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Eu Regulation on Deforestation- and Forest Degradation free supply chains 23/1115

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**Presentation by Department of Agriculture, Food and the Marine
(DAFM) on EU Deforestation Regulation - Implementation**

Context

- **420 million hectares** of forest worldwide – **an area larger than the EU** – have been lost between 1990 and 2020 (FAO).
- A significant share of that forest loss is legal (Forest Trends.)
- Deforestation and forest degradation are important drivers of climate change (IPCC: 11% of GHG emissions) and biodiversity loss
- 90% of deforestation is driven by the **expansion of agricultural land** (FAO), which is linked in particular to a series of commodities.
- The EU is a major consumer of commodities associated with deforestation and forest degradation.
- EU Deforestation Regulation 23/1115 linked to EU Green Deal, COPs etc.



EU Deforestation Regulation 23 / 1115: Timeline of key milestones.

- **June / December 2019:** Genesis of proposal CION Communication (June '19) and Agri-Fish Council Conclusions (Dec '19)
- **November 2021:** Initial Commission proposal
- **January 2022:** Ad-Hoc Council Working Party established under French presidency reporting to ENVI Council with DAFM input.
- **June 2022:** Council general approach agreed
- **December 2022:** Preliminary political agreement between European Parliament and Council
- **28 June 2023:** EU Regulation 23/1115 entered into force
- **29 December 2023:** DAFM formally informs European Commission it will be the designated Competent Authority in Ireland. Legal requirement under Article 14.2
- **30 December 2024:** Entry into application of obligations for operators (June 2025 for SMEs Directive 13/34)
- The regulation repeals the EU Timber Regulation 995/10 and applies to seven commodities based on CION Impact Assessment: Comprehensive product list by HS Code in Annex 1 of the Regulation.



What products will fall under the scope of the Regulation?



Wood



Cattle



Palm oil



Rubber



Soy



Coffee



Cocoa



Key elements of EUDR: Definitions and Legal Obligations

For the purposes of this Regulation:

- Deforestation is the conversion of forest to agricultural use.
- Forest Degradation is the conversion of primary forests to plantation forests. Based on internationally-backed definitions (FAO).
- Main legal obligations applicable to **operators and non-SME traders**.
- **Strict traceability** linking the commodity to the plot of land where it was produced.
- Non-discrimination: The Regulation applies both to domestically produced and imported commodities essential for WTO compliance.

Three requirements for Products to comply with EUDR 23/1115 (Article 3)

- a) 'Deforestation Free' means product must have been fed with or been made using relevant commodities that were produced on land that has not been subject to deforestation or forest degradation post - **31 December 2020** (*cut off date aligns with UN SDG 15.2*).
- b) Legality: Products will need to be harvested / produced according to the laws of country of production, including applicable human rights law and labour law.
- c) They are covered by a Due Diligence Statement.



Key elements of EUDR: Definitions and Legal Obligations

- **Who is considered an operator?**

As defined in Article 2(15) of the Regulation, an operator is a natural or legal person who places relevant products on the market (incl. via an import) or exports them in the course of commercial activity.

- **Which companies are non-SME traders and what are their obligations?**

A non-SME trader is a trader which is not a small and medium-sized undertaking pursuant to Article 2(30) of EUDR. This provision refers to the definitions provided in Article 3 of Directive 2013/34/EU. This will essentially include any large company that is not an operator and commercialises the products included in Annex 1 on the market, for instance, large supermarket or retail chains.

By virtue of Article 5(1) of the Regulation, the obligations of large traders are the same as those of large downstream operators: a) they need to file a due diligence statement; b) when doing so, they may rely on the due diligence previously carried out in the supply chain but, in such a case, they are subject to the provisions of Article 4(9); c) they are liable in case of breach of the Regulation, also for a due diligence carried out or a due diligence statement submitted by an upstream operator.

- **What does “in the course of commercial activity” mean?**

Commercial activity is understood as an activity taking place in a business-related context.



What are the obligations on Operators?

- Exercise Due Diligence on products placed on or exported from the EU market.
- Due Diligence has three aspects: Information gathering, risk assessment and risk mitigation.
- Due Diligence is not a new concept; inherited from EU Timber Regulation.

New elements introduced by EUDR:

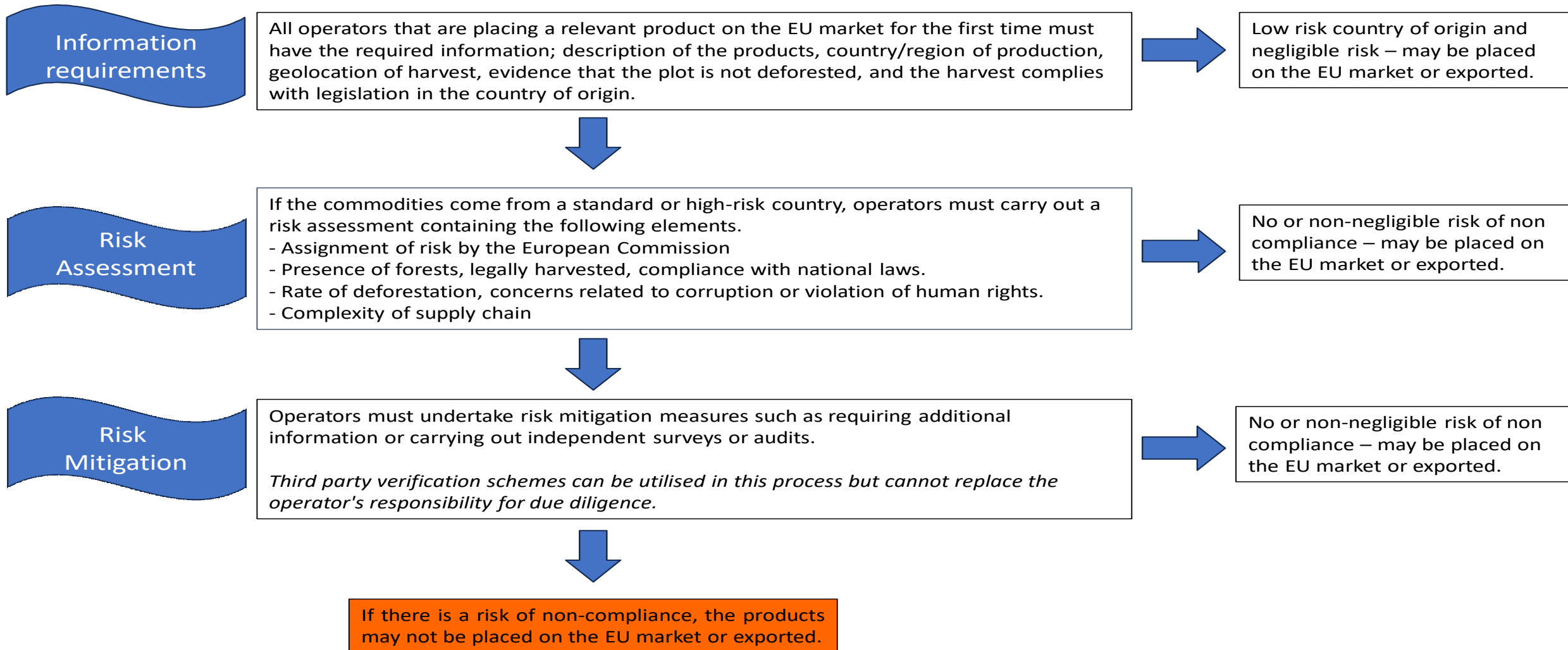
- **Geolocation:** Mandatory use of polygons for plots of land above four hectares (Cattle exempt) using GPS Co-Ordinates points of latitude & longitude.
- **Benchmarking system** that will assign risk to countries or regions according to risk of deforestation – standard (by default), low and high
- **Minimum level of inspections** for Member States authorities to perform (9%, 3% and 1%, depending on the level of risk)
- **Specific obligations for operators** – simplified due diligence for low-risk (still required to collect information, but not assess and mitigate risks)
- **Review:** Other wooded land (June 2024); other ecosystems, commodities, products and financial institutions (two years); others (five years)
- **Penalties:** Article 25 introduces broader and stronger penalties.
- **Information System:** operators will need to upload their DDS to this system accessible by Competent Authorities.



What are the obligations of the Competent Authority (1)?

1. Perform checks on operators and traders. EUDR requires a minimum number of checks - percentage of the operators dealing in relevant products - depending on designated risk category of producing country (1%; 3% or 9%).
2. The quantified objective of checks to be met separately for each of the relevant commodities including potential additional checks based on information "*concerning a potential non-compliance*" with the EUDR.
3. Intervene on products when the risk of non-compliance requires immediate action (Article 17 EUDR).
4. Cooperate with other competent authorities and custom authorities from their and other Member States, with the Commission and with administrative authorities of third countries (Article 21 EUDR).
5. Require operators or traders to take corrective action (Article 24 EUDR) up to and including "*interim measures, including seizure or suspension of the placing or making available on and exporting from the Union market of the relevant commodities and products*" (Article 23 EUDR).
6. Continuously monitor and exchange information on any significant change in pattern of trade of relevant products (circumvention) (Article 15(3) EUDR).

What are the obligations of the Competent Authority (2)? – Wood Products example.



Any
Questions?

Thank you for your attention

Further information can be found at -

https://green-business.ec.europa.eu/deforestation-platform-and-other-eudr-implementation-tools_en

