

# **Feedback on EU rules to minimise deforestation & forest degradation – amendment of Annex I to the Deforestation Regulation (EUDR)**

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Stopping deforestation is an important goal. The path to achieve this goal should serve the goal itself and be as unbureaucratic as possible. Unfortunately, the Deforestation Regulation (EUDR) in its current form does not fulfill this requirement. The resources that companies currently have to spend on assessing their impact, developing and establishing processes are considerable. The smaller the company, the greater the percentage of bureaucratic effort involved. In addition, the necessary information is provided far too late (e.g., the country's benchmark) to enable implementation processes to be designed in a timely and orderly manner.

We therefore welcome the EU Commission's initiative to revise some of the requirements and to adapt and clarify Annex 1 of the EUDR.

With this in mind, we would like to provide the following feedback, some of which goes beyond the scope of the EU Commission's ability for adjustment. This is because it highlights the extent to which the EUDR still needs to be adapted and amended. The regulation should not be implemented in its current form at the end of this year!

## Changes that the EU Commission could and should consider

Like the “stop the clock” legal act of the Omnibus I Initiative, we recommend a further postponement of the EUDR by at least one, preferably two years.

We welcome the amendments currently proposed by the EU Commission, such as the possibility of annual due diligence (not per delivery) or the exclusion of products for testing purposes from the scope of application.

**However, further measures should be taken as part of the amendments to the Annex:**

- **Products for testing:** Products for testing on customer machines should also be included in the exemption (e.g., in our industry, there are use cases where food is imported to test how it can be packed by machines, while the machine is finally inspected by the customer).
- **Operating instructions:** “Simplification” does not go far enough, as machine manufacturers are always required to provide operating instructions on request due to another EU regulation and these are therefore often sent separately. Such products should be explicitly excluded from the scope – they should always be considered part of the machine, even if they are delivered to the customer years later.
- **Description of products and raw materials in the annex:** A clear, precise list of the relevant CN codes (8 digits) is required, including a clear description of the applicable exceptions in a single mandatory document. In addition, a comprehensive explanation of the relationship between the 10-digit TARIC code and the customs codes is useful.
- **Customs:** Clear clarification is required on how to deal with irrelevant products that have a customs tariff number that also includes relevant products when imported or exported. How can customs distinguish between them? Can companies be sure that these products will not be held up at customs?
- **De-minimis-rule:** In addition, exceptions should apply to small quantities that, for example, cause enormous effort in the spare parts business but have little leverage on the deforestation target. This could be done by a de-minimis rule. The same applies to the percentage of relevant raw materials in specified products; here too, a percentage de-minimis-threshold is urgently needed, see point 2 below.

- **Packaging material:** More precise clarification / delimitation is needed, that pallets or similar items, which are used internally, are also exempted.
- **Products in stock at the start of the EUDR:** The EUDR should clarify that all relevant products that are already in stock at companies at the start of the EUDR and can no longer be traced back to their origin, are excluded from the scope.
- **Own use:** Clear description / explanation, e.g., on how to deal with paper and/or coffee products for use within the company (= yes or no, and no descriptions that leave room for interpretation). We do not see the purpose of this when, at the end of the day, the company does not trade with these goods but is only a consumer itself. The obligation has already been ensured in advance in the upstream supply chain. A change that only obliges distributors to provide the information (see point 1 below) could remedy this.
- **Exclusion of returned goods:** It would make sense to provide a general exclusion of returned goods, regardless of whether they are declared as returned goods for customs purposes (this is already partially implemented in the treatment of reusable packaging). Documents other than those accepted by the customs administration should also be accepted as proof of returnable status. The guidance document addresses this issue already.
- **Downstream distributors:** Due diligence should be omitted entirely for downstream distributors. Only the importer / first distributor (see example of the Conflict Minerals Regulation) should be required to fulfill due diligence obligations. What is the added value if the retailer in principle “only” checks the information it receives from the upstream supply chain? In our view, it would be sufficient for the first point of entry into the EU (importer/first distributor) to provide all information.
- **EU support:**
  - A standardized format/system for the due diligence declaration, apart from or in addition to the template, would be helpful.
  - A clear map showing where deforestation is not taking place according to EUDR terminology. At present, different geographical evaluations lead to different results. We would like to see this clear map directly in the EU's TRACES system – with a yes/no indicator at the time the data is recorded.
  - A clear list of countries would also be useful, containing not only the level of risk in each country, but also a list of the relevant country-specific certificates and documents with which a local manufacturer can prove that there is no risk at their site.
  - A central platform for the provision of supplier data would be desirable.

## Further urgent changes regarding EUDR are needed

In addition, we see the following simplifications as necessary:

- 1) **Requirements should only apply to the first distributors, and EU countries should be classified as “countries of guaranteed origin”:** This removes the need that sourcing from EU countries would require due diligence declaration. As a result, a declaration of due diligence would only have to be submitted for goods when they are imported into the EU or placed on the market for the first time. In the case of resale or provision within the EU, the due diligence obligation would no longer apply, as the due

diligence obligation has already been declared upon import. A requirement to refer to this due diligence declaration should also be removed!

## 2) Implementation of a de-minimis-rule:

- a) Exclusion of normal small consignments: There are currently no exceptions for spare parts that are only required once and in very small quantities. A threshold value per product and shipment would be helpful here (based on euros, e.g., 500 euros).
  - b) In addition, de-minimis- thresholds should be introduced for very small quantities or products of low economic value (e.g., flyers, printed matter for advertising purposes, operating instructions, or machine documentation).
  - c) De-minimis-threshold are also necessary for raw material content in relevant products: Currently, all products listed in Annex I are covered by the EUDR, even if they contain only very small quantities of the raw materials concerned, e.g., rubber tires, O-rings, or cardboard boxes made from recycled paper, which usually contain a minimal amount of virgin paper. It is imperative that de-minimis-rules are introduced here.
- 3) **Backward applicability of the EUDR:** Rubber suppliers are often small farmers whose families depend on the income. If they have been growing rubber for several years (since 2021) but the land was originally deforested for this purpose, this important source of income will be lost. Smallholders will be deprived of their livelihoods even though they have not broken any laws. This gives rise to conflicts of interest with human rights issues.
  - 4) **Legal compliance check:** The legal compliance check is unclear and difficult to map in detail. How are companies supposed to check legal details in countries that do not enforce their own laws? Where are companies supposed to get this information from? And to put it in the context of the upcoming European supply chain regulation (CS3D); is it reasonable to expect these requirements from companies?
  - 5) **Mitigation measures:** Guidance with mitigation measures could be improved. Here, too, it is not entirely clear what is expected, especially in comparison to CS3D. Presumably, the application of the EUDR will simply lead to the fact that rubber from areas affected by deforestation will no longer be sold in the EU, but in Asia and other parts of the world.
  - 6) **Use of difficult terms:** The use of terms whose meaning, ambiguity, and distinction within the EUDR, but also in relation to other regulations, is not meaningful, e.g., “operators,” “(non-SME) operators,” “traders,” “due diligence statements.” Why not use established terms such as “importer”, “distributor”, “placing on the market”, “certification”?
  - 7) **SME support:** The Deforestation Regulation is particularly difficult to understand for SMEs, e.g. for small companies with fewer than 100 employees and it is hardly affordable to implement if they are affected. Clearly defined process descriptions with “if – then” procedures and appropriate guidance (e.g., with templates) would be helpful here.
  - 8) **No scope extension before sufficient field testing and experience:** The implementation of the regulation must first run for a few years and then be thoroughly reviewed to determine whether more products should be added to the scope or whether products can be removed from the scope due to their low impact.
  - 9) **Test phase/practical test/transition period:** It should be possible to promptly assess the impact, e.g., critical supply bottlenecks, of goods being stopped by customs because of the application of the EUDR. The EU/the EU Commission/the member states should be able to react quickly (by granting exemptions). The EUDR obligations will be impossible to meet for some European companies, particularly in the capital goods industry with complex supply chains, especially in the short term, but possibly also in the

medium and long term (as the information required cannot be provided from the deeper supply chain). A penalty-free transition period of six months (live practical test) until the actual, binding go-live would be desirable.

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## About VDMA

The VDMA represents over 3,600 mechanical engineering companies in Germany and Europe. The industry stands for innovation, export orientation and medium-sized companies and employs around three million people in Europe, more than 1.2 million of them in Germany alone. This makes the machinery and equipment manufacturers the largest employer among the capital goods industries, both in the EU-27 and in Germany. It accounts for an estimated turnover of 910 billion euros in the European Union.

The basis for the international success of the machinery and equipment manufacturing industry is a strong global network with efficient and innovative suppliers and customers all over the world. Around a third of the machines and systems produced in the EU are sold outside the EU. From the machines sold in the EU domestic market, around 80 per cent comes from an EU production facility. Conversely, this means that a fifth of the machinery sold is imported from a non-EU country. China, the USA, Japan and the United Kingdom are the most important countries of origin here. By cooperating with companies in almost all regions of the world, the European machinery and equipment manufacturing industry makes an important contribution to prosperity and growth. Global value chains are an important factor in the success of the European machinery and equipment manufacturing industry.

Numerous regulations of the Green Deal - especially those that are now to be adapted through the omnibus regulation - affect European mechanical engineering companies particularly strongly due to the medium-sized structure of the industry (60 per cent of VDMA member companies have a turnover of less than 50 million euros per year) and the strong integration into global value chains. The implementation of the regulations is particularly resource-intensive for SMEs and worsens their competitive position on international markets, too.

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