

## Workshop

### Implementing the European Union Deforestation Regulation (EUDR)

## Summary

**June 6-7, 2024**

Sala degli Stemma, Villa Salviati

**European University Institute (EUI), Florence, Italy**

**Co-organised with the Amsterdam Centre for European Law and Governance**

Convenors:

Joanne Scott (EUI); Maria Weimer (University of Amsterdam/ACELG); Jonathan Zeitlin (University of Amsterdam/EUI/Scuola Normale Superiore)

Summary by:

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The workshop "Implementing the European Union Deforestation Regulation" brought together academic researchers, policy practitioners, and civil society to discuss the latest developments in the implementation of the EUDR, the Regulation's potential impacts on different stakeholders, and its reception by producer countries. In six different panels over two days, the workshop provided a comprehensive discussion on challenges, opportunities, and open questions around the EUDR and its implementation. The workshop covered four broad topics, according to which this summary is structured: the state of implementation, the EUDR in the global economic context, perspectives on the EUDR from different stakeholders, and the legitimacy and effectiveness of the EUDR.

### **Day 1: The State of Implementation and Its Challenges**

#### **Panel 1: EU Perspectives**

**Speakers:** **Emanuele Pitto**, International Relations Officer - Unit on Global Resources, Deforestation, Water International, DG Environment, European Commission; **Simon Gmeiner**, Policy Officer, Unit on Sustainable Agri-Food Systems and Fisheries, DG International Partnerships (INTPA), European Commission; **Greet Janssens-Maenhout**, Head of Forest and Bioeconomy Unit, Joint Research Centre, European Commission.

This opening panel provided an update on how the European Commission is preparing for implementation of the EUDR and outlined the first visible effects.

Currently the focus of the Commission lies on the uniform implementation of the regulation across all 27 member states, as well as working together with stakeholders from third countries and the private sector, both of which will be crucial for the effectiveness of the EUDR. Other steps to prepare for implementation include the development of the information system to facilitate the submission and processing of the required due diligence statements. Despite rumours that the country-risk benchmarking process would be postponed, the Commission is currently working on the methodology and expects to provide initial country risk ratings before the end of the year.

The **EU Forest Observatory** has produced a publicly available global forest cover map for 2020, which serves as the cut-off date for the EUDR. This map may be used as a reference by member states for forest monitoring. While the map and other monitoring tools provided by the observatory are valuable resources, their use is not mandatory, and operators have the flexibility to use their own data for determining and screening changes in forest cover.

Additionally, the roll-out of the **Team Europe Initiative (TEI)** has begun. The TEI aims to support producer countries in adapting to the EUDR and mainstreaming existing initiatives related to sustainability and deforestation for relevant crops. Germany, the Netherlands, France, and the EU are the main donors for the TEI, with a contribution of 70 million EUR. The TEI addresses the requirements under Article 30 EUDR, focusing on the inclusion of smallholders and balancing social and economic interests. The Commission foresees more multi-stakeholder dialogues, similar to the past Cocoa dialogues between Ghana, Côte d'Ivoire, and the EU. Direct implementation measures under the TEI include the SAFE programme, which focuses on long-term support measures for deforestation-free value chains in Brazil, Ecuador, India, Zambia, the DRC, and Vietnam; and a technical facility providing demand-driven support to EU Delegations and partner countries, hosted by the European Forestry Institute (EFI).

First effects, visible even before the EUDR has entered into application, include the development of national traceability systems and the setup of national inventories of geolocations for farms and farmers in several countries.

Discussions within the panel centred on the unilateral nature of the EUDR, a framing that was rejected by the EU Commission. The EU Commission understands it as an instrument responding to the requests of European consumers, resulting from a long consultation process, stakeholder involvement, and discussions on the deforestation platform.

## **Panel 2: Shifting market value chains and smallholder inclusion: Challenges for EUDR implementation**

**Speakers: Pablo Pacheco**, Global Forests Lead Scientist, WWF, Washington, D.C.; **Philip Schleifer**, Associate Professor of Transnational Governance, University of Amsterdam; **Federico Cammelli**, Postdoctoral Researcher, Environmental Policy Lab, ETH Zürich.

This panel shifted the debate from policy design and technical questions about the EUDR to consider the global and sectoral economic context in which it applies. Commodity-driven deforestation is increasingly linked to trade within the Global South. An element often overlooked in this development of market shifts is the domestic consumption of forest risk commodities in producer countries. In this market environment, the bifurcation of supply chains is to be expected, raising concerns about the problem-solving effectiveness of the EUDR on overall deforestation. It can be expected that the EUDR will attract the most sustainable goods to the European market, ensuring that EU demand no longer contributes to deforestation. However, if the only result is that the EU market absorbs most of the sustainably produced commodities, leaving the rest for other markets, this poses serious doubts around the EUDR's additionality. Nevertheless, it is expected that the EUDR will generally lead to greater market transparency and traceability of supply chains.

Learning from voluntary Zero-Deforestation Commitments by corporations highlight the need to focus more on forest degradation. Emissions from degradation are three times those of deforestation. Drivers of forest degradation, such as fragmentation, fires, droughts, hunting, and logging, can all be linked to commodity production. Hence, it was suggested that the EUDR's definition of forest degradation should be widened to incorporate these degradation drivers, especially visible in the Amazon.

## **Business, Civil Society, and Producer Country Perspectives on the EUDR (Panels 3 & 4)**

**Speakers: Almut Schilling-Vacaflor**, Professor of International Business, Society and Sustainability, FAU Erlangen-Nürnberg; **Stefano Savi**, Director, Global Platform for Sustainable Natural Rubber (GSNR); **Belinda Christine Borck**, Global Public Policy Coordinator, Tony's Chocolonely, Amsterdam; **Julia Christian**, Cocoa and Forests Campaigner, FERN; **Obed Osuwu-Addai**, Co-Founder and Managing Campaigner at EcoCare and member of Forest Watch Ghana; **Mardi Minangsari**, President of Kaoem Telepak (Indonesian forestry NGO).

The next two panels focused on different perspectives towards the EUDR, with voices from the business sector, civil society, and producer countries. Overarching concerns expressed included the lack of support for smallholders, the costs and complexity of setting up due diligence and traceability systems, and the missing link to other human rights concerns like the protection of indigenous peoples.

On the **business side**, Tony's Chocolonely, an advocate for the EUDR to create a level playing field, provided insights into their activities to combat deforestation and comply with the EUDR. They highlighted three forms of traceability: operational, environmental, and social. Generally, within the business sector, there is a shift from merely evaluating risks posed to businesses to also considering the risks businesses pose to the environment. However, there is a danger that traders and operators may only symbolically comply with the EUDR, which may hinder effective outcomes reaching the proclaimed goals. To address these issues, it has been suggested to upscale European rules to other consumer markets, challenge companies to harmonize rules at the company level, and address the unsustainable advancement of supply chains by supporting land uses that could hedge against deforestation-based expansion.

In the **cocoa and rubber industries**, the EUDR showcases how far developments in the sector have come: traceability was once seen as impossible but is now an industry standard. Opportunities the EUDR may provide in these sectors are the formalisation of land tenure, a reduction in illegal activities and better prices. At the same time, there is the danger of compliance costs being passed down to the farmers, leading to even more strain on their economic situation.

**Civil society organizations** place their focus on how the EUDR can be implemented in a socially just way. They recommend stronger partnerships with producer countries, conducting a comprehensive EUDR readiness "needs assessment" with producer country actors, and establishing an on-demand fund that can be accessed to do mapping and tracking. They also express their support for national traceability systems, considered more efficient than multiple company systems, and better at preventing leakage to less demanding markets.

**Producer countries** have varied perspectives on the EUDR. In **Ghana**, compliance is taken seriously on a national level, but from a CSO perspective, structural reforms under the EUDR are not happening as desired. There is a high risk of leakage, and a lack of accompanying measures to improve farmer livelihoods. A major concern is that smallholders may be cut-off from international value chains.

In **Indonesia**, the government generally considers that the EU did not deliver on the VPA's promises to promote licensed timber in the European market, and sees the EUDR as another form of trade barrier, negatively impacting Indonesia's main export commodities. However, within the CSO space, the EUDR is seen as an opportunity to improve forest governance and strengthen national certification schemes, such as the SVLK (timber legality assurance) and the ISPO (sustainable palm oil). Such governance improvements could improve the reputation of Indonesian forest-risk commodities and make them more internationally competitive. Concerns include the lack of CSO participation in decision-making processes, as well as the potential inadequate enforcement due to a lack of grievance mechanisms.

## Day 2 Legitimacy and Effectiveness of the EUDR

The second day of the workshop focused on questions around the legitimacy and effectiveness of the EUDR, encompassing both a normative examination of the topic and an empirical take on it, with insights from Brazil and the Colombian coffee sector.

**Speakers:** **Maria Weimer**, Associate Professor of EU Law and Regulation, University of Amsterdam, and Acting Director of the Amsterdam Centre for European Law and Governance (ACELG); **Ioanna Hadjiyianni**, Assistant Professor of Public Law, University of Cyprus; **Janina Grabs**, Associate Professor of Sustainability Research, University of Basel; **Almut Schilling-Vacaflor**, Professor of International Business, Society and Sustainability, FAU Erlangen-Nürnberg.

**Discussants:** **Jolene Lin**, Associate Professor, Faculty of Law (NUS), National University of Singapore, and Director of the Asia-Pacific Centre for Environmental Law; **Jonathan Zeitlin**, Distinguished Faculty Professor of Public Policy and Governance Emeritus, University of Amsterdam; Visiting Fellow, Robert Schuman Centre for Advanced Studies (EUI); Visiting Scholar, Scuola Normale Superiore, Faculty of Political and Social Science, Florence.

The deforestation regulation is a domestic measure that regulates conduct at least in part outside the EU's borders. In that sense it exemplifies a unilateral regulatory instrument, with the ability to extend environmental standards beyond the EU's borders. One of the central normative arguments for the EUDR is the EU's legal and moral obligation to prevent its complicity in global deforestation. By implementing stringent regulations on imports linked to deforestation, the EU aims to mitigate its indirect contribution to this environmental crisis, making sure EU supply chains are deforestation-free. At the same time, however, the EUDR seeks to reduce global deforestation and forest degradation, mitigate climate change, and preserve biodiversity. To advance these underlying goals, cited explicitly in the recitals justifying the regulation, it was argued that the EU must work together in partnership with producer country actors to tackle the root causes of deforestation and forest degradation on the ground.

The legitimacy of the EUDR can be questioned based on the principle of democratic inclusion, particularly regarding the participation and representation of affected third country stakeholders. Critics argue that the legislative process lacked sufficient inclusion of local actors from producer countries, especially smallholders, whose interests were not adequately represented. This deficit points to a significant gap in the regulation's input legitimacy, highlighting the need for greater involvement of these stakeholders in the implementation phase. Providing technical and financial support to smallholders is seen as a crucial step to address this gap.

The justice gap is another critical issue for the EUDR's legitimacy. There is a perception that the regulation imposes burdens on countries with high forest cover and ongoing development needs, potentially negatively impacting vulnerable groups, such as

smallholders and indigenous communities, whose livelihood depends on forests. . This has been framed as a form of neo-colonialism, where the EU enforces its environmental standards without fully accounting for the developmental challenges and the local socio-economic context in these countries. Addressing this justice gap requires a more nuanced approach that balances environmental goals with the developmental needs of producer countries, and supports local efforts to address socio-economic inequality and environmental degradation as two interconnected aspects of a just green transition.

Ultimately, the EUDR's legitimacy hinges on its implementation. Effective implementation involves clear procedural safeguards, transparent benchmarking, and robust accountability mechanisms to ensure compliance and to address any legitimacy deficits. The success of the EUDR will also influence its acceptance and the willingness of other countries to adopt similar measures, highlighting the interconnected nature of its legitimacy and effectiveness.