

EUTR | EUDR

WE CAN TELL YOU MORE!

EUTR

European
Union
Timber
Regulation

EUDR

European
Union
Deforestation
Regulation

Regulation (EU) 2023/1115 of the European Parliament and of the Council of 31 May 2023 on the making available on the Union market and the export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010

We offer you these elements of analysis and comparison with the EUTR in order to understand the changes and to prepare for them.

EUTR: 10 years already

Ever since 2013, companies that place or import **timber and timber by-products** on the European Union market have been required to comply with the **EUTR**, a regulation that aims to prevent illegally harvested resources from reaching the EU market.

According to the FAO, 420 million hectares of forest were lost worldwide between 1990 and 2020 and it is estimated that EU consumption

accounts for around 10% of this deforestation. With the **EUDR**, we are witnessing a shift in scale from combating illegality to eradicating deforestation and forest degradation.

While the EUTR was only about timber, the EUDR is about cattle, cocoa, coffee, oil palm, rubber soya, and wood, plus some of their by-products.



A STRONG, PREPARED AND FORWARD-LOOKING TROPICALTIMBER INDUSTRY

- The FSC® and PEFC/PAFC certifications are highly demanding in their criteria which, in addition to the purely forestry-related aspects (management, traceability), include respect for the local communities, the rights and safety of workers, respect for the environment and the protection of biodiversity;
- Only timber was already included in such a system since 2013 with the EUTR, which bans the import and sale of illegal timber in the EU;
- Importers or operator have been implementing due diligence practices for 10 years already;
- Inspections are carried out in the various European countries by competent authorities;
- NGOs are informed, involved and actively participate in this orientation;
- Public procurement guides help buyers and provide a framework for transactions. This

is the case in France with the WWF guide supplemented by the 2021 SNDI (French National Strategy to Fight Imported Deforestation) guide, and with the Central Point of Expertise on Timber (CPET) in the United Kingdom or the Timber Procurement Assessment Committee (TPAC) in the Netherlands;

- Certified forest managers welcome observers, researchers, consultants and NGOs in a transparent manner.

For more information, read our manifesto (in French)



WHAT IS THE EUDR?

It is a new EU regulation pertaining to the making available on the EU market and the export from the EU of certain commodities and relevant products linked to deforestation and forest degradation.

What are its objectives?

- **General objective:** To minimise the EU's contribution to global deforestation and forest degradation.
- **Specific objectives:** the regulation requires EU operators to:
 - Minimise the risk of products from supply chains associated with deforestation or forest degradation being placed on the EU market or exported from it;
 - Stimulate the demand for and trade in legal and «deforestation-free» commodities and products within the EU.

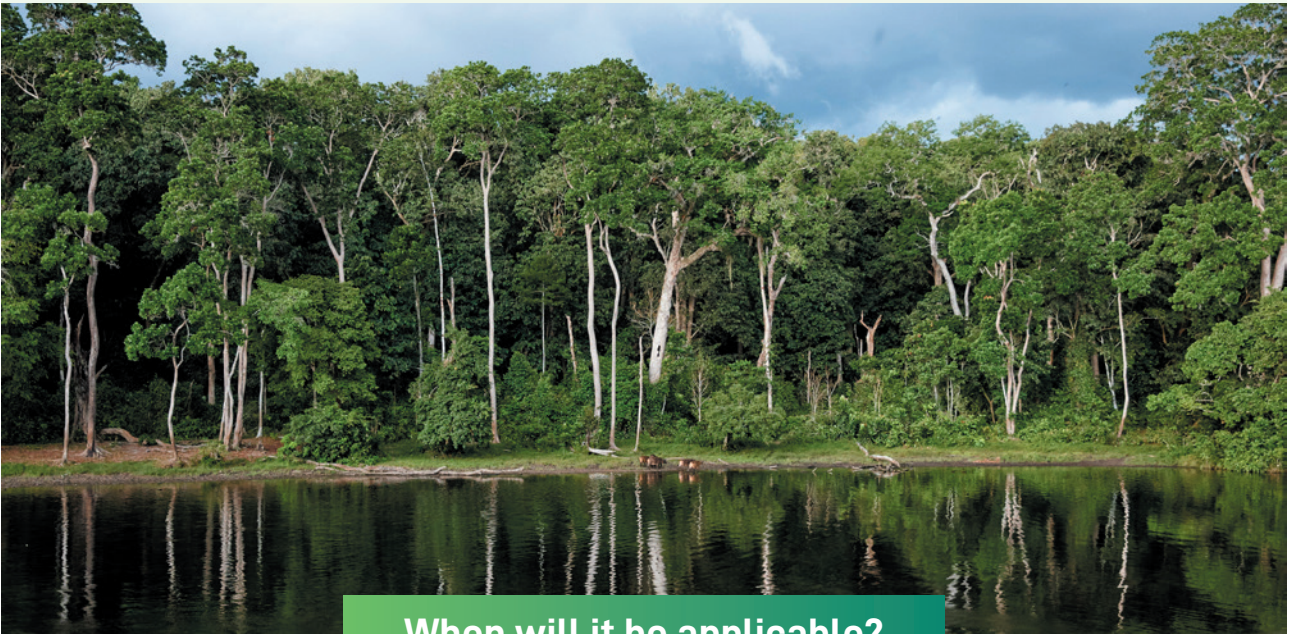
Why such a regulation?

The EU is a major consumer of commodities associated with both deforestation and forest degradation, which are major drivers of climate change (11% of greenhouse gas emissions) and biodiversity loss.

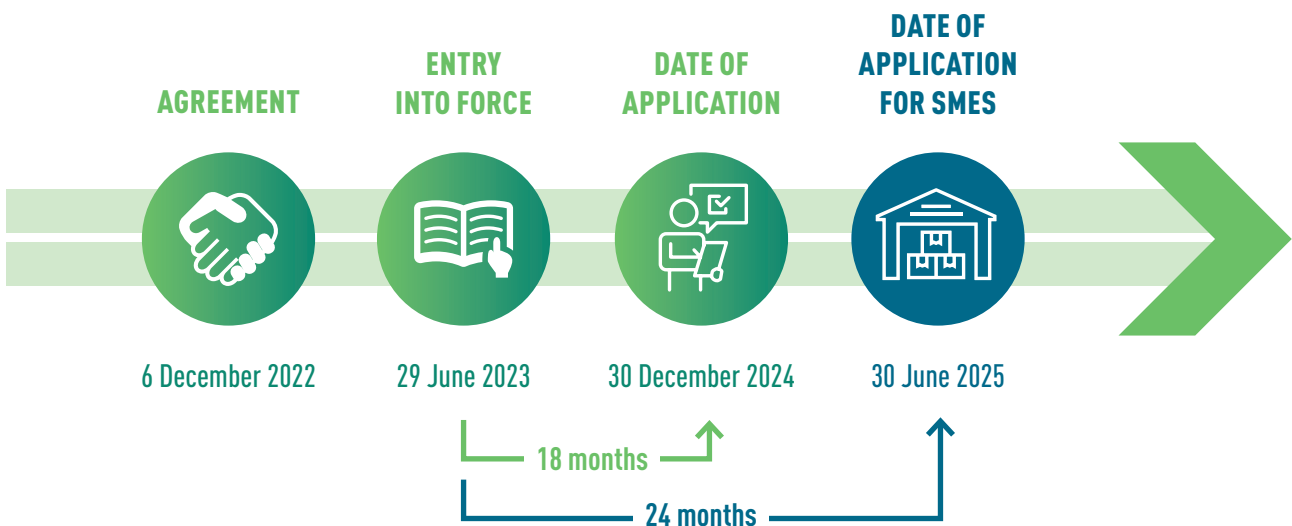
Following a public consultation, the European Commission issued a proposed regulation in November 2021 which was discussed and taken up by the EU Council and the European

Parliament. On 6 December 2022, the EU reached an agreement on this new regulation.

With this historic agreement, the EU wants to reduce its contribution to deforestation and thus guarantee to its citizens that the products they buy don't impact the world's forests. It wants to position itself as a global leader in the fight against deforestation.



When will it be applicable?

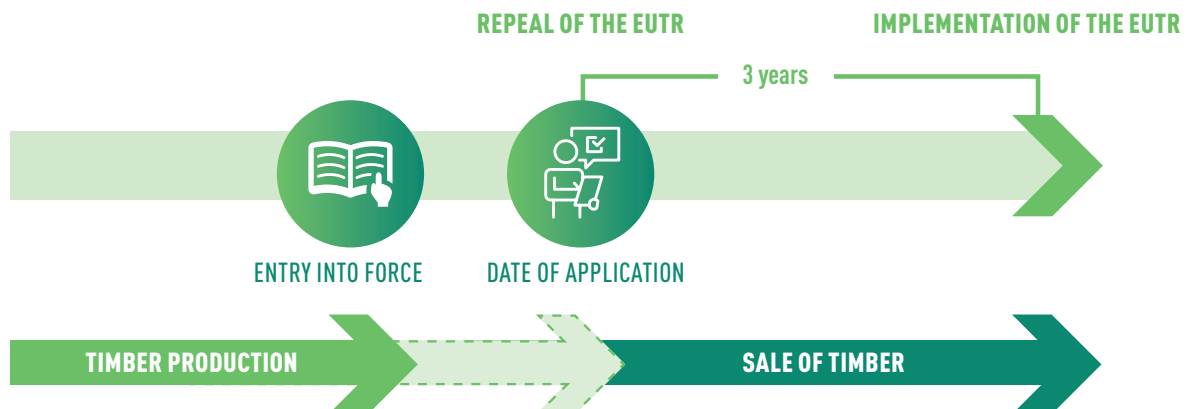


EUDR IN A NUTSHELL FOR THE TIMBER INDUSTRY:

- The regulation expands the list of relevant timber products;
- Timber products imported or sold on the EU market must not have contributed to deforestation or forest degradation and must have been legally produced (the definition of which is expanded to include social aspects) in their country of production;
- Operators are always companies that place timber products on the EU market, but also those that export from the EU market;
- «Large» traders (other than SMEs) must also demonstrate due diligence;
- The means of assessment remains due diligence (information gathering, risk analysis and risk mitigation), with some specific provisions:
 - prior to placing on the market or exporting, the operator (or the «large» trader) must submit a due diligence statement indicating compliance via an Information System (implemented by the European Commission),
 - the European Commission has planned a classification of producing countries (EU and non-EU), which will allow the conducting of a simplified Due Diligence if the country is classified as low risk.
- In the information to be gathered, the geolocation of all plots of land where the timber was produced must be obtained, as well as the date or period of production;
- The Regulation will be applicable at the end of 2024 (mid 2025 for SMEs), and the EUTR will apply for another 3 years (under certain conditions).

What happens to the EUTR?

This new regulation will repeal the EUTR on its date of application. Nevertheless, the EUDR provides that timber and timber by-products (as listed in the EUTR) harvested before the entry into force date and sold after the date of application are considered to be compliant with the regulation for 3 years.



For more information:

Final version of the regulation





European commission web page:



What is changing?

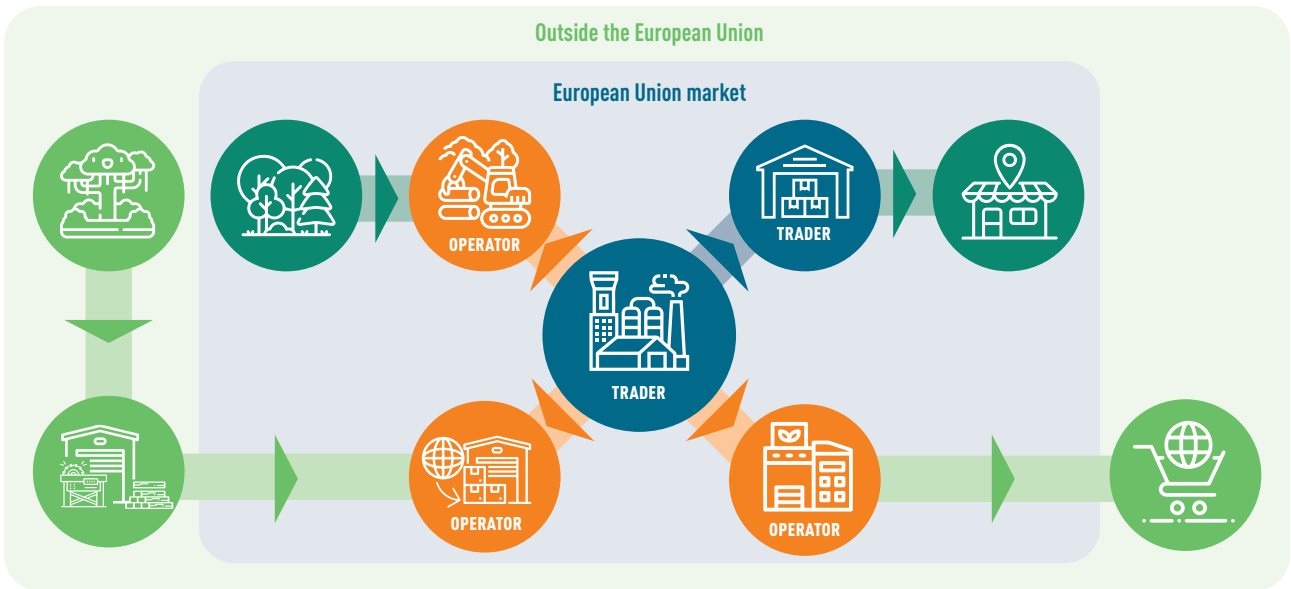
EUTR EUDR





SCOPE OF APPLICATION






Relevant commodities	Art 1	Timber. 	Art 1	Timber and: cattle, cocoa, coffee, oil palm, rubber, soya. 
Relevant Timber products	Annex	EUTR list: products containing paper, paper-board, timber fibre or timber.	Annex 1	EUTR list expanded to: charcoal, tools, timber wool, books and newspapers, kitchen furniture, coffins, seats etc.
Types of timber products covered	Art 1	Timber and other timber by-products circulating within the EU market, whether domestically produced or imported.	Art 1	Timber and other products imported into the EU, produced and consumed in the EU and exported from the EU.





TARGET PLAYERS

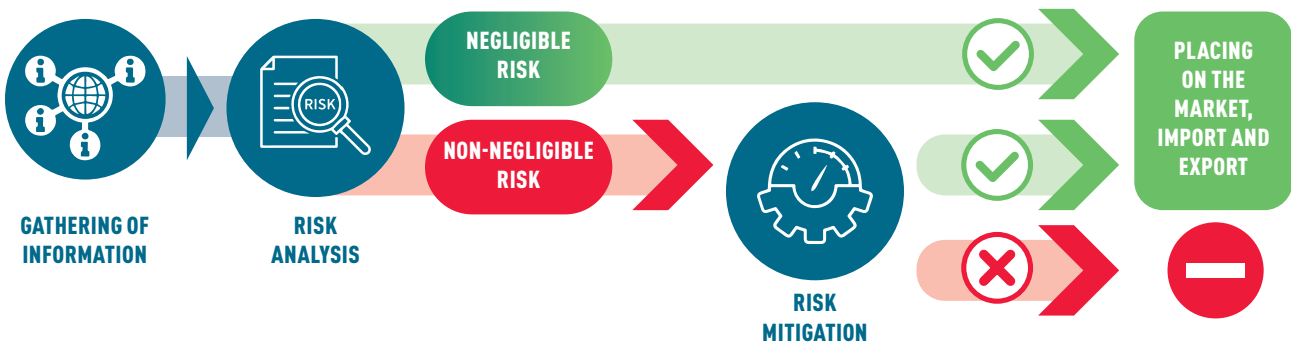
OPERATORS 	Art 2 (c)	Companies (importers and loggers) that place timber and timber by-products on the EU market.	Art 2 (15)	Any natural or legal person who, in the course of a commercial activity, places timber and timber by-products on the EU market or exports them from the EU market.
TRADERS 	Art 2 (d)	Companies that buy or sell timber or timber by-products on the internal EU market after it has first been placed on the market.	Art 2 (17)	Any entity in the supply chain other than the operator who, in the course of a commercial activity, makes timber and timber by-products available in the EU market.



EUTR		EUDR	
		REQUIREMENTS 	
PROHIBITION 	Art 4 (1)	The placing on the market of illegally harvested timber or timber by-products is prohibited.	Art 3 The making available or sale of timber or timber by-products in the EU market: <ul style="list-style-type: none"> - that have contributed to deforestation and forest degradation - that were illegally harvested - that are not covered by a due diligence statement are forbidden.
OBLIGATION OF OPERATORS 	Art 4 (2)	Operators must demonstrate due diligence when placing timber or timber by-products on the EU market, using both a system and procedures. They must maintain and regularly evaluate their due diligence system.	Art 4, 12 Operators must carry out due diligence prior to placing timber or timber by-products on the EU market or exporting them out of the EU , using both a system and procedures, and must first submit a due diligence statement . Operators must provide their Due Diligence information to other operators and traders further down the supply chain . Each year, they must publish a report on their Due Diligence .
EXEMPTION FOR SMES OPERATORS 		NA	Art 4 (8), 12 SMEs are exempt from: <ul style="list-style-type: none"> - Due Diligence if the products have already been subject to Due Diligence, - the publication of a report on their Due Diligence.




	EUTR	EUDR
OBLIGATION OF TRADERS 	Art 5	Keep records of timber purchases and sales for five years and make them available to competent authorities upon request.
		Art 5 (1) Large traders (non-SMEs) are subject to the same due diligence requirements as large operators (no more «shell» companies).
		Art 5 (5) SME traders must inform the competent authorities in the event of doubt. Art 5 (1, 3, 4 et 6) All traders must gather and keep some information from their suppliers and customers for 5 years and cooperate with the competent authorities.
«DEFORESTATION FREE» REQUIREMENTS AND CUT-OFF DATE 		NA
TRACEABILITY REQUIREMENTS 	Art 5	Traders must gather and keep information from suppliers throughout the supply chain and from their clients.
	Art 6 (1b)	As part of due diligence, operators must assess the complexity of the supply chain for timber
		Art 2 (13) « Deforestation-free » means: (a) that the timber products are sourced from timber produced on lands that have not been subject to deforestation after 31 December 2020 , and (b) specifically for timber products , that the timber was harvested from the forest without inducing forest degradation after 31 December 2020 .
		Art 9 (1d) As part of the Due Diligence process, operators must gather geolocation information on all of the plots of land where the timber of the relevant products was harvested and the date/period of production .
		Art 2 (28) The «geolocation» means the GPS coordinates of the production plots of land, or the plot of land's perimeter (using polygon).
DEFINITIONS 		
DEFINITION OF LEGALITY 	Art 2 (h)	legislation in force in the country of harvest covering the following matters: <ul style="list-style-type: none"> - right to harvest timber, - payment of harvest rights and timber duties, - timber harvesting, - third parties' legal rights of, - trade and customs.
		Art 2 (40) Laws applicable in the country of production in terms of: <ul style="list-style-type: none"> - land use rights, - environmental protection, - forest management and harvesting, - third-party rights, - labour rights, - human rights protected under international law, - principle of FPIC (Free, Prior and Informed Consent), - tax, trade and customs and anti-corruption regulations.







	EUTR	EUDR
DEFINITION OF DEFORESTATION 	NA	Art 2 (3) « Deforestation » means the conversion of forest to agricultural use, whether human induced or not; Art 2 (4) A « forest » is land that exceeds 0.5 hectares with trees higher than 5 metres and a canopy cover that exceeds 10%.
DEFINITION OF FOREST DEGRADATION 	NA	Art 2 (7) « Forest degradation » means structural changes to the forest cover, taking the form of a conversion of: <ul style="list-style-type: none"> - primary forests or naturally regenerated forests into plantation forests or other wooded lands, - from primary forests into planted forests. Art 2 (8) A « primary forest » is a naturally regenerated forest of native tree species, without any human activities or ecological disturbances.
DUE DILIGENCE 		
GENERAL PRINCIPLE 	Art 6 When an operator places timber products on the EU market, it shall implement a due diligence system that contains the following items: <ul style="list-style-type: none"> - access to information - risk analysis - risk mitigation 	Art 8 Before placing timber products on the market or exporting them, operators shall carry out due diligence , which includes: <ul style="list-style-type: none"> (a) gathering information (Art 9) (b) risk assessment measures (Art 10) (c) risk mitigation measures (Art 11)












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<p>GATHERING OF INFORMATION</p>	<p>Art 6 (1a)</p> <p>The information to be gathered regarding the products are:</p> <ul style="list-style-type: none"> - the description, - the country/region/ concession of harvest, - the quantity, - the names and contact details of both the supplier and client, - compliance and legality information. 	<p>Art 9</p> <p>The information is the same as for the EUTR (sometimes in greater detail) and includes:</p> <ul style="list-style-type: none"> - evidence that there is no deforestation or forest degradation, - the geolocation of production plots of land and the dates/periods of production.
<p>RISK ASSESSMENT</p>	<p>Art 6 (1b)</p> <p>The risk assessment procedures are based on:</p> <ul style="list-style-type: none"> - The gathered information, - assurance of compliance with legislation, such as third-party certification, - the prevalence of illegal harvesting or illegal practices, - sanctions (UN, EU Council), - the complexity of the supply chain. 	<p>Art 10</p> <p>The risk assessment takes into account the EUTR's criteria, as well as the following:</p> <ul style="list-style-type: none"> - the EC's assignment of risk to the relevant country of production (see Country assessment – Art 29), - the presence of forests in the country / production area, - the prevalence of deforestation or forest degradation, - the presence of indigenous peoples, - consultation and cooperation in good faith with indigenous peoples, - the existence of justified claims by indigenous peoples to land and usage rights, - concerns regarding corruption or the falsification of documents/data, - the risk of mixing products, - the conclusions of EC expert panels, - Reports of justified concerns (Art 31), - etc. <p>The risk assessments are documented and are assessed at least once a year. They are made available to the competent authorities upon request.</p>

	RBUE	RDUE
<p>RISK MITIGATION</p> 	<p>Art 6 (1c)</p> <p>In the event of a non-negligible risk, risk mitigation procedures may include:</p> <ul style="list-style-type: none"> - the requiring of additional information or documentation, - and/or the requiring of third-party verification. - and/or other measures according to the information collected 	<p>Art 11</p> <p>In the event of a non-negligible risk, risk mitigation procedures may include:</p> <ul style="list-style-type: none"> - the requiring of additional information or documentation, - the conducting of independent inspections or audits, - other measures depending on the information that is gathered, - the enhancement of capacities and investments. <p>Checks, measures and procedures must be in place prior the products are placed on the market.</p> <p>Additional requirements apply to non-SMEs:</p> <ul style="list-style-type: none"> - the appointment of a compliance officer at the management level, - the conducting of independent audits to check the internal system. <p>Decisions on risk mitigation measures are documented, evaluated at least once a year and made available to competent authorities upon request.</p>
<p>ESTABLISHMENT AND MAINTENANCE OF THE DUE DILIGENCE SYSTEM</p> 	<p>Art 4</p> <p>The Due Diligence System must be maintained and evaluated on a regular basis.</p>	<p>Art 12</p> <ul style="list-style-type: none"> - Develop a Due Diligence System framework of procedures and measures and keep it up to date; - The Due Diligence System must be revised once a year; - The documents are to be kept for 5 years; - For non-SMEs: publication of their Due Diligence System and its results / conclusions.
<p>SIMPLIFIED DUE DILIGENCE</p> 	<p>NA</p>	<p>Art 13</p> <p>For products coming from countries assessed by the EC as low risk (see Country assessment – Art 29), it is possible to carry out simplified due diligence:</p> <ul style="list-style-type: none"> - Gathering of information (step 1), - Exemption from risk analysis and mitigation measures (steps 2 and 3), after having analysed the risk of mixing with products having an unknown origin.

	EUTR		EUDR	
ASSESSMENT OF COUNTRIES BY THE EC 		NA	Art 29	<p>The EC will conduct risk assessments by country (EU and other countries):</p> <ul style="list-style-type: none"> - The EC will publish a list of low and high risk countries, - The results will be available via the EC's «Information System», - The system has 3 country assessment levels: low, standard or high risk.
ROLE OF CERTIFICATION 	Art 6 (1b)	Third party certification/ verification can be used in the context of the risk assessment.	Art 10 (2n)	For the risk assessment, operators take into account information provided either by certification schemes or by other third-party verification systems (but this does not replace the operator's responsibility for Due Diligence).
PROOF OF COMPLIANCE 	Art 3	FLEGT licenced products and CITES products with valid permits and licenses are considered legal.	Art 10 (3)	In the context of risk analysis, timber products covered by a valid FLEGT licence are deemed legal (only) .
ASUPPORT FOR DUE DILIGENCE 	Art 8	Operators can solicit EU-recognised Monitoring Organisations to help them meet their key obligations in terms of the EUTR.	Art 6	<p>Removal of the status of monitoring organizations</p> <p>Operators or traders may choose to appoint a «Authorized representative» to make the Due Diligence statement available on their behalf.</p> <p>The Operator or Trader retains responsibility for the conformity of the products.</p> <p>The Mandatary shall provide a copy of the mandate to competent authorities upon request.</p>
INFORMATION SYSTEM AND CUSTOMS PROCEDURES				
«REGISTER» INFORMATION SYSTEM 		NA	Art 33	<p>The European Commission establishes and maintains an information system («register») enabling operators to submit their due diligence statement and to verify the statement that have already been recorded.</p> <p>This register will be interconnected with customs authorities and will be accessible to competent authorities so that they may conduct their checks.</p>

	EUTR		EUDR	
CUSTOMS PROCEDURES 		NA	Art 26	<p>An agreement between competent authorities and customs authorities will be established. Customs authorities will have to verify the status of the Due Diligence statement prior to authorising a «release for free circulation» or export.</p>
MONITORING, CHECKS AND SANCTIONS 				
PERSONS IN CHARGE 	Art 7	Each Member State designates one or more competent authorities in charge of implementing the EUTR.	Art 14	The Member States shall designate one or more competent authorities (CA) to carry out the regulation's requirements.
CHECKS 	Art 10	The competent authorities will carry out inspections to verify that operators are complying with requirements, according to a periodic plan, and a risk-based approach.	Art 16	<p>The competent authorities shall carry out checks on operators using an approach that is based on:</p> <ul style="list-style-type: none"> - risks, according to the Information System, - reports, provided by third parties. <p>The inspection annual plan are developed according to the origin of the products and the risk level:</p> <ul style="list-style-type: none"> - standard: at least 3% of operators, - high: at least 9% of operators, and 9% of products, - low: at least 1% of operators.
				Art 22
INTERIM MEASURES 	Art 10 (5)	Depending on the nature of the shortcomings that are found, Member States may take immediate interim measures, including: (a) the seizure of timber and timber by-products; (b) a ban on the sale of timber and timber by-products.	Art 23	<p>Member States shall allow their competent authorities to take immediate provisional measures, including the seizure or suspension of the placing on the EU market and of the export of any relevant products, in the event of infringements.</p> <p>Member States shall immediately inform the Commission and the competent authorities of the other Member States of such measures.</p>

	EUTR	EUDR
<p>CORRECTIVE ACTIONS</p> 	<p>Art 10 (5)</p> <p>When shortcomings are detected following the checks, the competent authorities may inform the operator of the corrective measures that need to be taken.</p>	<p>Art 24</p> <p>Competent authorities may require operators to take appropriate and proportionate corrective measures to remedy non-compliances, such as:</p> <ul style="list-style-type: none"> - Corrective action of any identified non-compliances, - Bans on the placing of the relevant product on the EU market or its export, - Immediate withdrawal or recall of the relevant product, - Donation of the relevant product for charitable or public interest purposes - Elimination of the product.
<p>PENALTIES</p> 	<p>Art 19</p> <p>Member States shall determine the penalty system:</p> <ul style="list-style-type: none"> - proportionate fines, - the seizure of the timber and relevant timber by-products, - the immediate suspension of the authorisation to engage in trade. 	<p>Art 25</p> <p>Member States shall determine sanctions such as:</p> <ul style="list-style-type: none"> - Fines proportionate to the environmental damage, the value of the relevant products and the turnover (maximum 4%), - Confiscation of the relevant products, - Confiscation of the operator's and/or trader's revenue from a transaction involving the relevant products, - The temporary exclusion from public procurement tender procedures (for up to 12 months), - A temporary ban on the placing on the EU market or export of the products, - A suspension of the use of the simplified due diligence procedure (art 13).



Large operators vs. SMEs

WHAT IS AN SME IN THE EUDR?

The Regulation builds on the definition in directive 2013/34/EU: an SME is a company that does not exceed the numerical limits of at least two of the following three criteria:

- balance sheet total: €20,000,000 (EUR)
- net turnover: €40,000,000 (EUR)
- average number of employees during the financial year: 250



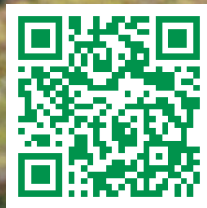
SPECIFIC REQUIREMENTS FOR SMES AND LARGE OPERATORS

Provision	OPERATORS		TRADERS	
	Non SME	SME	Non SME	SME
Due diligence	It is required that a Due Diligence system be established	Exempt if the products have already been subject to a declaration of Due Diligence	Those considered to be operators: Due Diligence is required	Gathering of information from both the supplier and client and the Due Diligence reference
Risk analysis procedure	- Appointment of a compliance officer - Conducting of an internal audit		- Appointment of a compliance officer - Conducting of an internal audit	
Publication	A report on their Due Diligence System must be published once a year		A report on their Due Diligence System must be published once a year	
Checks	Inspection of the Due Diligence system	Inspection of the Due Diligence system	Inspection of the Due Diligence system	Verification of documentation

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THE LEADING AUTHORITY ON TROPICAL TIMBER



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