



Expert Group on Crops Market Observatory – 4/12/2023

4. Exchange of views on the challenges in the implementation of the Regulation on deforestation-free products

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Outline

1. EUDR main scope, provisions and timeline
2. Challenges for the EUDR implementation and areas of action
3. Possible implications of the EUDR

1. EUDR scope and main provisions

Overview of requirements



Cut-off date for deforestation/forest degradation: 31 December 2020

Scope: cattle, wood, palm oil, soy, cocoa, coffee + rubber, printed paper and a limited selection of palm oil derivatives

Compliant product:

1. Deforestation-free (no physical mixing with products of unknown origin or not deforestation-free).
2. Compliance of 'area of production' with relevant legislation of the country of production
3. Covered by a due diligence statement.



Main due diligence obligations:

Due Diligence system and procedures

Information requirements (all origins)

- Submit a due diligence statement per shipment
- Description of product, quantity, country of production
- Geolocation/polygon of all plots of land + date or time range of production
- Name, email and address of all suppliers of the relevant commodities/products and of those supplied to
- Adequately conclusive and verifiable information that the relevant products are deforestation-free
- Adequately conclusive and verifiable information of compliance with relevant legislation of the country of production

Risk assessment (standard & high risk)

Risk mitigation (standard & high risk)

Reporting



Country partnerships:

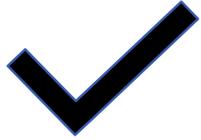
- The Commission shall develop a comprehensive EU strategic framework for engagement with producer countries and shall consider mobilising relevant EU instruments.



Country benchmarking:

- All countries are standard from entry into force
- **Standard risk** – **3%** checks (on operators)
- **High risk** – **9%** checks (on operators and volumes)
- **Low risk** – simplified due diligence - no risk assessment + mitigation and **1%** checks (on operators)

1. EUDR compliance and due diligence obligation



Compliant product:

- Deforestation-free (no physical mixing with products of unknown origin or not deforestation-free).
- Compliance of 'area of production' with relevant legislation of the country of production (land use rights, environmental protection, forest related rules, third parties' rights, labour rights, international human rights, FPIC, tax, anti-corruption, trade and customs regulations.)
- Covered by a due diligence statement (DDS).

Due diligence obligation:

Due Diligence System

- Set up a framework of procedures and measures for compliance.
- Review due diligence system at least 1 x year.

Information Collection

- Description
- Quantity
- Country of production
- Geolocation of plots
- Contact details of suppliers
- Contact details of customers
- Proof of deforestation-free
- Proof of compliance with relevant legislation

Risk Assessment

- Analyse information collected + other relevant documentation against risk assessment criteria to show no or negligible risk of non-compliance

Risk Mitigation

- If risk is not non negligible.
- May include further information collection and supporting supplier compliance.
- Operators must have risk mitigation policies/procedures in place.

Reporting

- Non SMEs must publicly report on their due diligence systems annually, i.e. a summary of the info collected and conclusions of risk assessment and mitigation.

1. EUDR obligations for operators and traders - the DDS

- Submit a **Due Diligence Statement (DDS)** before putting on the market (Annex 2):
 1. Operator's name, address and, if appropriate, the Operator's Registration and Identification (EORI) number
 2. HS code, free-text description, trade name and, where applicable, the full scientific name, the quantity of the relevant product
 3. Country of production and the geolocation of all plots of land where the relevant commodities were produced
 4. Reference number of an existing due diligence statement
 5. Operator confirmation that due diligence was carried out and that no or only a negligible risk was found.

Possible scope of DD Statement

- Per plot(s) for harvest
 - Per shipment on import
 - Per silo(s) on marketing
 - Per batch on processed products' delivery
- => options still considered for continuous trade flows and continuous processing*

2.Challenges: implement obligations for operators or traders



Due diligence obligation

Submit DD Statement with geolocation data etc.

Receive DD Statement Reference number

Pass on DD Statement reference number to next chain player

Due diligence obligation to ascertain that DD was exercised

Submit DD Statement referring to reference number of ingredients already covered by DD.
For any ingredients not covered by DD, carry out DD.

Receive DD Statement Reference number

Pass on DD Statement reference number to next chain player

No due diligence obligation

No DD Statement submission

Provide reference number of existing DD Statement to Competent Authorities upon request only.

Pass on DD Statement reference number to next chain player? (unclear)

Due diligence obligation to ascertain that DD was exercised

Submit DD Statement referring to reference number of ingredients already covered by DD.

Receive DD Statement Reference number

Pass on DD Statement reference number to next chain player

Keep contact details of those supplied to and from

Provide this info to competent authorities upon request

OR

| SMEs | People | Turnover | Balance |
|--------|--------|----------|---------|
| Medium | <250 | ≤50 m | ≤43 m |
| Small | <50 | ≤10 m | ≤10 m |
| Micro | <10 | ≤2 m | ≤2 m |

Checking obligations: the products marketed must be within the scope and listed under EUDR Annex 1

2. Challenges: Supply chain – Production in Europe



Farmer
Soy producer

Harvests the soy which is delivered to the first collector (coop) or to a processor.

Failing to clarify these questions urgently can put at risk farmers' decisions for the 2024 plantings and the outlook of strengthening EU protein policy

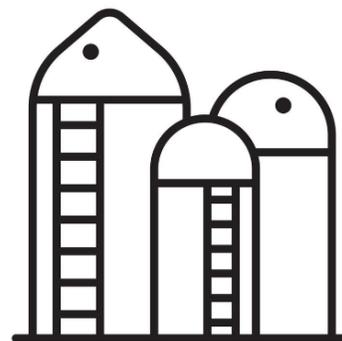
Farmer - operator

He can himself submit the due diligence declaration (DDS) or delegate to an authorised representative (operator or trader downstream)



He needs to provide the quantity of soy produced, the geolocation of all plots from which soy was harvested and all information listed at article 9.

NB: In certain countries, the first collector would be the first to place soy on the market.



First collector /
Representative

Farmer's representative

The authorised representative can submit the due diligence statement using the geolocation data of the soy plots.

The authorised representative provides the harvested volumes and other information required in the declaration.

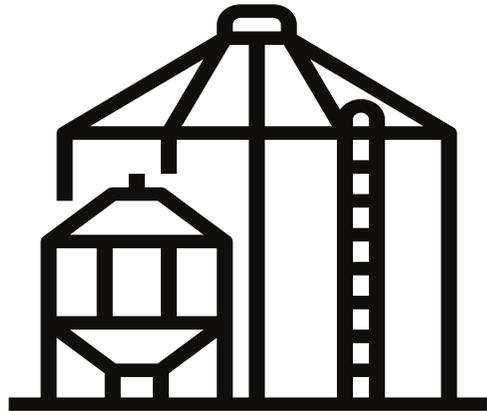
He provides the DDS reference number to downstream operators and traders.

Pending questions:

1. *What about the farmer's consent on access to his data and information and their further use ?*
2. *What system can be put in place that may make use of existing information and data bases? Are there simplification options?*
3. *What evidence exists to demonstrate conformity with relevant legislation of the country of production?*

2. Challenges EU soy supply chain - Compound feed in the EU

Compound feed
manufacturing plant



Receives from the importer
and out of a warehouse soy
from Brasil, Paraguay, etc.

Compound Feed manufacturer (outside scope)

- Sells volumes of **compound feed** without specific EUDR obligations

Compound feed manufacturer (Large Downstream Trader – only when selling meal)



- Ascertains that Due Diligence has been done...
- Sells and delivers **toasted, flaked soy** to different farmers for which DDS is filed in the register using the DDS Reference Number (RN) provided by the importer and the geolocation data of all soy having contributed to the silo volumes.

2. Remaining issues requiring solutions (1/2) – Soy/Palm Oil

| Topic | Remaining Issues |
|---|--|
| Geolocation to Plot | Identifying and working with farmers to collect their data is a challenge when: <ul style="list-style-type: none">- There are thousands of farmers supplying third party processing facilities, and hundreds of facilities supplying an operator.- Between the facilities and the farmers, there are intermediaries, i.e. collectors.- It takes a few farmers not willing to provide data, to make entire area non-compliant (unless you can segregate volumes to exclude those farmers).- If farmers have no land titles/concession maps, they may not provide correct geolocation data. |
| Compliance with relevant laws of producing countries | Legality is extensive; no guidance on the documentation that needs to be provided for; some legality docs may not be accessible or may not be shared downstream: land use rights; environmental protection; third parties' rights; labour rights; tax, anti-corruption, trade, customs regulations (11 criteria in total) |
| Data privacy | Farmers can object to unlimited downstream sharing of their geolocation data. It is unclear at this stage whether certain national traceability initiatives will allow for extracting and sharing plot information. |
| Information transmission | What information has to be transmitted to support that due diligence is carried out and only negligible risk has been found |

2. Remaining issues requiring solutions (2/2) – Soy/Palm Oil

| Topic | Remaining Issues |
|--|--|
| Competition/commercially sensitive information | <ol style="list-style-type: none">1. Questions as to the final design of the Information System (register)?<ul style="list-style-type: none">➤ sharing data can be commercially sensitive and can become anti-competitive.2. Question as to how to adapt current practice when soy from different operators (competitors) is stored in shared containers/trucks/silos for efficiency reasons. |
| High administrative cost/burden | <p>The Information System does not (yet) provide for automatic transfers between systems and requires manual filling in of DDS.</p> <ul style="list-style-type: none">➤ Only GEOJSON format is supported.➤ Operators not involved in the pilot may not be able to prepare in time. |
| Segregation | <p>Mass balance is the norm in sustainable soy trade.</p> |
| Absence of transition arrangements | <p>Products will be imported before 30 Dec without geolocation data, processed several times and put on the market after entry into application. Absence of transition arrangements may cause severe supply chain disruptions, leading to shortages and high prices with repercussions for a wide range of end products which use soy and palm.</p> |
| Small and micro-enterprises delayed application | <p>Entry into application only 6 months after other operators, leads to a gap in DDS and geolocation data also for large and medium sized operators and traders; risk of exclusion of EU small and micro-enterprises due to this gap</p> |

Responses to important remaining questions need to be speeded up.
Supply chain actors need clarity to make 2024 harvests compliant with EUDR requirements

2. Joint areas of intervention by COCERAL-FEDIOL-FEFAC

Identify issues and possible solutions for the implementation of the legal text

Ongoing

Raise questions with Commission services that need clarification

Since Jan 2023 ongoing

Develop practical guidance for members' implementation

By Dec 2023

Liaise with EU and 3rd country players to help anticipate critical changes for supply chains

Ongoing

Support the work of the multistakeholder platform

2023 and beyond

3. Possible implications of the EUDR

- Lead-in time very short considering the tasks for chain actors, 3rd countries & authorities
 - Big uncertainty as to which current supplying regions will be compliant
 - Will all farmers (smallholders in palm) provide geo-location data ?
 - Will farmers and authorities be willing and able to provide information proving legal compliance?
 - Where will it be possible to set up segregated supply chains instead of mass balance ?
 - Even if it was possible to identify sufficient areas able to supply the required volumes to the EU, there will be no (or only limited) buffer in case of shortfall
 - How will EU production of soy meet EUDR requirements?
 - Attempts to assess impacts difficult
 - No equivalent supply chain to compare with; extrapolation of non-gm or organic costs to deforestation-free supply chains not reflecting the burden (cost) of adjustment and the financial risk of non-compliance
- =>Commodities will be at higher costs, with a higher volatility and supply failure not excluded

Concluding remarks

- The EUDR implementation is challenging for the different supply chains
- There is urgent need to clarify or complement provisions lacking detail or precision for their practical implementation
- Clarification is needed to proceed with the supply chain adjustments (investments) and ensure compliance, including for the EU production of soy
- Time is running out for the 2024 harvests.