

Proposed EU Deforestation Regulation

- Introducing the main elements and requirements for European companies

Webinar – 3 March 2022

LIFE Legal Wood



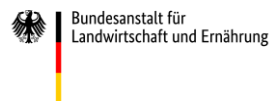
	Topic
09:50 – 10:00	Arrival of participants in Zoom Webinar
10:00 – 10:05	Welcome, intro to speakers and practicalities
10:05 – 10:35	Introduction to the EU proposal for a regulation on deforestation-free products
10:35 – 11:50:	Due diligence for the EU regulation on deforestation
10:50 – 11:15	Q&A

LIFE Legal Wood

EUTR knowledge, tools and training

The LIFE Legal Wood project is funded by the European Union's LIFE programme

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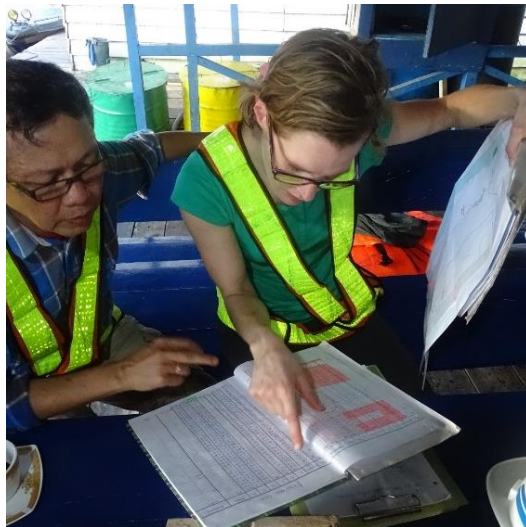


About Preferred by Nature

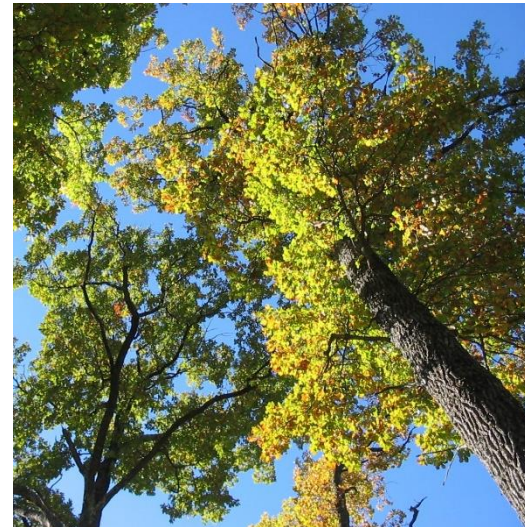
Mission
driven,
international
non-profit
organisation



260+
full-time staff
in
30+ countries



Working on solutions
for managing lands
and businesses
more sustainably
for **25** years



Work in
100+ countries
across 10
programs



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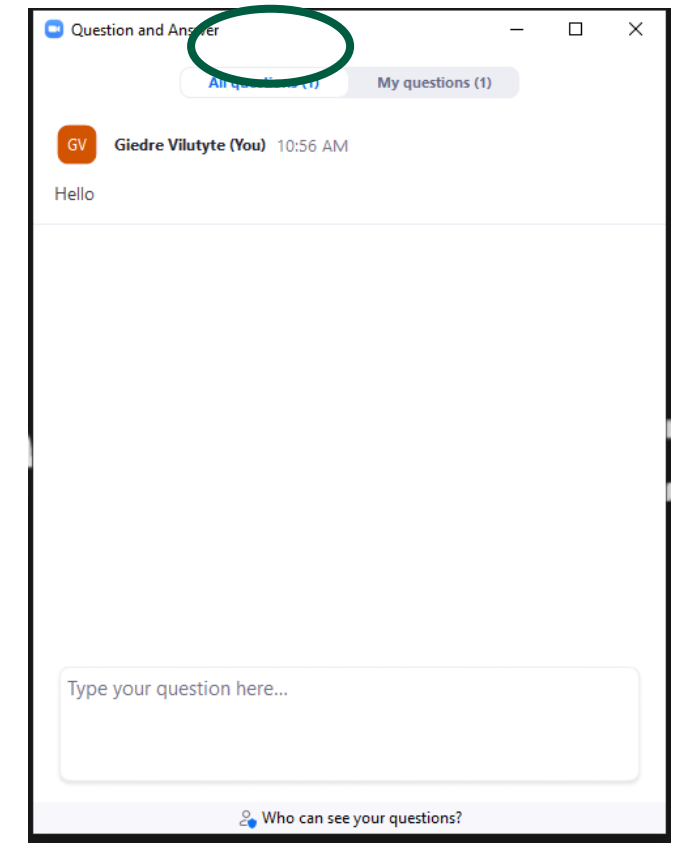
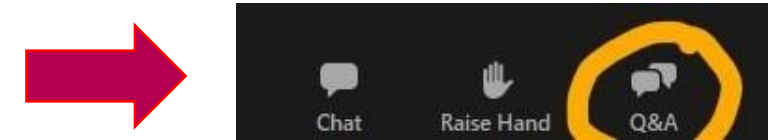
- In case of **technical problems** or questions regarding Zoom please contact Julie Thirsgaard Hansen either via email (jhansen@preferredbynature.org)
- The **presentations** will be made available after the webinar
- The **Webinar will be recorded** – we will only publish recordings of the presentations.
- **Questions or comments** made by participants during the workshop will not be made publicly available.



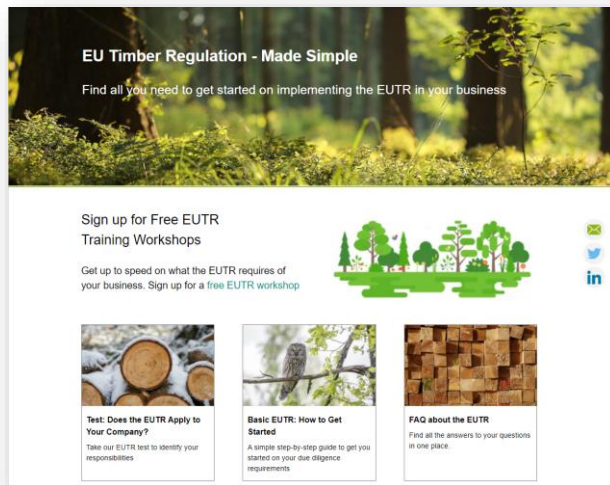
- All attendees are in **listen only mode**.
- You may ask questions in writing via the ‘**Q&A function**’ during the webinar.
- We’ll do our best to answer as many questions as possible during the webinar and **Q&A session**.



How to ask questions



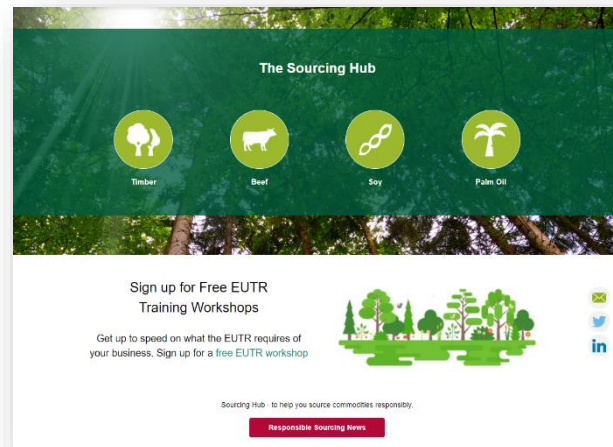
Open the 'Question and Answer' option and write your question in the field



www.eutr.info

Visit the Project website

- Get access to tools and useful information
- Get info on upcoming training workshops and materials
- Get the latest news and guidance on EUTR



<https://preferredbynature.org/sourcinghub>

Visit the Sourcing Hub

- Access country timber legality risk assessments.
- Risk mitigation toolkits
- Risk assessments on other commodities, including soy, palm oil and beef.



<https://preferredbynature.org/sourcinghub/info/sourcing-hub-updates>

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Introduction to the EU proposal for a deforestation regulation

LIFE Legal Wood



LIFE - Support EUTR II - LIFE18 GIE/DK/000763

What is the proposed “Deforestation Regulation”?

EU Regulation placing requirements on EU industry in order to:

“..minimise consumption of products coming from supply chains associated with deforestation or forest degradation - and increase EU demand for and trade in legal and ‘deforestation free’ commodities and products.”



When will it come into force?

- The Commission and the EU Parliament **needs to agree on the proposal** (or make changes before it can be adopted by both parties.
- If the proposal is adopted without change, businesses will have to comply with all requirements of the Regulation as from **12 months from the entry into force** of the Regulation.
-so it may take some time..

What will happen to the EU Timber Regulation



The EU “Deforestation Regulation” will replace the EU Timber Regulation.

Many of the due diligence obligations are similar.

Key components

1

Prohibition
import and
export of
non-
complying
products

2

Due diligence
obligation

3

Placing
obligations on
Member States
to ensure
implementation

4

Implementation
of Information
System

Product scope

The following commodities are within the scope of the proposed regulation:



Wood



Beef



Palm oil



Soy



Coffee



Cocoa



Derived products
e.g. leather,
chocolate or
furniture

Detailed scope based on the EU “Combined Nomenclature” (custom codes) and available via this link:

https://ec.europa.eu/environment/publications/proposal-regulation-deforestation-free-products_en

Product scope



Scope of products is the same as the EU Timber Regulation

Products containing paper, cardboard, wood fibre or wood



Product scope



- Live cattle
- Meat of cattle and offal
- Raw hides and skins of cattle
- Tanned or crust hides and skins of cattle
- Leather of cattle, further prepared after tanning or crusting



- Cocoa beans, whole or broken, raw or roasted
- Cocoa shells, husks, skins and other cocoa waste
- Cocoa paste
- Cocoa butter, fat and oil
- Cocoa powder, not containing added sugar or other sweeteners
- Chocolate and other food preparations containing cocoa

Product scope



- Coffee (whether or not roasted or decaffeinated); Coffee husks and skins
- Coffee substitutes containing coffee



- Soy beans (whole or broken)
- Soy bean flour and meal
- Soy bean oil and its fractions
- Oil cake and other solid residues



- Palm oil and its fractions
- Palm nuts and kernels
- Crude palm kernel and babassu oil and fractions
- Oilcake and other solid residues of palm nuts or kernels

A photograph of a dense forest with many tall, slender trees. The trunks are light-colored, possibly birch or aspen, and are covered in vertical lenticels. The foliage is green and appears to be deciduous. The forest floor is covered in brown leaves and some green plants. A dark green horizontal band is overlaid across the middle of the image, containing the word "Actors" in white text.

Actors

Who's involved?



The European
Commission



Member States
(Competent
Authorities)



Custom
Authorities



Businesses
(operators, traders,
and authorised
representatives)

‘**Operator**’ means any natural or legal person who, in the course of a commercial activity, places relevant commodities and products on the Union market - or exports them from the Union market



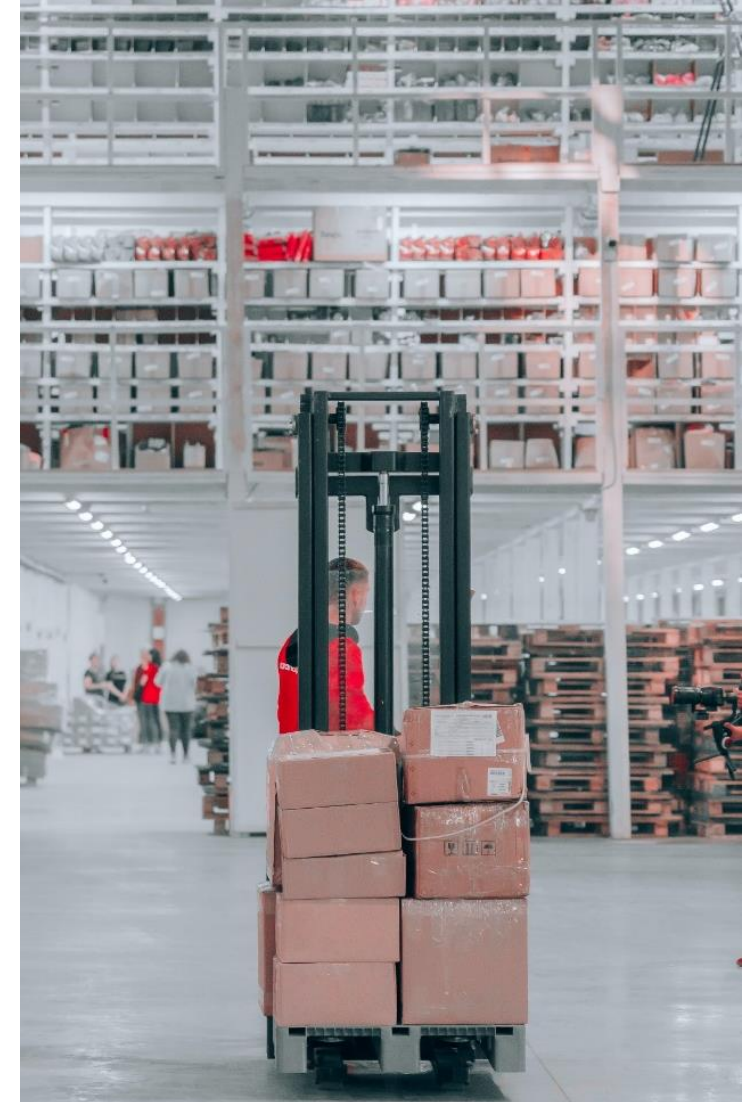
Authorised representatives

Operators may choose to give mandate to an “Authorised Representative”:

- A. The **Authorised Representative** can make available the due diligence statement on behalf of Operator
- B. The **operator or trader** retains the responsibility for the compliance of the relevant commodity
- C. The **Authorised Representative** shall, upon request, provide a copy of the mandate to the competent authorities.

- ‘**Traders**’: any natural or legal person in the supply chain other than the operator who, in the course of a commercial activity, makes available on the Union market relevant commodities and products;
- “Traders” who are not SMEs **will be required to meet obligations of Operators**

‘SMEs’ mean micro, small and medium-sized enterprises as defined in [Directive 2013/34/EU](#)





Obligations on Operators

Obligations: Operators

- 1 Must only place on market - and export - products that are “**deforestation free**” and **legally produced**
- 2 Exercise **due diligence** through system and procedures
- 3 **Maintain and regularly evaluate** the due diligence system
- 4 All products must be covered by a **due diligence statement** as laid down in Article 4 (2)

Obligations of Operators – what is deforestation free?

'deforestation-free' means

(a) that the relevant commodities and products, including those used for or contained in relevant products, were produced on land that has not been subject to deforestation after December 31, 2020, and

(b) that the wood has been harvested from the forest without inducing **forest degradation** after December 31, 2020;

Definition of “forest degradation”

Forest degradation

- means harvesting operations **that are not sustainable AND cause a reduction or loss of the biological or economic productivity and complexity of forest ecosystems,** resulting in the long-term reduction of the overall supply of benefits from forest, which includes wood, biodiversity and other products or services

Sustainable harvesting operations

- means harvesting that is carried out considering maintenance of soil quality and biodiversity with the aim of minimising negative impacts, in a way that avoids harvesting of stumps and roots, degradation of primary forests or their conversion into plantation forests, and harvesting on vulnerable soils; minimises large clear-cuts and ensures locally appropriate thresholds for deadwood extraction and requirements to use logging systems that minimise impacts on soil quality, including soil compaction, and on biodiversity features and habitats.

Obligations on Operators – legal requirements

Legality is defined as compliance with “relevant legislation” in the country of production, in terms of:

- land use rights,
- environmental protection,
- third parties’ rights and
- relevant trade and customs regulations

Different requirements for wood & other commodities

Observation: different requirements for wood compared to other commodities



All products/commodities with scope must be produced in compliance with relevant legislation and been produced on land that was not deforested after 31 December 2020.



Additionally, **Wood products** must be harvested in compliance with relevant legislation and without having contributed to forest degradation after 31 December 2020.



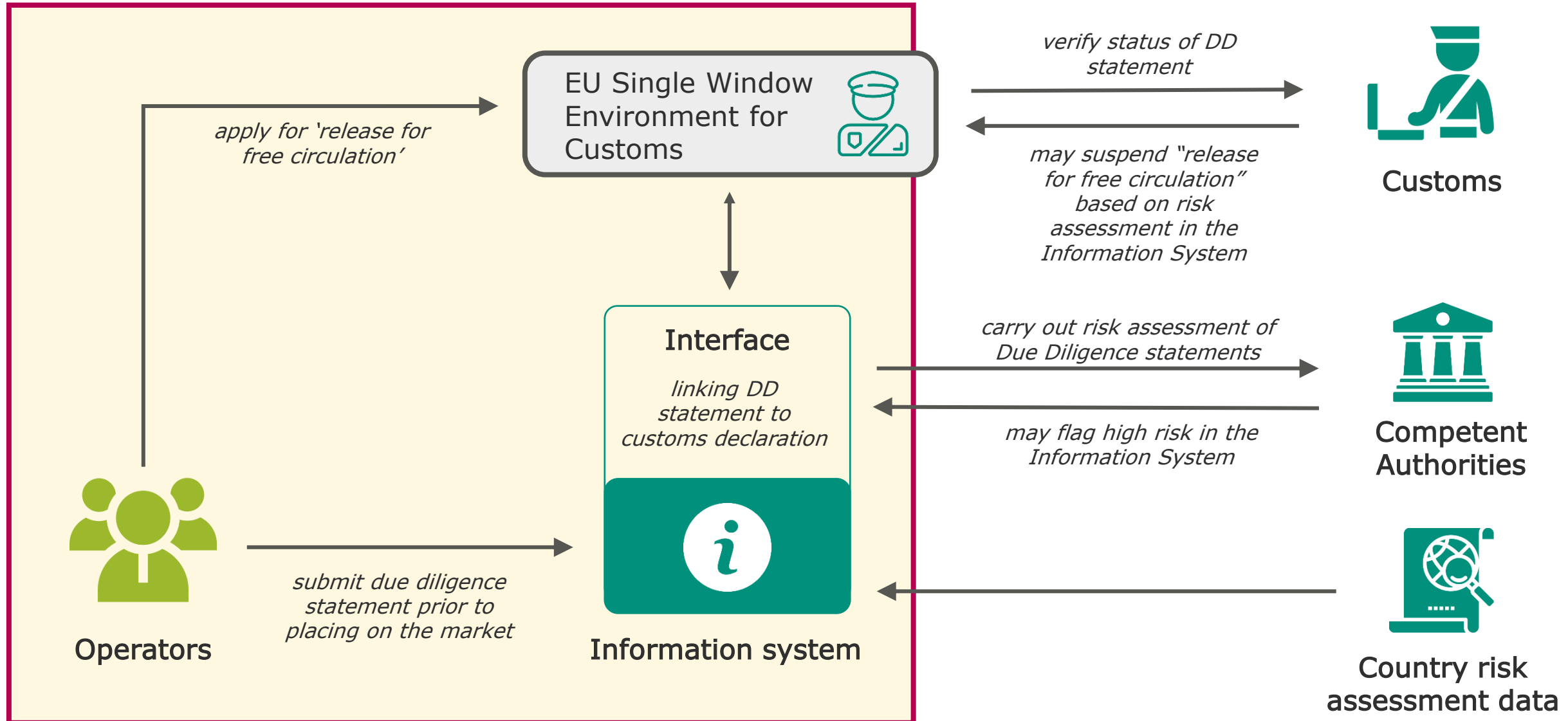
Due Diligence obligations

Obligations of Operators – Article 4

- Due Diligence, collection of information, risk assessments and risk mitigation
- A **Due Diligence Statement** must be made available to competent authorities via online information system prior to placing on the market
- **No import or export** without due diligence statement submitted on the **Information System** and indicating compliance



Information System



Due diligence Obligations – Article 8

The Regulation includes due diligence requirements, comparable to those found in the EUTR:

**Collection of
information**

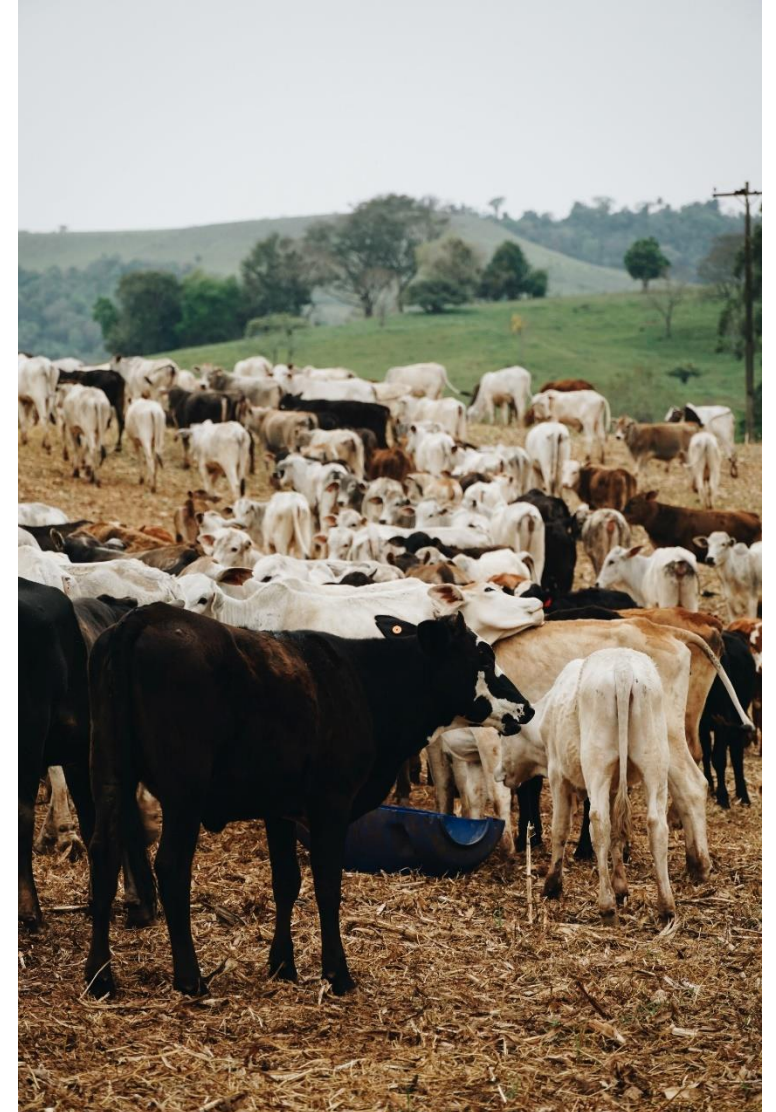
(note collection
and not only
“access to”)

**Risk
assessment**

**Risk
mitigation**

- Description of product (trade name/scientific name)
- Quantity
- Country of production
- **Geo-localization and time period of production**
- Supplier name
- Buyer name
- Verifiable evidence that product is “deforestation free”
- Verifiable evidence that product is produced in compliance with relevant legislation

- **Operators** shall verify and analyse information collected by themselves or authorised representative.
- **Risk assessments** shall be conducted and documented, reviewed at least on an annual basis and made available to the competent authorities upon request.



Risk assessment - Article 10

the assignment of risk to the relevant country by the European Commission (Article 27)

the presence of forests in the country and area of production of the relevant commodity or product

concerns in relation to the country of production and origin, such as level of corruption, prevalence of document and data falsification, lack of law enforcement, armed conflict or presence of sanctions imposed by the United Nations Security Council or the Council of the European Union

prevalence of deforestation or forest degradation

the complexity of the relevant supply chain

the conclusions of the relevant Commission expert group meetings

substantiated concerns (article 29)

complementary information on compliance, including certification or third-party-verified schemes

Country risk assessments by the EC - Article 27

The EC will develop a central database of risk assessments:

- **Three-tier system** for the **assessment** of countries - Low, standard or high risk
- Unless identified as **low or high**, a country will be assigned “**standard**” risk
- **EC will publish list** of low and high-risk countries, based on delegated regulations (to be developed)
- The results will be available through the EC “Information System”

High

Standard

Low

Simplified Due Diligence – Article 12

For commodities or products from a country that has been assessed as low risk by the EC, Operators are allowed to conduct “**simplified due diligence**”, which includes:

1. collect information, documents and data demonstrating that the relevant commodities and products are deforestation free and legal
2. They are dispensed from carrying out the second and third step of the due diligence process, i.e., the risk assessment and risk mitigation

Risk mitigation – Article 10

- **Operators** shall have in place adequate and proportionate policies, controls and procedures to mitigate and manage risks.
- The **operator** shall adopt **risk mitigation procedures** and measures that are adequate to reach no or negligible risk **PRIOR** to placing on the market or exporting.



Risk mitigation – the role of certification

- Certification or other third party verified schemes **could be used** in the risk assessment / mitigation procedure, however, they should **not substitute the operator's responsibility** as regards due diligence
- Wood products with a valid **FLEGT license** shall be deemed to be in compliance with the **legality requirement** only.



Record keeping and systems – Article 11

Operators shall:

- **establish and keep up to date** a due diligence system to ensure that they can guarantee compliance with the requirements
- The **due diligence system** shall be reviewed at least once a year.
- **Publicly report** on their due diligence system



An overhead view of a business meeting around a light-colored wooden table. Three people in business attire are visible. One person on the left is pointing at a document. Another person on the right is holding a pen over a document. A third person at the bottom is typing on a laptop. On the table are a cup of coffee, a pen, and a tablet displaying a bar chart.

Controls and checks

Member states: Competent authorities

- ✓ Responsible for the actual **implementation of the rules by operators...**
...through **checks conducted on Operators:**
 - using a risk-based approach based on the **Information System**
 - on the basis of substantiated concerns provided by third parties
- ✓ Coordinate with the EC on development of risk criteria for selection of Operators to check
- ✓ Report to the Public and EC once per year on activities and plans for checks



- Member States shall lay down rules on penalties
- The penalties provided for shall be effective, proportionate and dissuasive
- Penalties shall include as a minimum:

Fines

- fines proportionate to the environmental damage and the value of the relevant products or commodities concerned

Confiscation of products

- confiscation of the relevant commodities and products concerned from the operator and/or trader;

Confiscation of revenues

- confiscation of revenues gained by the operator and/or trader from a transaction with the relevant commodities and products concerned

Exclusion from public procurement.

- temporary exclusion from public procurement processes.

Corrective actions

- CAs can require Operators to take appropriate and proportionate corrective action to rectify non-compliances.
- May include at least one or more of the following:

Rectification

- rectifying any formal non-compliance

Stopping the product

- preventing the relevant commodity or product from being placed on, or exported from, the EU market

Withdrawing / Recalling

- withdrawing or recalling the relevant commodity or product

Destruction of product

- destroying the relevant commodity or product - or donating it to charitable or public interest purposes



Thank you...

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