



New EU Deforestation Regulation – Navigating the requirements

Webinar: 18th January 2023



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

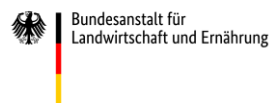
	Topic
11:50 – 12:00	Arrival of participants in Teams Webinar
12:00 – 12:05	Welcome, intro to speakers and practicalities
12:05 – 12:45	<ul style="list-style-type: none">• Introduction to the approved regulation• Main Actors• Obligations on Companies & Due Diligence• Checks and enforcement
12:45 – 13:15	Questions & Answers

LIFE Legal Wood

EUTR knowledge, tools and training

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

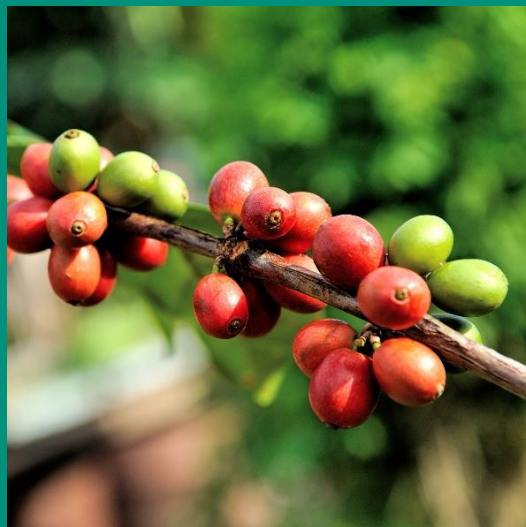
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About Preferred by Nature

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driven,
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full-time staff
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Working on solutions
for managing lands
and businesses
more sustainably
for **25** years



Work in
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across 10
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David Hadley

**Director,
Regulatory
Programme**



Christian Sloth

**Director,
Sustainability
Programme**

Support to questions...

Sandra Razanamandranto
Market Development Director
& lead for Cocoa



Ondřej Tarabus
Climate Programme
Director & Biomaterials lead



Christian Shriver
Regional Director SE Asia &
lead for Palm Oil



Jennifer Mleczo
Coordinator Agriculture
Programme & lead for Cattle



Chloé Viala
Traceability Specialist



Sebastián Arrieta Bolaños
Agricultural Specialist & lead
for Coffee



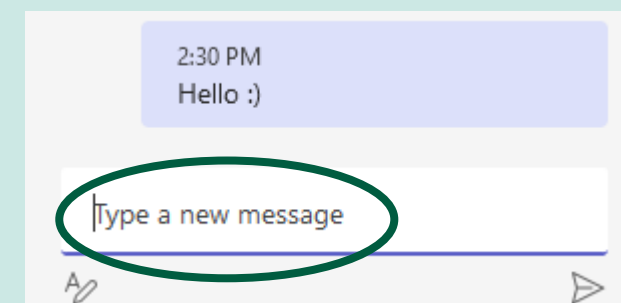
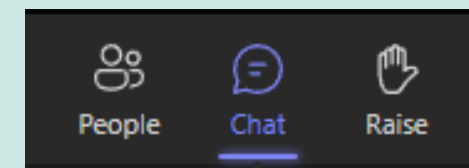
- The recorded presentation and slides will be made available after the webinar
- The Webinar will be recorded – we will only publish recordings of the presentations.
- Questions or comments made by participants during the workshop will not be made publicly available.
- In case of technical problems or questions regarding Teams Webinar please contact Julie Thirsgaard Hansen:
jhansen@preferredbynature.org



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



How to ask questions



Use the 'chat' function to write your question.

Stay updated: other webinars...



25 January 2023

Nouveau règlement de l'ue sur la
déforestation (EUDR):
naviguer dans les exigences



26 January 2023

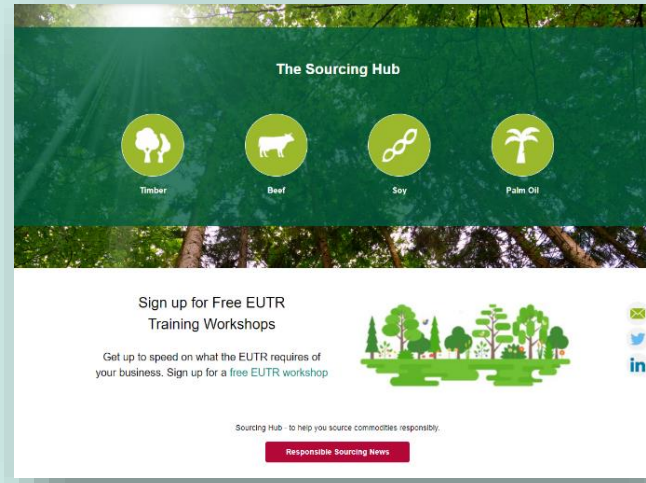
Nuevo reglamento sobre la
deforestación de la EU
(EUDR):
navegando a través de los
requisitos

www.preferredbynature.org/EUDR



www.EUTR.info

- Visit the Project website for:
- access to tools and useful information
 - info on upcoming training workshops
 - the latest news and guidance on EUTR & EUDR



www.preferredbynature.org/sourcinghub

- Visit the Sourcing Hub to:
- Access commodity risk assessments.
 - Risk mitigation toolkits



www.preferredbynature.org/sourcinghub/info/sourcing-hub-updates

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LIFE Legal Wood



Introduction to the regulation

Objectives of the regulation

Places requirements on EU industries 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.”



Timelines for implementation


European Commission, Council, and European Parliament agree on one single version, out of three.

Businesses will have to comply with all requirements of the Regulation from the entry into force.



This presentation is based on....

- Original three draft texts of the European Commission, Council, and European Parliament
- Press-releases by the above EU institutions since 6th December 2022
- [Document ST 16298 2022 INIT](#): Version with final compromise text endorsed by the Permanent Representatives Committee meeting of 21/12/22, sent by the Council to the European Parliament for final review and possible adoption.



Council of the
European Union

Brussels, 21 December 2022
(OR. en)

16298/22

Interinstitutional File:
2021/0366(COD)

ENV 1340
CLIMA 693
FORETS 142
AGRI 734
RELEX 1763
CODEC 2098

OUTCOME OF PROCEEDINGS

From: General Secretariat of the Council
To: Delegations

No. prev. doc.: 16054/1/22 REV 1
No. Cion doc.: 14151/21 + ADD 1-7 - COM(2021) 706 final

Subject: Proposal for a Regulation of the European Parliament and of the Council on the making available on the Union market as well as export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010

- Letter to the Chair of the European Parliament Committee on the Environment, Public Health and Food Safety (ENVI)

Following the Permanent Representatives Committee meeting of 21 December 2022 which endorsed the final compromise text with a view to agreement, delegations are informed that the Presidency sent the attached letter, together with its Annex, to the Chair of the European Parliament Committee on the Environment, Public Health and Food Safety (ENVI).

16298/22 TREE.1.A CSM/dk 1
EN


What will happen to the EU Timber Regulation?



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

EUTR **continues to apply** for 3 years to wood-products where:

- trees were harvested **before** the EUDR came into force
- the wood-product is placed on EU market **on or after** the EUDR becomes applicable to businesses.



Regulation (EU) 995/2010 is repealed

EUDR: applicable for businesses

EUDR: comes into force



Key components

1

Prohibition
import and
export of
non-
complying
products

2

Due diligence
obligation

3

Obligations on
Member States
to ensure
implementation

4

Implementation
of Information
System

Commodity scope

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



Wood



Soy



Rubber



Beef



Coffee



Palm oil



Cocoa



Derived products such as leather, chocolate or furniture, printed paper, charcoal...

Detailed scope based on the EU "Combined Nomenclature" (custom codes) in Annex to regulation

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
- Various Chemical derivatives



Scope of products expands beyond the EU Timber Regulation

Products containing paper, cardboard, wood fibre or wood + Printed materials, charcoal products, tools, wood wool/flour, coffins, all types of seats...



- Natural rubber
- Compounded rubber, Unvulcanised & vulcanised rubber
- Pneumatic tyres and inner tubes
- Articles of apparel and accessories (including gloves)
- Hard rubber in all forms



Actors

Main actors of the regulation...



The European
Commission



Member States
(Competent Authorities)



Custom
Authorities



Industry (operators and
traders)

Due diligence
obligation

2

Prohibition to place on
the EU market or
export non-complying
products

1

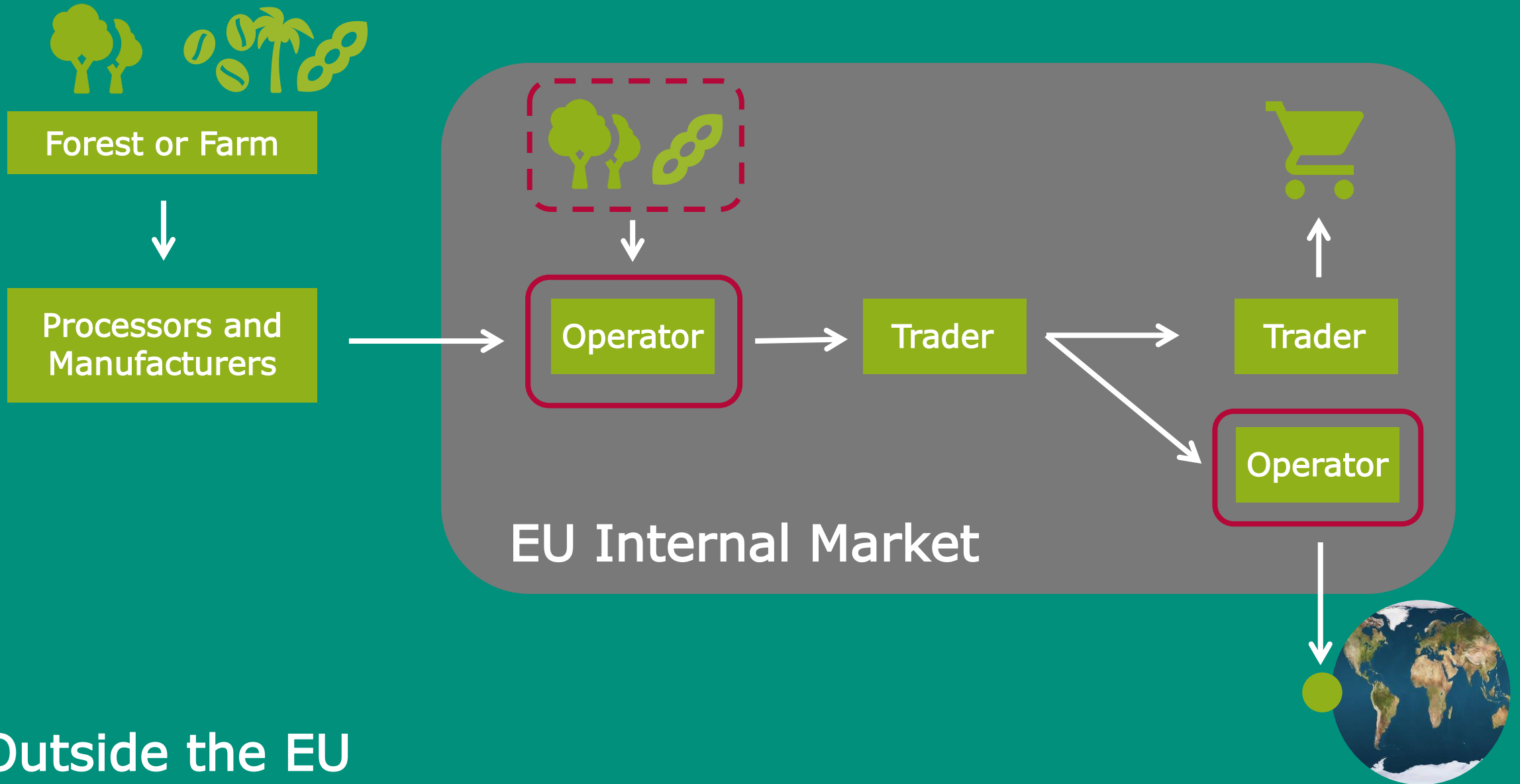


‘Operator’ means any entity which, in the course of a commercial activity, **places relevant commodities and products on the EU market** OR **exports** them from the EU market

- **“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;



Operators & Traders



Operators or Traders may choose to give mandate to a **"Authorised Representative"** to make available the due diligence statement on their behalf.

Notes:

- The Operator or Trader retain the responsibility for the compliance of the relevant commodity
- The Authorised Representative shall, upon request, provide a copy of the mandate to the competent authorities.



Obligations on Operators & Traders



Obligations: Operators (Article 4)

- 1** Prohibition to place on the EU market (or export these) if they do not meet the following:
 - they are **deforestation-free**;
 - they have been **produced in accordance with the relevant legislation of the country of production**
 - they are covered by a **due diligence statement**
- 2** Exercise **due diligence** through a system and procedures

Obligations: Traders (Article 4a)

“Traders” which are SMEs

- 1** Must collect and maintain:
 - Information on buyers and suppliers
 - Reference numbers of the due diligence statements associated with products
- 2** Keep information for at least 5 years
- 3** Provide information to competent authorities

“Traders” which are not SMEs

Must meet the obligations of Operators

‘SMEs’ mean micro, small and medium-sized enterprises as defined in [Directive 2013/34/EU33](#)

What is deforestation free?

'**deforestation-free**' means that the relevant products contain, have been **fed with** or have been **made using** commodities :

(a) that were produced on land that has not been subject to deforestation after **December 31, 2020**

and

(b) for **wood-products**, that forest has been harvested without inducing **forest degradation** after **December 31, 2020**

Definition of “forest degradation”

Structural changes to **forest** cover, taking the form of the conversion of:

1. **Primary forests** or **naturally regenerating forests** into:
 - **plantation forests** or into
 - **other wooded land**
2. Primary forests into **planted forests**

Obligations on Operators – legal requirements

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



land use rights



human rights protected under international law



environmental protection



third parties' rights



forest-related regulations



principle of FPIC, including as per UNDRIP



labour rights



tax, anti-corruption, relevant trade and customs regulations

Different requirements for wood & other commodities

Observation: additional requirement for wood compared to other commodities



All **products/commodities within 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.

A photograph of a dense forest with many tall, thin trees. The trees have light-colored, vertically textured bark. Some trees have green leaves at the top. The ground is covered in brown leaves and some green plants. A dark green horizontal bar is overlaid on the bottom half of the image, containing white text.

Due Diligence requirements

Due diligence Obligations (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 or exporting
- **No import or export** without due diligence statement submitted on the Information System and indicating compliance



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

Collection
of
information

Risk
assessment

Risk
mitigation

Information requirements (Article 9)

- Description of product (trade name/scientific name)
- Quantity
- Country of production



- **Geolocation** of all **plots of land** where the relevant commodities were produced, as well as **date or time range of production**
- Supplier name
- Buyer name
- Verifiable evidence that product is “deforestation free”
- Verifiable evidence that product is produced in compliance with relevant legislation

Risk assessment (Article 10)

Operators shall verify and analyse information collected for the purposes of evaluating risk.

Risk assessments shall be:

- documented, with justified risk conclusions
- reviewed at least on an annual basis and made available to the competent authorities upon request.



Risk assessment (Article 10)

Risk assessments shall take special account of the following risk assessment criteria:

- assignment of risk to country by the European Commission.
- the presence of forests and production of the relevant product.
- concerns in relation to corruption, document and data falsification,
- lack of law enforcement, violations of international human rights, armed conflict or UN or EU-imposed sanctions.
- prevalence of deforestation or forest degradation.
- complexity of the relevant supply chain.
- substantiated concerns (article 29)

Risk assessment (Article 10)

- presence of **indigenous peoples**, in the country or region of production of the relevant commodity;
 - the **consultation and cooperation in good faith** with **indigenous peoples** in the country or region of production;
 - the existence of **duly motivated claims** by indigenous peoples regarding the **use or ownership of the area** used for the purpose of producing the relevant commodity
- any relevant information that would point to a risk that the products may not meet the requirements of this Regulation
- complementary information on compliance, including certification or third-party-verified schemes

Country benchmarks by the EC (Article 27)

The EC will develop a central database of risk assessments:

- 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"
- **Three-tier system** for the assessment of countries - Low, standard or high risk*

High

Standard

Low

* *unless identified as low or high, a country will be assigned "standard" risk*

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**”:

- Must still **collect information** demonstrating that the relevant commodities and products are deforestation free and legal
- Can **avoid** carrying out the second and third step of the due diligence process, (*i.e.* **risk assessment and risk mitigation**)

Risk mitigation (Article 10a)

Operators shall:

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



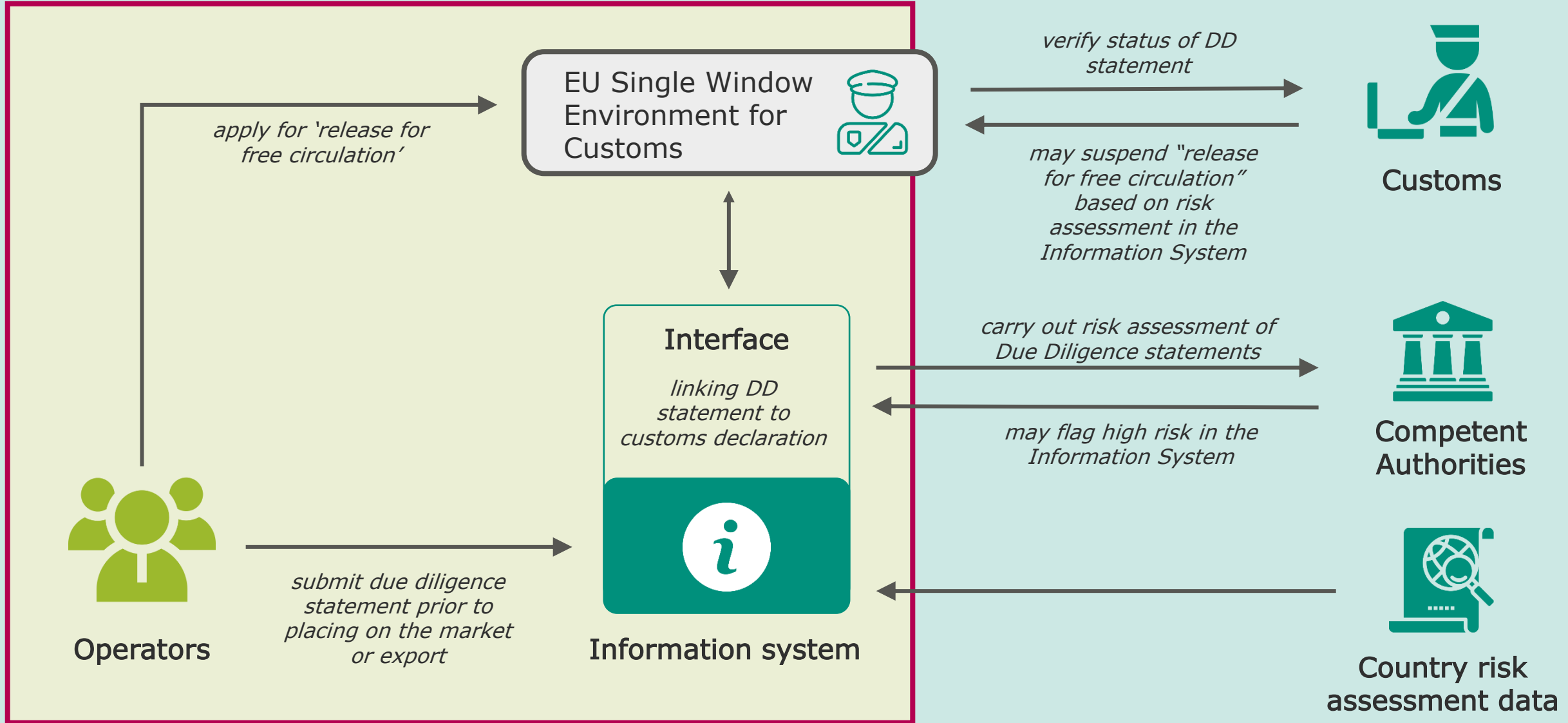
Role of certification schemes (Article 10)

For the purposes of risk assessment, operators shall take into account:

- (j) ...information supplied by **certification or other third-party-verified schemes...**

Recital 35: In order to recognise good practice, certification or other third party verified schemes could be used in the risk assessment procedure, however, **they should not substitute the operator's responsibility as regards due diligence.**

Information System (Articles 26, 31)



Operators shall:

- **establish and keep up to date a due diligence system (DDS)** to ensure that they can guarantee compliance with the requirements
- **review** their DDS at least once a year



Public reporting (Article 11)

Operators which are **not SMEs, microenterprises or natural persons** shall:

- on an annual basis
- **publicly report** as widely as possible, including on the internet,
- on their due diligence system



Operators falling also within the scope of other EU legislative instruments may fulfil their reporting obligations under this paragraph by **including the required information when reporting in the context of other EU legislative instruments.**



Controls and Penalties

Competent Authorities (Article 14)

- ✓ 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

- ✓ **Report to the public and EC** once per year on activities and plans for checks

Checks on Operators (Article 14)

Annual checks to cover different proportions, depending on origin of commodities:

- **Standard risk:** at least 5% of operators placing on, or exporting from EU market
- **High risk:** at least 9% of operators using high risk commodities, 9% of the quantity of each of the relevant products.
- **Low risk:** at least 1% of operators



CAs may charge Operators for costs incurred as a result of their activities with respect to instances of non-compliance.

Corrective actions (Article 22)

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:

Rectifying

- rectifying any formal non-compliance

Stopping the product

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

Withdrawing / Recalling

- withdrawing or recalling the relevant product immediately

Donating

- donating the relevant product to charitable or public interest purposes

Dispose of

- disposing of the product in line with the EU rules on waste management

Penalties (Article 23)

Member States determine penalties which shall be **effective, proportionate and dissuasive** and include as a **minimum**:

Fines

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

Confiscation

- confiscation of the relevant 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 products concerned

Exclusion from public procurement.

- temporary exclusion from public procurement processes (up to 12 months)

Prohibition to trade

- temporary prohibition to placing on EU market or exporting products

Prohibition to Simplified due diligence

- prohibition from the use of the simplified due diligence procedure (Article 12)

Questions and discussion

