Questions relating to the practical application of the EUDR

(Regulation (EU) 2023/1115 as amended by Regulation (EU) 2025/2650)

09/01/2026

Commodity concerned: Timber

I. Companies combining several roles within the supply chain

1. Combination of the statuses of operator / downstream operator / trader

Can the same company simultaneously be an operator (importer) and a downstream operator or trader for the same type of product, depending on the lots concerned?

For example, a company may:

- import certain lots of a product (and thus act as an operator),
- while purchasing the same product from another operator or forest operator for other lots (and thus act as a downstream operator or trader).

In this context:

- how should the obligations relating to the transmission of due diligence statement (DDS) reference numbers be managed when these differ between lots?
- can the fact that internal IT systems (ERP, logistics, invoicing) do not allow these situations to be automatically distinguished be considered non-compliance?

Practical case – Supplying a single customer using volumes purchased at different levels of the value chain

Company A markets a single type of product: **cumaru decking**.

During a given year, Company A sources this product as follows:

- **30 m^3** purchased directly from Company B, a producer established in a third country, with the products imported directly by Company A
  → Company A acts as an **operator** within the meaning of the EUDR;
- **25 m^3** purchased from Company C, established in the EU, which itself imported the products
  → Company A acts as the **first downstream operator**;
- **20 m^3** purchased from Company D, a distributor established in the EU
  → Company A acts as a **trader**;

- **15 m^3** originating from stocks built up before the date of application of the EUDR, including:
  – 8 m^3 directly imported by Company A,
  – 7 m^3 purchased from downstream actors.

Over the same period, Company A supplies a single customer with a total volume of **60 m^3** of cumaru decking.
These deliveries are made using volumes originating from all the sources listed above, the products being commercially identical and physically interchangeable.

This practical case raises the following questions:

- what information is Company A required to provide to its customer under the EUDR, given:
  – the combination of EUDR statuses for the same product type, and
  – the coexistence of products subject to different regimes (due diligence statement, simplified declaration, transitional period)?
- must Company A link the volumes delivered to the customer to the volumes purchased from each supplier (B, C, D or pre-existing stocks) in order to ensure precise traceability by lot?
- if so:
  – must this linkage be communicated to the customer,
  – or only retained by Company A for the purposes of controls by the competent authorities?
- how can the traceability requirements laid down in the Regulation be reconciled with the protection of commercially sensitive information, in particular where detailed disclosure of sourcing could reveal Company A's purchasing structure or sourcing strategy?
- how should these obligations be assessed where internal IT systems (ERP, logistics and invoicing tools) do not allow strict volume allocation by source, especially where products are mixed or managed on a fungible basis?

2. Obligations of traders and downstream operators with regard to the status of their suppliers

When a company acts solely as a trader or downstream operator:

- is it required to know, for each product reference or flow, whether the products originate from:
  – an operator,
  – a downstream operator, or

– a micro or small primary operator,
in order to determine whether it is considered the first downstream operator within the meaning of the Regulation?

In particular:

- must the downstream operator or trader classify its product references or suppliers according to their exact status in the supply chain in order to comply with traceability obligations?
- can its liability be engaged in the event of an error or inaccurate information provided by its supplier regarding its status or the existence of a DDS?

II. Export by a downstream operator and transmission of DDS reference numbers

Regulation (EU) 2023/1115, as amended by Regulation (EU) 2025/2650, provides for distinct obligations for operators, downstream operators and traders, in particular with regard to due diligence statements and the transmission of reference numbers.

Article 26(4), as amended, specifies that the obligation to make available to customs authorities the reference number of the due diligence statement or the declaration identifier does not apply to the export of a relevant product by a downstream operator.

Where a downstream operator exports a product falling within the scope of the EUDR:

1. Is it confirmed that it is not required to communicate the reference number of the due diligence statement (or the declaration identifier) as part of the customs export procedure, in accordance with Article 26(4), as amended?
2. In that case, by what means can customs authorities and/or competent authorities verify the compliance of the exported product with the EUDR, in particular:
   – the existence of an upstream due diligence statement or simplified declaration, and
   – compliance with the traceability obligations laid down in Article 5 for downstream operators?
3. Does such verification rely:
   – exclusively on ex post controls based on records and information retained by the downstream operator,
   – on access by authorities to the information system (TRACES),
   – or on specific coordination between customs authorities and competent authorities outside the customs export procedure?

III. Concept of “substantiated concerns” and specific obligations for non-SMEs

Regulation (EU) 2023/1115, as amended by Regulation (EU) 2025/2650, specifies that downstream operators and traders are, in principle, not required to carry out due diligence or submit a DDS.

However, where non-SME downstream operators or traders obtain or become aware of relevant information, including “substantiated concerns”, indicating that a product may be non-compliant with the Regulation, specific obligations apply (Article 5(6)).

1. Definition and identification of “substantiated concerns”

What types of elements or information may be considered as constituting “substantiated concerns” within the meaning of Articles 4(5) and 5(6)?
Must such concerns necessarily be based on objective and documented evidence (information from NGOs, authority alerts, documentary inconsistencies), or may they also arise from internal doubts, partial information or weak signals?
Is there a minimum threshold of credibility or materiality distinguishing a simple suspicion from a “substantiated concern” triggering enhanced obligations?
At what precise moment should information be considered a “substantiated concern” (moment of receipt, confirmation, link established with a specific product, lot or supplier)?

2. Assessment of concerns by non-SME companies

How should a non-SME downstream operator or trader practically assess whether information constitutes a “substantiated concern”?
Does the Regulation impose a specific methodology or harmonised criteria, or is this assessment to be carried out on a case-by-case basis, based on good faith, proportionality and the company’s actual influence?
To what extent must this assessment be documented so that it can be produced in the event of a control by the competent authority?

3. Scope of the verification obligation

In the event of substantiated concerns, how far must the verification carried out by the downstream operator or non-SME trader go?
Does this verification require access to the detailed content of the due diligence carried out by the upstream operator, or may it be limited to documented confirmations, attestations or formalised exchanges with the supplier?
Should verification cover only the lot concerned, or also all similar flows from the same supplier?
What is the expected temporal scope of such verification (single lot, ongoing flows, future flows)?

4. Liability and legal certainty

Under what conditions may a non-SME company incur liability if non-compliance is identified ex post, where it relied on information provided by its supplier and had not identified any substantiated concerns?
Conversely, how can a company demonstrate, in the event of a control, that it:

- was not aware of any substantiated concerns, or
- reacted in an appropriate, proportionate and documented manner when a serious doubt arose?

IV. Application of the regime for micro or small primary operators outside the EU

Regulation (EU) 2025/2650 introduces the category of micro or small primary operators, who may, under certain conditions, use a simplified declaration.

1. Application of the simplified regime to non-EU operators

Does the concept of a micro or small primary operator also apply to:

- operators established outside the Union,
- who produce the relevant products themselves (forest producers, possibly processors),
- and who export these products to the European Union, resulting in placing them on the EU market through importation?

Can a micro or small primary operator established in a low-risk country use a simplified declaration when exporting its own products to the EU, and under what precise conditions?

2. Determination of the "first placer on the market"

In the case of a micro or small primary operator established outside the Union:

- who should be considered the first placer on the EU market:
  – the non-EU producer-exporter, or
  – the EU-based importer carrying out the release for free circulation?

This clarification is decisive for identifying:

- the actor responsible for submitting the declaration (simplified or full),
- the level at which traceability and transmission obligations apply.

3. Access to the TRACES system

Can an operator established outside the Union submit a DDS or a simplified declaration in the TRACES system?

Is possession of an EORI number mandatory in order to submit a declaration in TRACES? Are there specific requirements regarding representation or liability for operators not established in the Union?

V. Changes in country risk classification (benchmarking)

The regime applicable to certain operators, in particular micro or small primary operators, depends on the classification of the country of production under the benchmarking system provided for in Article 29.

In the event of a change in country classification (e.g. from “low risk” to “standard risk” or “high risk”):

- what are the consequences for simplified declarations already submitted?
- do declaration identifiers already assigned remain valid for the products concerned?

Does such a change apply:

- only to products placed on the market after publication of the new classification, or
- also to flows contracted or prepared prior to that publication?

Are transitional measures or adaptation periods envisaged to ensure legal certainty for the operators concerned?

VI. Assessment of EUDR status within multi-entity groups (specific case of France)

1. Level at which status is assessed within a group

In the case of a group comprising several legal entities or establishments:

- should EUDR status (operator, downstream operator, trader) be assessed at:
  – group level,
  – legal entity level, or
  – the operational establishment actually carrying out the activity?

Where one entity within a group acts as an operator and resells to another entity within the same group:

- should the buyer’s status be assessed at group level or at the level of the relevant entity / establishment?

2. National identifiers (France – SIREN / SIRET)

In Member States such as France:

- the SIREN number identifies the company,
- the SIRET number identifies establishments.

Should EUDR status be assessed:

- at company level (SIREN), or
- at operational establishment level (SIRET),
  particularly where different establishments perform different roles in the supply chain?

3. Assessment of SME / non-SME status

Where annual accounts, turnover and workforce figures are established at SIREN level:

- how should SME / non-SME status be assessed where only part of the activity or certain establishments are concerned by products falling within the scope of the EUDR?
- may competent authorities take into account disaggregated internal data (management accounting, dedicated staff, internal organisation)?
- what evidence is considered relevant to justify this assessment in the event of a control?

VII. Correction, updating and cancellation of declarations in the TRACES system

The amended Regulation provides for increased use of the information system (TRACES), in particular for due diligence statements, simplified declarations and declaration identifiers.

Questions

Must micro and small primary operators declare estimated annual quantities?

Is there a harmonised procedure allowing:

- correction of a due diligence statement or simplified declaration containing a material error,
- updating of certain information (volumes, products, suppliers) without having to submit a new declaration?

Where an error is detected after placing on the market or export:

- what are the legal consequences for the operator concerned?

- does the declaration identifier or reference number remain valid?

Do competent authorities have mechanisms allowing them to suspend, cancel or correct a declaration identifier, and under what conditions may such measures be applied?

VIII. Coordination and consistency between competent authorities of the Member States

Implementation of the EUDR relies on Member State competent authorities, in the context of cross-border supply chains.

In the event of divergent interpretations of the Regulation between competent authorities of different Member States:

- is there a coordination or arbitration mechanism at EU level?
- can the Commission be requested to provide a common interpretation?

How is consistency ensured with regard to:

- controls,
- sanctions,
- and documentary requirements,
  in order to avoid distortions of treatment between operators active in several Member States?

IX. Qualification of illegal clearing by third parties under the EUDR non-deforestation and non-degradation criteria

Regulation (EU) 2023/1115 requires that relevant products be deforestation-free and, for timber, free of forest degradation, as defined in Article 2.

The EUDR FAQ (4th iteration) and Commission guidance documents specify that compliance assessment should take account of the causal link between changes affecting a plot and the operator's harvesting activities.

In this context, an important question arises for forestry companies operating in areas exposed to illegal or spontaneous clearing carried out by third parties, independently of the company's actions and without any link to its activities.

Question

Should illegal clearing carried out by third parties, without any link to the forestry company's harvesting activities and without any direct or indirect benefit for it, on a plot forming part of its production area, be considered deforestation or degradation within the meaning of Regulation (EU) 2023/1115, automatically resulting in non-compliance of products originating from that plot?

In particular:

- should deforestation or forest degradation be assessed strictly on the basis of the condition of the plot, regardless of the author of the change,
  or
- should a distinction be made between changes induced by the operator's harvesting activities and those resulting from exogenous events, such as illegal clearing by third parties, in line with the guidance provided in the FAQ and Commission documents?

Follow-up questions

Where such clearing by third parties is identified:

1. Under what conditions may products originating from the plot concerned nevertheless be considered compliant with the EUDR, in particular where:
   - harvesting itself is legal,
   - no causal link exists between the clearing and forestry operations,
   - and the company is able to document the exogenous nature of the event?
2. What evidence do competent authorities consider relevant to demonstrate:
   - that the clearing was not induced by forestry operations,
   - and that non-deforestation and non-degradation requirements are met for the harvest concerned (satellite imagery, management plans, notifications to local authorities, internal documentation, etc.)?