BUSINESSEUROPE

NOTE

Ref. :
Contact :

28 January 2026

TO: xxx

CC: xxx

FROM: xxx

SUBJECT: Input on EUDR implementation – clarifications through FAQ and Guidance

Clarifications on definitions and obligations for downstream users:

1. What are the obligations of a first downstream operator and a non-SME downstream operator when they export a relevant product? Is our understanding correct that: For products exported by a first downstream operator or a non-SME downstream operator, no DDS needs to be submitted in the Information System. In case of export, a conventional DDS reference number, meaning a universal reference number that can be entered in the customs declaration in cases of products falling in the transitional period, will be communicated by the European Commission that can be used by a first downstream operator and a non-SME downstream operator in the customs declaration submitted for export.

   Moreovoer, in the simplified EUDR, it appears that in the absence of a downstream operator, the obligation to collect and store reference numbers also applies to the (first) trader. Clarification is required on how a trader can determine (and be responsible) whether he is the first or a subsequent trader in the supply chain.

   In this respect, it should be clarified that one legal entity must be allowed to act as operator AND first downstream operator in the same supply chain. The definition of downstream operator should not require a change of legal entity; it should be the activity performed that determines whether an entity is a downstream operator or not. The operator and the first downstream operator should be the same legal entity when it uses EUDR compliant products or materials to produce new good. Since the legal entity is operator AND first downstream operator, customers must not be provided a reference number.

   It should also be clear that downstream operators and traders are not required to provide their customers with reference numbers to comply with Art 5(6) of the legislation.

2. When transforming a product to one with another CN code, is a company an operator or downstream operator? The current FAQ states that a company is only considered an operator placing a new product on the market if the HS code change is reflected in Annex I. Does this still apply?

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3. What is the role of a retailer who buys products from a company that, in order to manufacture its product, has imported certain products directly but has also purchased certain products directly in the EU (for example, from a wholesaler who has imported the products in question)? For a single product, a company could be both a downstream operator and an operator. Which one takes precedence?

4. What is the liability to downstream operators and traders in case of non-compliance?

5. What is meant by substantiated concerns? How is this defined in the context of liability? How should non-SME downstream operators and non-SME traders verify that due diligence was exercised and that no or only a negligible risk was found?

6. In which instances is it necessary to submit a DDS for exports? (Article 26.4) What are the responsibilities of downstream operators?

7. If a company imports as an operator, and they export the same imported product, can the same import DDS be reused for export?

8. Will customs authorities be able to block imports without DDS?

9. Do importers need to submit new DDS when upstream non-EU operators have already completed due diligence?

10. Operators must provide downstream operators/traders with RFI reference numbers (and/or identifiers). How far does the obligation go: the first downstream operator only or also the following downstream operators?

11. Does a downstream operator have to check the conformity/validity of the numbers collected, and what is their responsibility if a product is subsequently found to be non-compliant?

12. Which numbers must be retrieved in practice and are they the same as those circulating between upstream operators (in the case of batches already "placed on the market" by another operator)?

13. How can a "first downstream operator" attest to its status with its customers and justify the absence of an obligation to transmit additional elements?

14. Is the transmission of a "verification number" permanently abolished: confirmation expected and clarification of responsibilities (number collection vs. downstream due diligence)?

15. In case a supplier assesses its product as outside the scope of EUDR is the downstream company required to assess the product classification itself? Is it enough for the company to obtain a written confirmation from the supplier and if so, is any specific format required?

16. More generally, how should downstream operators deal with the period from 30 December 2026 to 30 June 2027, during which EUDR already applies to downstream actors but not yet to micro and small primary operators?

A few **recommendations** related to the points above to ensure maximum efficiency and avoid redundancies:

- Limit due diligence obligations and reporting to EU imports: Obligations in TRACES should be restricted to the point of import into the EU. All downstream actors, including domestic EU producers, should be exempt from EUDR reporting obligations.
- Reference numbers managed centrally: Generate, validate, and use reference numbers only at the point of first placing on the EU market, within TRACES, supported by customs and competent authorities.
- If any downstream obligation is retained: Make it best-effort only, with a safe-harbour where reference numbers are unavailable, roles cannot be clearly established, or technical/systemic constraints prevent reliable management.
- Additional clarifications for legal certainty: No obligation to request or disclose reference numbers if upstream actors do not provide them. Exclude exports and intercompany shipments entirely from reference number requirements. Materials already in stock should be exempt to avoid retroactive burdens.

<u>Clarifications on issues related to the value chain and small and micro-operators:</u>

17. How to apply the "micro or small primary operator" status if a company exceeds/returns below the thresholds depending on the year: date of assessment, changeover of regime, legal certainty?
18. How to interpret the sentence in the definition "this includes operators that exceed..." and its practical effects?
19. Clarification on the timeline for the entry into force of the new category "primary SMEs": 24 months after the entry into force (i.e. 2028) or from 30 June 2027.
20. What happens when the first actor in the chain is a primary SME: obligations of the following actors (collection of numbers, DDR filing, etc.)?
21. Can we consider that the entry key to the scope of application is "products concerned + qualification of the operator" (and therefore that the status conditions the obligation, in addition to the product code)?
22. Clarity is needed on how to ascertain if small/micro-operators have exemptions in place owing to national member state legislation that provides for traceability reporting obligations (ex. Regulation EU 2016/429), and how these exemptions

affect their responsibilities under EUDR? More importantly, how does this also affect downstream operators' responsibility under EUDR? Can the Commission develop a list of applicable national legislation and its interaction with responsibilities as outlined in EUDR?

23. Single simplified declaration: can we file an "estimated" annual declaration? How to update it, and manage it if the volumes/parameters change?

24. If a micro/small primary operator subsequently modifies its simplified single declaration, is a new unique identifier needed or does the identifier remain unchanged?

25. "Postal address of plots": method deemed unsuitable; what are considered as acceptable alternatives (municipality/postal codes, departments, encompassing polygon, etc.)?

Clarifications on geolocation:

26. Clarifications are necessary regarding the exchange of geolocation data with producer countries. Clear identification requirements are essential under the EUDR, especially where local or regional laws prevent the sharing of geolocation data. Without such solutions, operators risk an effective 'indirect import ban', as alternatives like switching suppliers or sourcing from different countries may not be feasible.

27. At the same time, the obligation to provide exact geolocation data (polygons/coordinates) upon import should be restricted to raw materials only. For semi-finished and finished goods, proof of deforestation-free status should be permissible via supplier certificates or accredited systems, without requiring plot-level geolocation data to be transmitted through the entire supply chain.

A few **recommendations** to ensure legal certainty and feasibility:

- Provide formal confirmation of alternative, practicable pathways for fulfilling geolocation obligations, including the option for producer country authorities to transmit geolocation information directly to the EU.

- Clarify that geolocation data obligations apply primarily to raw materials, while processed products may rely on certificates or system-based assurance.

Questions related to TRACES:

28. In TRACES, can you file an RFI with two roles (importer + exporter / importer + first downstream trader)?

29. Can multiple lots be covered with the same RFI, and does Customs accept the same RFI number being used for multiple clearances?

30. TRACES verification functionality ("reference + verification" binomial): if the referencing of other RFIs in its own RFI has been removed from Annex II, will the functionality of verification/validation of transmitted numbers remain?

31. Case of a non-EU supplier has already submitted a DDS in TRACES: Clarification is needed on the obligations of an EU importer acting as an operator under the EUDR where an in-scope product is purchased from a non-EU supplier who has already conducted due diligence for that product and submitted a due diligence statement in TRACES. In particular, it should be clarified whether the EU importer is required to conduct and submit its own due diligence statement despite the existence of a due diligence statement already registered in TRACES for the same product, and how such situations should be handled under the EUDR.

32. Request to consider the technical limitations of TRACES: maximum file size, insufficient infrastructure, and deadlines for assigning reference numbers.

Questions related to Customs / export / transit / processing:

33. For export outside the EU: what are the exact obligations (to enter which number, to transmit it or not to the non-EU customer) and articulation with the deletion/modification of certain fields?

34. Export (industry) case: manufacturing in the EU of the products in question from raw materials (also products in question) purchased in the EU, with a downstream operator role (up to the 3rd tier) and therefore without RFIs or upstream information (coordinates of plantations linked to the batches). How to declare these products to customs when exporting: do you need a number, and if so, which one (e.g. "Generic DDS"?)?

35. "Transit" case: importing from third countries and then exporting outside the EU: which number to enter for export (same number as the one used for import?). Import then transformation with change of customs code then export: which number to enter for export?

36. Finished product composed of imported inputs + locally purchased inputs: which numbers to declare for export (movable case, etc.)? What information is required by customs in addition to the RFI/number (fields, identifiers, associated documents)?

37. Question of language: Clarification is needed on whether competent authorities may require operators to translate documents issued in the official language of the country of origin, given that such documents are typically issued exclusively

in local languages and current practices appear to differ among competent authorities.

Clarification on the treatment of intra-group transfers:

38. Clarification on the treatment of intra-group transfers in the context of the EUDR.

Recommendation: Companies that do not make relevant products available to third parties, but exclusively to affiliated companies, should be exempt. Otherwise, this would lead to unnecessary duplicate due diligence checks and redundant administrative processes within the same corporate group, without improving the effectiveness of the Regulation. The aim is to prevent companies and corporate groups from being obliged multiple times to submit a due diligence statement when products are transferred or resold within the same group. While we acknowledge that assigning responsibility for due diligence to the first operator placing the product on the market constitutes a simplification, the introduction of a group exemption remains a key demand.

Clarifications on geographical scope:

39. Clarifications on the treatment of EU overseas departments and regions in the context of the EUDR (e.g. Martinique). Is it considered intra-EU?

40. Clarification on EU territories outside the EU customs territory (e.g. New Caledonia): Is our understanding correct that they are considered as third country, therefore requiring the fulfillment of EUDR-related due diligence requirements?

41. Sale "under bond" between an EU company and a third-country company without physical transit of goods in the EU (from one warehouse outside the EU to another): is this within the scope of the regulation?

42. Relationship between the EUDR and the EU's Generalised System of Preferences (GSP): what is the EUDR's impact on trade with beneficiary countries?

Clarifications on imports / batches:

43. Difficulties in accessing EUDR compliant raw materials outside the EU (coordinates of plantations per batch), some transparency work that can last up to 8 months, incompatible with industrial constraints if required for each batch: what operational interpretation is expected on the requirement of a link between the product in question and plots in complex chains?

44. Can we rely on a transparency and risk analysis carried out in year N-1 (detailed mapping of the value chain + low risk assessment + controls/satellite tool in case of doubt), to cover purchases/imports in year N, when the sources vary little?

45. How can the requirement of "zero or negligible risk" be reconciled with the practical impossibility of obtaining geolocated data batch by batch in certain sectors, and with industrial cycles?

46. How to check the status of the supplier (operator or not) without the obligation of systematic batch-by-batch querying, especially if the status may vary from batch to batch?

Clarifications on re-imports:

47. Clarity is required regarding the treatment of re-imported goods. Would Customs authorities accept proof of the product's original EU status (such as the previous export declaration or INF 3 origin documents) as sufficient evidence of compliance?

A few **recommendations**:

Returned goods should not be subject to renewed due diligence obligations, to maintain legal certainty, reduce unnecessary administrative burdens, and reflect that re-imported goods pose no additional deforestation risk.
Possible approaches to ensure proportionality and legal certainty include:

- Allowing re-importers to rely on evidence of a prior EU export as a substitute for full forest-level due diligence.
- Exempting re-imports of products manufactured using EU-origin commodities from the obligation to submit a new DDS, where no material transformation affecting deforestation risk has occurred.
- Introducing a safe-harbour provision for re-imports where the required upstream information cannot be obtained due to the removal of downstream transmission obligations under the amended EUDR.

Clarification on treatment of spare parts:

48. Is a company selling a spare part exclusively used in a product not in scope of EUDR required to submit a DDS?

Recommendation: It should be clarified that spare parts used in products outside the scope of the EUDR should be exempted.

Clarifications on treatment of waste:

49. What documentation will be acceptable to prove that products are made “entirely from waste”?

Clarifications on specific sector obligations:

- Coffee/cocoa/chocolate value chains (variability, non-EU, samples)

50. Weight variations (moisture/drying/scale deviations): possible tolerance, possibility of indicating variability (e.g. X tons ± X%) in the RFI, and how to manage traceability when the weight changes?

51. Non-EU scenario: a non-EU exporter/manufacturer files an RFI and then exports to the EU: does the EU importer need to redo an RFI or can they rely on the non-EU exporter's RFI?

52. Non-EU manufacturer sourcing from a European "non-operator" company: how to file an RFI / re-import into the EU without an available number?

53. Supervision of free samples / products intended for testing/analysis: confirmation of exclusion, conditions, timetable (reference to the FAQ and the draft delegated act).

- Hospitality sector (related to food supply chains)

54. Clarification on the coverage of the hospitality sector under the EUDR. Example: catering establishments acquire relevant raw materials through retailers, wholesalers or other suppliers, subsequently transforming them into meals. In certain cases, these products may also be used in the production of goods intended for direct sale to the consumer, such as, for example, the manufacture of chocolate candies. Are they, and under what terms, covered by the obligations set out in the EUDR Regulation, taking into account their position in the value chain and the fact that they do not, as a general rule, place products on the Union market for the first time as primary operators?

- Wood products

55. Interpretation of "if applicable" for the full scientific name: when must it be filled in, especially if the trade name is already filled in?

56. Is there an obligation to provide information on the species of wood products?

57. Processes in integrated industries: Case of factories with their own forests and purchasing of wood/pulp from third parties: should the paper sold be declared

with the proportion of own wood and its plots? Is it possible to carry out the DDS of own wood at the beginning and “transfer” it to the production and sale of paper?

58. Clarification on the definition of first primary operator. It is important to clarify whether it is the first to produce and harvest or the first to produce or harvest. An example that applies to the forestry sector is a timber supplier who buys timber directly from the landowner while standing, is responsible for cutting and delivering the timber to the factory, and may or may not be classified as a primary operator.

Other requests:

- Related to the ongoing process of the Delegated Act / Annex I

59. Clarification on the legally binding exemption for testing, development and samples

Recommendation: Prototypes, test materials, and samples used solely for testing or development should generally fall outside the scope of the EUDR, regardless of whether they are fully consumed or destroyed during testing. No prior proof of destruction or consumption should be required. Evidence of exclusive testing use can instead be provided through appropriate marking (e.g., part numbers, test numbers, permanent stickers, stamps, milling, or other visible identifiers), ensuring these items cannot enter the regular market.

60. Clarifications to ensure implementation focuses on EUDR-relevant goods, which are currently based on 4- or 6-digit customs codes with the prefix "ex" (exempt/partial), leading to significant uncertainties and potential blockages at the border and supply chain disruptions.

Recommendation: The creation of a legally binding positive list based on the 8-digit Combined Nomenclature (CN) should be considered. It must be unequivocally regulated in a single, binding document which specific sub-positions fall under the regulation to eliminate room for interpretation and clarify the relationship to TARIC codes.

- Related to the Informaiton System

61. It would be useful to provide Information System training in multiple languages.

- Related to the review of the country benchmarking system

62. A review of the country benchmarking system was initially foreseen to take place in 2026. Will this timeline be maintained?