each scenario, we describe the responsibilities of companies in the following situations:

- **Operator:** a company that first places a product listed in the EUDR on the EU market (regardless of size – SMEs are treated in exactly the same way as larger companies).
- **Large downstream operator:** a company that first places on the EU market a product listed in the EUDR made from another product also listed (e.g. chocolate made from cocoa beans) – i.e. products that have already been through the due diligence procedure – and is larger than an SME. (Note: “downstream operator” is not an official term used in the EUDR, but is helpful to describe the different responsibilities of companies in this position.)
- **SME downstream operator:** a company that first places on the EU market a product listed in the EUDR made from another product also listed – i.e. products that have already been through the due diligence procedure – and is an SME.
- **Large trader:** a company that buys products listed in the EUDR from an operator, and sells them on to other companies, and is larger than an SME.
- **SME trader:** a company that buys products listed in the EUDR from an operator, and sells them on to other companies, and is an SME.

The due diligence obligations include all three steps of the due diligence process – information collection, risk assessment and risk mitigation – together with filing a due diligence statement for each



consignment of products placed on the market, which confirms that the products meet the criteria and that due diligence has been carried out, and contains information about the products, including geolocation data on their origins.

If the country of origin is given a low-risk status under the benchmarking process (this will probably be unlikely for most tropical countries of origin), the process is slightly simpler, requiring only the information collection stage, and filing a due diligence statement.

Enforcing the EUDR

Each EU Member State will nominate one or more **competent authorities** to monitor and enforce the implementation of the EUDR by operators and traders established in their country. The authorities are required to carry out their own risk analysis of companies, based on the countries (or parts of countries) from which they source, the characteristics of the supply chain (such as the risk of mixing with non-compliant products), the company's history of compliance with the regulation, the risks of circumvention, and any other relevant information.

The EUDR specifies the minimum levels of checks the authorities must carry out each year, in terms of minimum percentages of the numbers of operators placing on the market or exporting each commodity. This varies depending on the level of risk of the country of origin, as established by the benchmarking process:

- At least 9 per cent of those operators sourcing from high-risk countries. The checks must also cover at least 9 per cent of the quantity of the relevant products.
- At least 3 per cent of operators sourcing from standard-risk countries
- At least 1 per cent of operators sourcing from low-risk countries.

The checks must examine a company's due diligence system and its implementation of it, including examination of the documentation collected to prove compliance. The authorities can also conduct on-the-ground investigations or use scientific analyses (e.g. DNA analysis or satellite images) to gather more information.

The checks are to apply equally to operators and non-SME traders; for SME traders the checks are normally to cover only examination of documents, but could be extended to spot checks, including field audits. Where the authorities identify situations with a very high risk of non-compliance, they will be required to take immediate action to prevent the products being placed on the market or exported.

All the companies in the supply chain with due diligence obligations, whether operators or traders, are liable if it can be shown that the products they place on the market, or export, do not comply with the requirements of the EUDR. They cannot "pass on" liability if they relied on information from companies further up the supply chain which turns out to be wrong. In cases of non-compliance with the EUDR, the competent authority is to require the company to take corrective action, which could include preventing the placing of non-compliant products on the market or, if already placed on the market, withdrawing and destroying them or donating them to charity. The company must also address the shortcomings in its due diligence system that allowed non-compliance.

The EUDR also requires EU Member States to set out the penalties for non-compliance. These could include fines, confiscation of products, confiscation of revenues and temporary exclusion from public procurement processes, though this is an area of Member State competence; EU legislation cannot determine exactly what the penalties will be in each Member State.

Scenario 1: EU-Based Operations with Suppliers from outside the EU

Most of the commodities listed in the EUDR are not grown inside the EU (cocoa, coffee, palm oil, rubber), or only grown in relatively small quantities (soyabeans). This scenario therefore represents what is likely to be the most common situation for the application of the regulation: businesses which operate inside the EU, sourcing their raw materials from outside it. Below are six specific cases that will be explored in detail.

Example 1: *Bernard Rothfos* based in the EU in Hamburg, imports green coffee from outside the EU and sells it to *The Barn Coffee* an EU-based company in Berlin, which roasts the coffee and sells within the EU.

Example 2: A coffee importing company based in the EU, *Belco* in France imports green coffee from outside the EU and sells it to two EU coffee roasting companies (*Illycafé* in Italy, and *Coutume* roastery & café in France), which sell it within the EU.

Example 3: *Illycafé* then sells the roast coffee to two retailers (*Carrefour* a supermarket chain; and *Café Coco*, a small cafe) which in turn sell the roast coffee to businesses and consumers in the EU..

Example 4: This is the same as Example 2, with **Belco, Illycafé and Coutume**, but explores some of the complications round the transition period for the EUDR.

Example 5: *A company based in the EU Mare Terra Coffee in Spain, imports coffee beans from outside the EU and trans-ships them through an EU port to the UK*

Example 6: A company based in Switzerland *Sucafina*, imports green coffee from outside the EU, sells the coffee to a coffee roaster also based in Switzerland (*Nestle Nespresso*), which then supplies roast coffee to a retailer based in the EU (*Nespresso France*).

Example 1

Bernard Rothfos based in the EU in Hamburg, imports green coffee from outside the EU and sells it to *The Barn Coffee* an EU-based company in Berlin, which roasts the coffee and sells within the EU.

Companies subject to the EUDR:

- *Bernard Rothfos* is an operator: a company that imports first places a product listed in the EUDR on the EU market.
- *The Barn Coffee* is a downstream operator: a company that places on the EU market a product listed in the EUDR made from another product also listed – i.e. products that have already been through the due diligence procedure

Bernard Rothfos is placing a product listed in the EUDR (green coffee) on the EU market for the first time, so it is an operator. It must therefore exercise due diligence to ensure that the products meet the EUDR criteria of deforestation-free and legal production. This includes all three steps of the due diligence process – information collection, risk assessment and risk mitigation – unless the country of origin is given a low-risk status under the benchmarking process, in which case it only needs to carry out the information collection step. The company must file a due diligence statement for each consignment of products placed on the market, including providing the geolocation data for the places where the coffee was harvested.

The Barn Coffee is a downstream operator, transforming a product already imported into the EU and for which a due diligence statement has been filed. Since it is a downstream operator, it too must file a due diligence statement for the roast coffee it places on the EU market, including geolocation data for the coffee – Example 2 gives a further elaborated example.

Example 2

A coffee importing company based in the EU, Belco in France imports green coffee from outside the EU and sells it to two EU coffee roasting companies (Illycafé in Italy, and Coutume roastery & café in France), which sell it within the EU.

Companies subject to the EUDR:

- **Belco** is an operator: a company that imports and first places a product listed in the EUDR on the EU market.
- **Illycafé and Coutume** are both downstream operators: a company that first places on the EU market a product listed in the EUDR made from another product also listed. **Illycafé** is a large Multinational MNE company, **Coutume** is an SME.
- Since they are all operators, all three companies could be subject to full checks by EU competent authorities.

Belco is just like Bernard Rothfos – it is placing a product listed in the EUDR (green coffee) on the EU market, so it is an operator and must exercise due diligence and file a due diligence statement for the green coffee.

Illycafé and Coutume are not like Belco, however. Because they make a product that is itself listed in the EUDR (roast coffee) they are also operators, but their obligations are different because the raw material they are using (the green coffee) has already been through the due diligence process – they are “downstream operators”.

Their obligations then vary depending on their size. **Illycafé** being an MNE is subject to the EUDR regulations, so it needs to satisfy itself that due diligence has been exercised (by the importer Belco) in accordance with the EUDR. It must file a due diligence statement for the roast coffee it places on the EU market, including geolocation data for the coffee. **Coutume** is an SME, so it is completely exempt from the due diligence obligations, and only has to provide the competent authorities with the reference number of the due diligence statement of the original products upon request.

Example 3

Illycafé then sells the roast coffee to two retailers (Carrefour a supermarket chain; and Café Coco, a small café) which in turn sell the roast coffee to businesses and consumers in the EU.

Companies subject to the EUDR:

- As already identified, **Illycafé** is a downstream operator: a company that first places on the EU market a product (roast coffee) listed in the EUDR made from another product also listed (green coffee).
- **Carrefour and Café Coco** are both traders: a company that buys products listed in the EUDR from an operator. **Carrefour** is a large trader, **Café Coco** is an SME.
- **Illycafé and Carrefour** could be subject to full checks by competent authorities; checks on **Café Coco**, since it is an SME, would normally cover only examination of documents.



As in Example 2, **Illycafé** is an operator, in this case a downstream operator. It satisfies itself that due diligence has been exercised by the importer (Belco) in accordance with the EUDR, and files a due diligence statement for the roast coffee it sells to Carrefour and Café Coco, in the EU market.

Carrefour is a large “trader” – it does not first place the coffee on the EU market, but purchases it from the downstream operator (Illycafé). Since Carrefour is larger than an SME, it must exercise due diligence for the coffee. Since the coffee has already been through the due diligence process, however, this means that it must satisfy itself that due diligence has been exercised (Illycafé) in accordance with the EUDR – it is in the same situation as Company D, just one step further down the supply chain. It must file a due diligence statement for the coffee it puts on sale to final consumers.

Café Coco is an SME, so it does not need to do this; it merely needs to keep a record of who it buys the coffee from, and the details of the accompanying due diligence statements, and who it sells the coffee to, but only if they are themselves traders who will sell the coffee onwards; if it sells the coffee to final consumer, there is no requirement to keep records.

Examples 4A, 4B and 4C

Examples 4A, 4B and 4C illustrate some of the complexities of the transition period. They are based on Example 2, in which Company C, based in the EU, imports green coffee from outside the EU. Example 4C adds the second stage, where Company C sells the green coffee to two EU companies producing roast coffee (large Company D and small Company E), which sell it within the EU.

- *In Example 4A, the green coffee that importer Belco places on the market comes from coffee farms where forest had been cut down before 29 June 2023, and the coffee reaches the EU market **before** 30 December 2024.*
- *In Example 4B, the green coffee that importer Belco places on the market comes from coffee farms where forest had been cut down before 29 June 2023, but the coffee reaches the EU market **after** 30 December 2024.*
- *In Example 4C, the green coffee that importer Belco places on the market comes from coffee farms where forest had been cut down before 29 June 2023, and it reaches the EU market after 30 December 2024, so the coffee roasting Illycafé and Coutume place on the EU market is produced **after** 30 December 2024.*

In all of these cases, **Belco** is an operator. The question that arises is to what extent it is liable for listed products produced before the EUDR enters fully into force.

In Example 4A, the green coffee reaches the EU market before the end of the 18-month transition period for implementation of the EUDR, which comes to an end on 29 December 2024. **Belco** therefore has no obligations under the EUDR.

In Example 4B, the green coffee reaches the EU market after the end of the transition period. However, it was harvested before the entry into force of the EUDR, on 29 June 2023, so under Article 1(2) of the regulation, a due diligence statement does not need to be filed but **Belco** will need to make sure that it has all necessary documents to show that this is the case, proving that coffee was harvested and sourced before 29 June 2023.

In Example 4C, the green coffee reaches the EU market after the end of the transition period, so as in Example 4B, **Belco** does not need to file a due diligence statement – though it must be able to show that the coffee was harvested before entry into force. However, **Illycafé and Coutume** are placing their own products listed in the EUDR – roast coffee – on the EU market **after** the end of the implementation period, so they are subjected to the regulation and must carry out the full due

diligence procedure and file due diligence statements. They will therefore be reliant on **Belco** to provide all the necessary information, including the time, date of harvest and geolocation data for the source of the coffee, and evidence that the coffee was harvested before 31 December 2020, and without causing forest degradation, and were produced legally. This may prove challenging.

Also note that the status of **Illycafé and Coutume** has changed. Since the green coffee that importing Belco has provided them with has *not* been through the due diligence process, they cannot be considered to be downstream operators; they are ‘first placer’ operators and both of them – even Coutume, the SME – must go through the full due diligence procedure.

Example 5

A company based in the EU Mare Terra Coffee in Spain, imports coffee beans from outside the EU and trans-ships them through an EU port to the UK.

Companies subject to the EUDR: none.

Although coffee is listed in the EUDR, and **Mare Terra Coffee** is based in the EU, in this example it is not placing products on the EU market – they are simply being offloaded from a ship at an EU port, probably spending some time in a warehouse, and then being re-exported to the UK, a country outside the EU. The European Commission has clarified that the processes known as customs warehousing, inward processing or temporary admission do not qualify as placing the product on the market for the purposes of the EUDR. Mare Terra Coffee therefore has no obligations with regard to the EUDR. Of course, if the company placed some of its imported coffee on the EU market, and shipped the rest to the UK, it would be an operator with respect to the coffee sold in the EU. (Note that the UK is introducing its own due diligence regulation for forest risk commodities, though it is significantly different from the EUDR, and is in any case not yet in force.)

Example 6

A company based in Switzerland Sucafina, imports green coffee from outside the EU, sells the coffee to a coffee roaster also based in Switzerland (Nestle Nespresso), which then supplies roast coffee to a retailer based in the EU (Nespresso France).

Companies subject to the EUDR:

- Companies Sucafina and Nestle Nespresso have no obligations under the EUDR, and would not be checked.
- Nestle France is an operator: a company that first places a product listed in the EUDR on the EU market. It could be subject to checks by competent authorities.

The product **Sucafina** is importing – green coffee – is listed under the EUDR, but the company is based in Switzerland, which is not an EU Member State. Sucafina would only be subject to the EUDR if it placed the green coffee on the EU market, but in this example it sells only to another Swiss company, so it is not subject to the EUDR for this coffee.

Nestle Nespresso is based outside the EU, so has no obligations under the EUDR. It is the company it sells to – **Nespresso France** – which is based inside the EU and imports the roast coffee to the EU, which qualifies as an ‘operator’, and has all the obligations of due diligence).

Nestle Nespresso is the first company in this example to place any products – roast coffee – on the EU market. It is therefore an operator, and must exercise due diligence to ensure that the products meet the EUDR criteria of deforestation-free and legal. This includes all three steps of the due



diligence process – information collection, risk assessment and risk mitigation (unless the country of origin is given a low-risk status under the benchmarking process, in which case only information collection is needed). The company must file a due diligence statement for each consignment of coffee placed on the market, including the geolocation data for the farms of origin of the coffee, and evidence that they have been produced without deforestation and legally – which means, of course, that it must be able to obtain this information from Company I and J (see Scenario 3 for further discussion of this aspect).

Scenario 2: Operations outside the EU, Targeting EU Markets

This scenario builds on Scenario 1, but considers the situation from the point of view of businesses operating outside the EU but seeking to export their products to enterprises based within the EU, and of businesses producing products which end up in the EU via intermediate links in the supply chain. Below are three specific cases that will be explored in detail.

Example 7: A company based outside the EU **Mountain Harvest** in Uganda sells green coffee to a company based inside the EU, **Wakuli Koffie** in The Netherlands which imports it into the EU, roasts it and sells to consumers.

Example 8: A coffee cooperative in Kenya **Ndaroini Farmers Cooperative** sells coffee to a local exporter **Sasini** that exports them to the EU.

Example 9: A coffee trader company **Volcafe Ltd** based outside the EU in Switzerland, buys green coffee and sells to an instant/soluble coffee production factory **Intimex** in Vietnam also based outside the EU in Switzerland. The factory produces instant coffee in bulk, which it sells to a another trading and packaging company **Sucafina Instant**, based outside the EU in the United Kingdom, which packages the instant coffee into jars and sachets. **Sucafina Instant** sells these to many other companies around the world who place their own brand names on the products, including **Mercadona** a supermarket in the Spain, within the EU . The coffee farms from which the coffee is harvested is certified by **Rainforest Alliance (RFA)**, and **Volcafe**, **Intimex** and **Sucafina Instant** each ensure that the coffee is subject to **RFA chain-of-custody certification**.

Most of the companies in these three examples have no obligations under the EUDR because they are not based in the EU, and operate outside the EU. The EUDR only applies to ‘a natural or legal person established in the Union’, which means an individual whose place of residence is in the EU, or a company or other organisation with a registered office, central headquarters or permanent business establishment in the EU. Nevertheless, all these companies will be *affected* by the requirements of the EUDR.

Example 7

*A company based outside the EU **Mountain Harvest** in Uganda sells green coffee to a company based inside the EU, **Wakuli Koffie** in The Netherlands which imports it into the EU, roasts it and sells to consumers.*

Companies subject to the EUDR:

- **Wakuli Koffie** is an operator: a company that first places a product listed in the EUDR on the EU market. It could be subject to checks by competent authorities.
- **Mountain Harvest** has no obligations under the EUDR, and will not be checked; but it will need to provide information on EUDR compliance to **Wakuli Koffie**.

Mountain Harvest is based outside the EU, so has no obligations under the EUDR. It is the company it sells to – **Wakuli Koffie** – which is based inside the EU and imports the green coffee to the EU, which qualifies as an ‘operator’, and has all the obligations of due diligence, as explained above. But **Mountain Harvest** must be able to collect and pass on the information that **Wakuli Koffie** needs to access to be able to exercise due diligence and file a due diligence statement – evidence that the



products have been produced in compliance with the EUDR, i.e. are free of deforestation and legal, and information on their origin, including their geolocation data for the point of harvesting.

If it cannot provide this, Wakuli Koffie will not be able to place these products on the EU market. It is likely that the requirement to fulfil the obligations of the EUDR will deepen the relationship between the two companies. If the products are shown to be non-compliant, it is Wakuli Koffie that will be liable, so Wakuli Koffie must have faith in the ability of Mountain Harvest to collect and pass on the necessary information. This may lead it to invest in capacity-building improvements in Mountain Harvest to enhance its ability to collect the necessary information and to make sure it is sourcing from areas that are free of deforestation and any illegality, for example by developing robust traceability systems. This is an example of a 'trickle-down effect' of the EUDR, applying to companies producing products listed in the EUDR even if they are not themselves placing them on the EU market.

Example 8

*A coffee cooperative based in Kenya, **Ndaroini Farmers Cooperative** sells to a local exporter Sasini that exports them to the EU*

Companies subject to the EUDR:

- Companies Ndaroini Farmers Cooperative, T, U and Sasini have no obligations under the EUDR and will not be checked; but they must have some way of passing information on EUDR compliance down the supply chain to any EU based company that will take ownership of the coffee in the EU, for example Benard Rothfos

This case, with four different companies involved outside the EU and one company inside the EU, is a good example of the complexity of many supply chains for the commodities and products covered by the EUDR (if anything, it is probably an over-simplification). As in the previous example, none of the entities based in the producer country – **Ndaroini Farmers Cooperative**, **Local trader T**, **Company U** and **Sasini** – have any obligations under the EUDR, as they are not placing any products on the EU market. The only company that does is the EU based company that will take ownership and first place the coffee on the EU market.

However, as in Example 7, the necessary information on the origin of the products and their compliance with the criteria in the EUDR must be passed through all the links in the supply chain, starting with the coffee farms with Cooperative S, to enable the EU based importer to be able to import the coffee to the EU in the confidence that they are compliant with the regulation. This may well lead to the development of the same kind of closer relationships and investments between the various links in the supply chain that we mentioned in the previous example. It also may lead companies like Company V to try to simplify their supply chains, and increase the proportion of coffee bought directly from the coffee farms and cooperatives rather than indirectly through local traders.

Example 9

A coffee trader company Volcafe Ltd based outside the EU in Switzerland, buys green coffee and sells to an instant/soluble coffee production factory Intimex in Vietnam also based outside the EU in Switzerland. The factory produces instant coffee in bulk, which it sells to a another trading and packaging company Sucafina Instant, based outside the EU in the United Kingdom, which packages the instant coffee into jars and sachets. Sucafina Instant sells these to many other companies around the world who place their own brand names on the products, including Mercadona a supermarket in



the Spain, within the EU . The coffee farms from which the coffee is harvested is certified by Rainforest Alliance (RFA), and Volcafe, Intimex, Sucafina and Mercadona Instant each ensure that the coffee is subject to RFA chain-of-custody certification.

Companies subject to the EUDR:

- Mercadona is an operator: a company that first places a product listed in the EUDR on the EU market. It could be subject to checks by competent authorities.
- Companies Volcafe, Intimex and Sucafina Instant have no obligations under the EUDR, and will not be checked; but they must have some way to passing information on EUDR compliance down the supply chain, even though Volcafe and Intimex do not know that their products, or at least some of their products, are destined for the EU.

This case is very similar to Example 8, but in example 8 we assume that all the companies involved in the supply chain know that their coffee will end up in the EU. In this example, the first two companies in the supply chain – Volcafe and Intimex – have no idea where their products end up; Intimex knows only that retailing Sucafina Instant, to whom it supplies instant coffee, packages instant coffee for several global distribution and retailing companies, including the EU.

As in the previous example, the only company that has any obligations under the EUDR is Mercadona, which imports the instant coffee and places it on the EU market and therefore qualifies as an operator. However, as in the previous two examples, the necessary information on the origin of the products and their compliance with the criteria in the EUDR must be passed through all the links in the supply chain. Mercadona must be able to show that the farms from where coffee was harvested was not associated with deforestation, or forest degradation, or illegal behaviour, and must be able to include full information on them, including the geolocation data for the farms, and the time and date of harvesting, in its due diligence statement.

Reliable traceability systems, which can pass all this information on accurately and without fraud throughout the supply chain – whether these are private company systems or public national traceability systems – will be essential. Voluntary certification systems, such as Rainforest Alliance, Fairtrade, or RSPO are likely to be helpful in this respect, but cannot by themselves substitute for the due diligence process in the EUDR. In other words, companies placing EUDR-listed products on the EU market cannot simply rely on sourcing certified products; Mercadona cannot meet its obligations under the EUDR *only* by importing RFA certified instant coffee. Recital 52 in the EUDR (part of its preliminary explanatory text) makes this explicit: “In order to recognise good practice, certification or other third-party verified schemes could be used in the risk assessment procedure. They should not, however, substitute the operator’s responsibility as regards due diligence.”

Key Takeaways

- Any business, regardless of its size, that first places products listed in the EUDR on the EU market is an “operator”. It is required to adhere to the due diligence obligations to ensure that the products are compliant with the criteria listed in the EUDR: free from deforestation after 2020 (and, for timber products, also free from forest degradation) and legal, according to the laws of the country of origin.
 - This is just as true for products produced in the EU as products imported from outside.
 - And is also just as true for products exported from the EU.
- This means carrying out the three steps of the due diligence process – information collection, risk assessment and risk mitigation – and filing a due diligence statement when the products are placed on the market or exported.
 - The only exception to this is where the products are sourced from a country, or part of a country, which has been assessed as low risk under the benchmarking process. In this case the business only has to carry out the information collection step of the due diligence process, and file a due diligence statement.
- This means in turn that the business must be able to collect the necessary information from its suppliers outside the EU: evidence that the products have been produced in compliance with the EUDR, and information on their origin, including their geolocation data for the point of harvesting.
- If a business sources listed products from another business and transforms them into another product that is listed in the regulation, it is still an operator, but its obligations are rather different; it is sometimes called a “downstream operator”:
 - If it is larger than an SME, it must satisfy itself that due diligence has been exercised on the products it has sourced in accordance with the requirements of the EUDR, and must file a due diligence statement.
 - If it is an SME, it is exempted from these obligations, and only has to provide the competent authorities with the reference number of the due diligence statement upon request.
- If a business sources listed products from another business and sells them on to another company, it is a “trader” rather than an “operator”, and its obligations vary depending on its size:
 - If it is larger than an SME, it must still exercise due diligence, but since it is sourcing products that have already been through the due diligence process, it must satisfy itself that due diligence has been exercised in accordance with the EUDR.
 - If it is an SME, it only needs to keep a record of who it buys the products from, and the details of the accompanying due diligence statements, and who it sells to.
- Suppliers in the countries of origin of the products have no direct obligations under the EUDR. It is only companies with a presence in the EU that are subject to its requirements.
- But the suppliers must be able to collect and pass on the information necessary to enable their products to be placed on the EU market: evidence that the products have been produced in compliance with the EUDR, and information on their origin, including their geolocation data for the point of harvesting.

Annex 1: Key terms, definitions and concepts in the EUDR

The EU Deforestation Regulation is an innovative mechanism for attempting to break the link between consumption and deforestation; while it builds on the EU Timber Regulation, it introduces many elaborations and new features. Consequently, the precise implementation of many of its aspects is likely to need further interpretation and clarification. The European Commission has recognised this, and to date has issued two sets of clarifications in the form of answers to "[frequently asked questions](#)". Further iterations of this document will appear.

The Commission has also undertaken to publish guidelines on specific issues, including on legality, the definition of "agricultural use" (intending to address issues related to agroforestry and agricultural land) and certification. It also intends to collect and share examples of best practice in implementing the regulation.

Criteria

Deforestation-free (Article 3(a); definitions included in Article 2(13)):

- a) "that the relevant products contain, have been fed with or have been made using, relevant commodities that were produced on land that has not been subject to deforestation after December 31, 2020, and
- b) in case of relevant products that contain or have been made using wood, that the wood has been harvested from the forest without inducing forest degradation after December 31, 2020;"

Legal (Article 3(b); definitions included in Article 2(40)):

Products placed on or exported from the EU market must "have been produced in accordance with the relevant legislation of the country of production" – which means: "the laws applicable in the country of production concerning the legal status of the area of production in terms of:

- 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 United Nations Declaration on the Rights of Indigenous Peoples;
- tax, anti-corruption, trade and customs regulations"

Due diligence obligations

The due diligence procedure includes three steps:



A process for **collecting information** about the products, including their description, quantity, origin (including geolocation data – the geographic coordinates of the land on which they have been grown), details of suppliers, and evidence that the products are deforestation-free and have been produced legally. (Article 9.)

A **risk assessment** step, to determine the level of risk of non-compliance associated with the products. This includes assessing the risk level of the country (as determined by the benchmarking process); its levels of deforestation; the presence of indigenous peoples, levels of consultation with them, and any land use or ownership claims; the reliability of the information collected in the first stage; any concerns about the country (such as levels of corruption, lack of law enforcement, violations of human rights, etc.); the complexity of the supply chains and any record of non-compliance within them; the risk of mixing with products of unknown origin; the risk of circumvention; and any information supplied by certification or other third-party-verified schemes. Risk assessments are to be reviewed regularly, at least once a year. (Article 10.)

A **risk mitigation** step if the company cannot be sure that there is no risk, or a negligible risk, that the products are not compliant. This could include requiring additional information, data or documents, or undertaking independent surveys or audits or other measures, and providing support with compliance to the company's suppliers. Companies are required to have in place adequate systems to deliver effective risk mitigation, including making them subject to independent audit (SMEs are exempt from the audit requirement). (Article 11.)

The **due diligence statement** that operators are obliged to submit before the products are placed on the market or exported must state that the products meet the criteria, or at least that there is a negligible risk of them not doing so (Article 4(2 and 3)). The statement must confirm that due diligence was carried out and that no or only negligible risk was found. It must contain the information set out in Annex II to the regulation, which includes details of the company and the products and the country of production and all plots of land of production, including geolocation coordinates, latitude and longitude. These statements will be entered in a register which will be available to enforcement agencies ("competent authorities") in EU member states and, in an anonymised form, to the public (Article 33).

Benchmarking

Within 18 months of the entry into force of the EUDR (i.e. the end of 2024) the European Commission must have assessed the level of risk of producer countries, or parts of them, and must place them in three tiers: high, standard or low. All countries are assumed to be standard risk to start with. The list will be kept under review and updated in the light of new evidence; producer countries will be informed of any change in their risk level and given a chance to respond in case the level is raised. The Commission is to engage in dialogue with any country classified or proposed to be classified as high risk, with the objective of reducing the level of risk.

The level of risk will be based primarily on an assessment of the rate of deforestation; the rate of expansion of agricultural land for relevant commodities; and the production trends of relevant commodities and products (Article 29(3)). The assessment *may* also take into account a range of other factors: consideration of the extent to which the country's Nationally Determined Contribution (NDC) to the Paris Agreement on climate change includes land-use emissions (together with information provided by the country or others on this issue); consideration of any agreements between the country and the EU or its member states that address deforestation; the presence of relevant national laws and whether they are effectively enforced, including laws on human rights, the



rights of indigenous peoples, local communities and other rights holders; whether the country makes data available transparently; and the presence of any UN or EU sanctions (Article 29(4)).

Companies sourcing products from low-risk countries will be subject to a simplified due diligence procedure, including only the information collection requirements of the due diligence procedure and not the risk analysis or risk mitigation steps. Companies sourcing products from high-risk countries will not face any additional requirements, but they will be subject to an increased frequency of checks by competent authorities.

Enforcement

The EUDR requires member states' competent authorities to carry out checks to establish whether companies are complying with their obligations (Article 16). The authorities are to carry out their own risk analysis of companies, based on the countries, or parts of countries, they source from, the characteristics of the supply chain (such as the risk of mixing with non-compliant products), the company's history of compliance with the regulation, the risks of circumvention, and any other relevant information. The regulation specifies the minimum levels of checks the authorities must carry out each year, in terms of minimum percentages of the numbers of operators placing on the market or exporting each commodity: 9 per cent of operators sourcing from high-risk countries, 3 per cent for standard risk and 1 per cent for low risk. For high-risk sources, the checks must also cover at least 9 per cent of the quantity of the relevant products.

The checks must examine a company's due diligence system and its implementation of it, including examination of the documentation collected to prove compliance (Article 18). The authorities can also conduct on-the-ground investigations or use scientific analyses (e.g. DNA analysis or satellite images) to gather more information. The checks are to apply equally to operators and non-SME traders; for SME traders the checks are normally to cover only examination of documents, but could be extended to spot checks, including field audits (Article 19). Where the authorities identify situations with a very high risk of non-compliance, the regulation allows for them to take immediate action to prevent the products being placed on the market or exported (Articles 17 and 23).

Associated definitions

Deforestation: "the conversion of forest to agricultural use, whether human-induced or not" (Article 2(3)).

Forest degradation: "structural changes to forest cover, taking the form of the conversion of: (a) primary forests or naturally regenerating forests into plantation forests or into other wooded land; or (b) the conversion of primary forests into planted forests" (Article 2(7)). (This definition is to be reviewed no later than two years after entry into force (i.e. June 2025).)

Forest: "land spanning more than 0.5 hectares with trees higher than 5 metres 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" (Article 2(4)). (This is an FAO definition.) "Agricultural plantations" are explicitly excluded from the definition of forest (Article 2(6)).

Other wooded land: "land not classified as 'forest': spanning more than 0.5 hectares, with trees higher than 5 metres and a canopy cover of 5 to 10%, or trees able to reach these thresholds in situ, or with a combined cover of shrubs, bushes and trees above 10%, excluding land that is predominantly under agricultural or urban land use" (Article 2(12)). (This is another FAO definition.) (The possible extension of the EUDR to other wooded land is to be reviewed no later than one year after entry into force (i.e. June 2024).)



Geolocation: “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; for plots of land of more than 4 hectares used for the production of the relevant commodities other than cattle, this shall be provided using polygons with sufficient latitude and longitude points to describe the perimeter of each plot of land.” (Article 2(28).)

Company sizes (definitions taken from EU Directive 2013/34/EU):

- Small and medium-size enterprise (SME): a company which does not exceed at least two of these limits: (a) balance sheet total: €20 million; (b) net turnover: €40 million; (c) average number of employees during the financial year: 250.
- Small company: a company which does not exceed at least two of these limits: (a) balance sheet total: €4 million; (b) net turnover: €8 million; (c) average number of employees during the financial year: 50
- Micro-enterprise: a company which does not exceed at least two of these limits: (a) balance sheet total: €350,000; (b) net turnover: €700,000; (c) average number of employees during the financial year: 10

Annex 2: List of tools and resources

EU sources

Text of the [EU Deforestation Regulation](#)

European Commission [web page on the EUDR](#)

[Guidance](#)

[Proposal for a Regulation amending Deforestation Regulation as regards the date of application](#)

[Third edition of FAQs](#)

[Strategic Framework for Cooperation](#)

[SME factsheet](#)

[Mythbuster](#)

Other sources

Tropical Forest Alliance overall analysis of the EUDR:

<https://www.tropicalforestalliance.org/assets/Uploads/The-EU-Deforestation-Regulation-Analysis-May-2024.pdf>

[CDP Policy Explainer on the EU Deforestation Regulation \(EUDR\)](#)

Annex 3: EUDR data collection checklist

The checklist provided below is designed to ensure all relevant information mandated by the EUDR is systematically collected, organized, and transmitted throughout the supply chain.

This checklist serves as an essential tool for producers, intermediaries, exporters, and operators to uphold the requirements for placing products on the EU market. It ensures clarity and consistency in the data collected, aiding in the effective implementation of due diligence processes across all supply chain actors.

Companies can use this checklist to ensure that all necessary information is accounted for and ready for inspection or sharing with next supply chain business partner.

Geolocation Data

- Exact geolocation of all plots of land where the commodities were produced.
- Format of data to be collected and examples: see details in Annex 4 “Collecting geolocation data”

Product Description

- Trade name and type of the product.
- For products involving wood, include both common and full scientific names of the species.
- List of all relevant commodities or products used in the manufacture of the final product.

Quantity of Products

- For products entering or leaving the EU market, specify the quantity in kilograms of net mass and, where applicable, in the supplementary unit as outlined in Annex I to Council Regulation (EEC) No 2658/87.
- For all other cases, the quantity should be expressed in net mass, volume, or number of items.

Country and Parts of Production

- Specify the country of production and, where relevant, the specific parts of the country where production occurred.

Supplier and Customer Details

- Name, postal address, and email address of any business or person from whom the products have been sourced.
- Name, postal address, and email address of any business, operator, or trader to whom the products have been supplied.

Deforestation-Free and Legality Information

- Adequately conclusive and verifiable information demonstrating that the products are deforestation-free.
- Information verifying that the commodities have been produced in accordance with the relevant legislation of the country of production, including any rights to use the area for production.

Evidence and Documentation

- All information should be accompanied by evidence, such as certificates, third-party verification reports, or legal documents that can substantiate the claims made in the checklist.



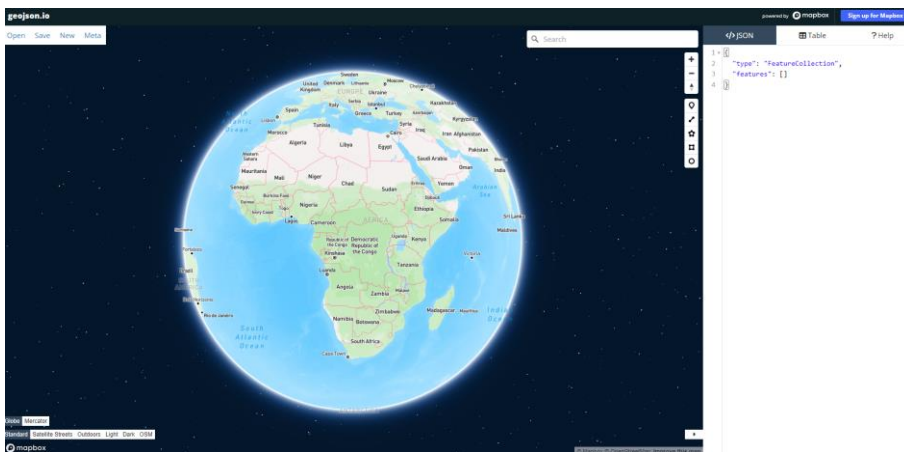
Annex 4: Geolocation of plots of land: data collection

This annex provides detailed instructions on how to collect and submit geolocation data for plots of land in compliance with the new EU Deforestation Regulation (EUDR). The required format for such data is GeoJSON, a standard for encoding geographic data structures.

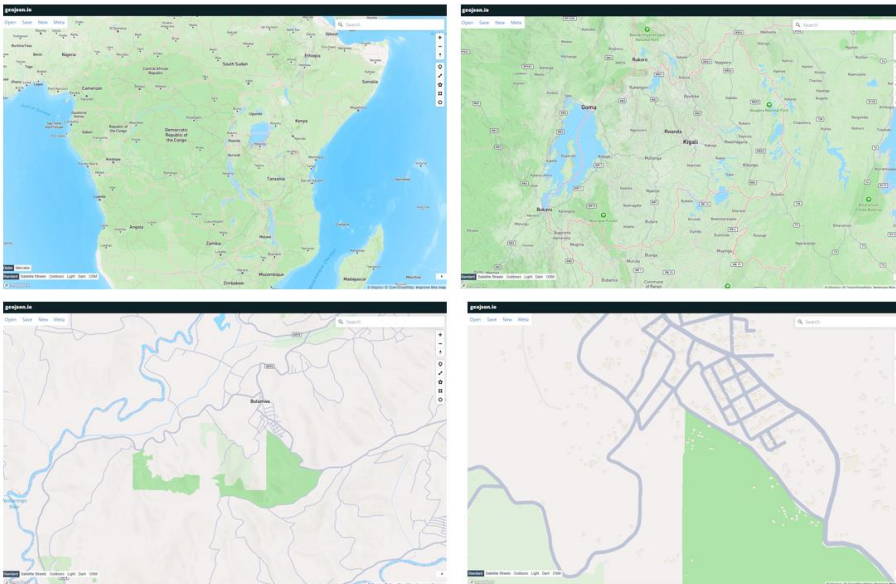
To assist in ensuring accurate data collection and submission, this annex includes practical examples demonstrating how to format and provide the geolocation data correctly. Following these guidelines will help meet the EUDR requirements and support efforts to monitor and prevent deforestation effectively.

Example of application that is free of charge and enables to collect such GeoJSON appropriate format for geolocation of plot of land:

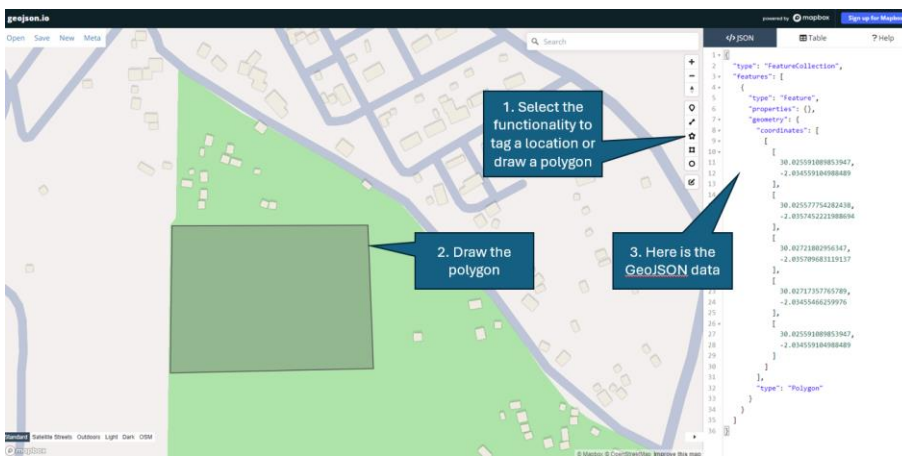
Go to: <https://geojson.io/#map=2/0/20>



Start zooming on the region of the map to reach appropriate level to start collection geolocation data of the plots of land:



And then use the functionalities of the application to identify the plot of land for which you need to collect the geolocation data, for which the GeoJSON format is automatically collected in the right hand column:



Copy the GeoJSON data (the whole string of information in the right) and keep that information (e.g. in an excel file) for each plot of land. This is the geolocation data that needs to be provided to the EU operators and submitted as part of their “Due Diligence Statement” directly in the EUDR Information System of the European Commission.

Annex 5: Factsheets of selected technology solutions

This annex presents a selection of technological solutions used in the context of EUDR. It is important to note that these factsheets represent only a limited scope of the tools currently available.

We invite technology solutions providers to share information with ITC in case they would like a factsheet of their solution to be featured in this annex. (Please fill the online survey here https://tools.sustainabilitymap.org/survey/eudr_solutions and contact Mathieu Lamolle, ITC EUDR Focal Point: lamolle@intracen.org).



Developed by:

- Forest Data Partnership and related contributors

Geographic Focus:

- Global

Coverage:

- What is in that plot is an open-source solution which helps to produce relevant forest monitoring information and support compliance with deforestation-related regulations. Whisp is robust, transparent, and replicable, built on interoperable open standards. All code is open, publicly available, and can be inspected, reproduced, and adapted on GitHub.

Categorization:

- Deforestation Risk Analysis and Forest Monitoring

Mission & Focus:

- To provide a robust, open-source solution for geospatial analysis and forest monitoring, supporting the convergence of evidence approach to meet zero deforestation requirements and aid due diligence processes.
- WHISP focuses on enabling comprehensive geospatial analysis of land plots to determine forest cover, deforestation, agricultural uses, and conservation significance, helping stakeholders make informed decisions on land use and compliance with deforestation regulations.

Target Beneficiaries:

- Smallholder farmers
- Third-party verifiers
- Government authorities
- NGOs
- Supply chain actors

Key Features & Uniqueness:

- Convergence of Evidence: WHISP integrates multiple geospatial datasets to provide a comprehensive analysis of land use, supporting informed decision-making.
- Open-Source: The solution is freely available, allowing users to customize and integrate it into their existing systems.
- Interoperable: Designed to work with various geolocation systems, including Python and JavaScript, and integrates seamlessly with tools like Collect Earth Online for visual validation.



Limitations:

- Users may require technical expertise to implement and customize WHISP for specific needs.
- Effective use depends on the availability of relevant geospatial datasets and the capacity to analyze and interpret the results.

Cost & Accessibility:

- Accessibility: WHISP is designed to be accessible through various platforms, including integration with mobile apps like Ground, which enables smallholders to monitor their plots directly from their devices.
- Cost: The solution is open-source and free to use, making it accessible to a broad range of stakeholders without the burden of software costs.

Launch Date:

- The WHISP solution has been gradually rolled out, with significant milestones including:
 - March 2023: Launch of WHISP as an API
 - March 2024: Launch of WHISP in Earth Map and Ground app

Access & Resources:

- Access:
 - <https://openknowledge.fao.org/server/api/core/bitstreams/14b66e7a-c03d-4644-a486-8712a4006cd8/content>
 - GitHub Repository: [WHISP Source Code](#)
 - Collect Earth Online Visualization: [Collect Earth Project](#)
- More Information: Additional resources and information can be found through the Forest Data Partnership and associated organizations.
- Capacity Building: WHISP is designed to be user-friendly, especially within the Ground app, where minimal training is required. The solution is also accompanied by documentation and resources available on GitHub to help users implement and customize the tool.

Developed by:

- United Nations International Trade Centre (ITC)

Geographic Focus:

- Global

Coverage:

- The platform is designed to support global value chains, with specific implementations mentioned in regions like Uganda, where it supports the compliance of coffee exports to the European Union.

Categorization:

- Data Collection and Traceability
- Deforestation Risk Analysis

Mission & Focus:

- To provide a modern, integrated platform that supports all actors along global value chains in complying with deforestation regulations, such as the European Union Deforestation Regulation (EUDR). The DFTG aims to connect various data sources, align stakeholders, and foster a comprehensive approach to compliance, ensuring no actor is left behind.
- The DFTG focuses on bridging the gap for sustainable trade by offering accessible solutions for data collection, sharing, mapping, and analysis to help stakeholders meet EUDR requirements.

Target Beneficiaries:

- Smallholder farmers
- Cooperatives
- Exporters
- EU Operators
- Business Support Organizations
- International Buyers

Key Features & Uniqueness:

- **Integrated Platform:** DFTG connects various data sources and stakeholders, providing a comprehensive approach to EUDR compliance.
- **Data Sovereignty:** Ensures producers maintain control over their data while facilitating transparency and traceability.
- **EUDR Compliance Tools:** Offers a suite of tools for data collection, mapping, and deforestation analysis tailored to meet EUDR requirements.

- **Registry & Visibility:** Allows producers, cooperatives, and exporters to showcase their compliance through a public registry, enhancing their visibility to international buyers.

Limitations:

- Successful implementation may require cooperation from various stakeholders across the supply chain.
- The effectiveness of the platform depends on the accuracy and availability of data provided by users and integrated systems.

Cost & Accessibility:

- **Accessibility:** The DFTG platform is designed to be user-friendly, with tools that are accessible to a wide range of stakeholders, including small producers.
- **Cost:** Information on the specific cost structure is not provided, but the platform aims to offer accessible and efficient solutions for compliance, potentially reducing costs related to regulatory compliance and data management.

Launch Date:

- The platform's specific launch date is not provided in the document, but it is actively being deployed and used to support compliance with the EUDR.

Access & Resources:

- Launch in November 2024 – Access: <https://www.dftg.intracen.org>



Developed by:

- Pula Advisors AG

Geographic Focus

- Africa, Asia and Americas - Global

Coverage:

- Currently implemented in countries such as Nigeria, Ethiopia, Zambia, Tanzania, Kenya, Rwanda, Uganda, Malawi, Mali, Senegal, Ghana, Mozambique, and Madagascar, Pakistan and Bangladesh. Data collection protocols have been established for 32 crops, including coffee, cocoa and soy beans.

Categorization

- Data collection - Farmer bio data and geolocation (polygon mapping and gps points) collection

Mission & Focus

- **Pula is a technology company leveraging data and insurance solutions to empower over 16 million smallholder farmers across 19+ markets** across Africa, Asia, and the Americas to adapt to climate change. Supported by the Bill and Melinda Gates Foundation, the IFC and trusted by many development partners and governments, Pula aims to reach the untapped market of 1.5 billion smallholder farmers worldwide.
- **Data is core to Pula's business, enabling successful execution of its climate change adaptation programs.** Through these programs, **Pula collects over 10 million data points annually**, including farmer biodata, geolocation, and production metrics. Supported by a global field force of thousands of Field Associates and an in-house app, *Mavuno*, **Pula manages the largest and fastest-growing farmer database in emerging markets.**
- **Pula identifies that one of the primary risks of EUDR non-compliance stems from challenges in large-scale data collection**, particularly in gathering farmer biodata and geolocation (polygon mapping and GPS points). These challenges arise from the complexities of managing large field teams while maintaining high data quality standards at scale. To mitigate these risks, Pula has leveraged its existing capabilities by integrating advanced geolocation mapping technology in the coffee, cocoa and soybean sectors across multiple markets. The collected data feeds directly into risk assessment and supply chain traceability processes, providing a comprehensive end-to-end EUDR compliance solution.

Target Beneficiaries:

- Smallholder farmers, cooperatives, exporters, supply chain actors, government authorities and NGOs.

Key Features & Uniqueness

- **High-quality data collection at scale:** *Mavuno* enables fast and efficient data collection at scale, allowing Pula to **gather up to 20,000 data points per country each day**. Additionally, the



app supports various offline functionalities, including geolocation, image capture, and text input.

- **Real-time data quality checks:** *Mavuno* incorporates automated real-time checks to ensure the accuracy and consistency of farm polygon maps and farmer data. These checks promptly identify potential issues, allowing for immediate resolution during the data collection process.
- **API Integration:** Post data collection, the final output is accessible in multiple formats, including a live view via a custom web app, various file formats, and through API integrations that seamlessly integrate with external systems while ensuring compatibility with EU standards, such as EUDR compliance, for easy data sharing and regulatory adherence.
- **Customization and Editing:** The application offers unlimited editing options, allowing you to customise it to meet the specific requirements of different users and projects. To cater to our field operations in various markets, the platform can be translated into local languages.
- **Ensuring Polygon Integrity, Preventing Overlapping and Agent Geofencing:** *Mavuno* ensures data accuracy by preventing polygon overlaps by restricting mapping to within 20 metres of farm boundaries, allowing agents to view previous farm maps, and prohibiting overlapping polygons. These features optimise efficiency and maintain data integrity and high levels of data quality.
- **Global network of field staff and support systems for rapid data collection:** Pula boasts a vast global network of thousands of field staff. These local rural youth, trained and managed by Pula's systems, have efficiently collected thousands of data points, creating thousands of jobs for rural youth. Pula's back office finance and HR systems are set up to manage timely micro payments to thousands of agents in over 19 African and Asian geographies, ensuring rural agents are incentivised and remunerated on time to collect high quality data.

Limitations:

- Pula does not provide in-house risk assessment and traceability services for EUDR, however, for clients seeking the comprehensive, end to end, EUDR compliance solution that includes risk assessment, and traceability, Pula partners with specialised service providers in risk assessment and supply chain traceability.

Cost & Accessibility

- Pula's *Mavuno* offers unmatched speed, scale, and cost-effectiveness, making it a reliable and ideal provider of advanced EUDR solutions. With proprietary end to end technology and service provision that guarantees accuracy and efficiency, even in remote areas, alongside a global reach and customizable platform.
- The cost of the service will vary based on factors such as the farmer's location, accessibility, and the existing systems and technologies in place. We can provide a quote upon request.

Launch Date

- *Mavuno* was launched in 2020 and has since been used in various data collection contexts, including gathering farmer biodata, geolocation (both polygon mapping and GPS points), production metrics (such as yield levels), and other customised information tailored to client needs. Its use for geolocation became more prominent starting 2022.

Access & Resources



- Information about Mavuno and Pula’s technology solution for EUDR compliance can be found in this [factsheet](#) and through [this video](#).

For more information reach out to info@pula.io



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