

European Commission
Directorate-General for Taxation and Customs Union - Customs (TAXUD.A)
Mr Matthias PETSCHKE
Sent to: Matthias.Petschke@ec.europa.eu
(by email only)

Brussels, 17th June 2024

Subject: Industry request for delaying the implementation of the EU Deforestation Regulation's requirements.

The undersigned organizations recognize the need to implement ambitious but efficient environment and climate policies that address the global warming and biodiversity loss crisis. Combating deforestation and forest degradation constitute an important part of the package of measures needed to achieve this.

By striving to implement climate-neutral logistics solutions, the companies we represent demonstrate their commitment to addressing the significant challenges ahead in achieving the European Green Deal's objectives.

The EU Regulation 2023/1115, further on EU Deforestation Regulation - EUDR¹ entered into force on 29 June 2023, with the main requirements applicable as from 30 December 2024. This gives operators and traders, which are not micro or small undertakings, 18 months to set up their due diligence systems for the commodities falling under EUDR scope. Despite the implied timeframe, the undersigned organizations remain concerned about the planned implementation as we see it already on a very critical path.

Assuming that the publication of the implementing act takes place in July 2024, this implies trade does not have 18 months to prepare, but less than six months to understand the procedural rules, which are critical to the submission and processing of the Due Diligence Statements. Considering that the EUDR has a global reach, with different players being subject to different and complex rules, the undersigned organisations believe that the timeframe for implementation is too short.

To increase the pressure, the new Deforestation Information System, referred to in Article 33 of the main EUDR regulation, shall only be established by 30 December 2024, precisely when the main EUDR requirements become applicable. The pilot testing that took place in December 2023 and January 2024 can be considered as a good starting exercise, but unfortunately it was not open to all impacted and interested operators and traders. Those who were left outside the pilot testing, which are not familiar with the System, cannot rely on user manuals or any other relevant learning material because these are simply not yet available. Even if these were to be published during the summer, the 18-month window referred to above is in practical terms not truly beneficial for a large part of trade.

¹ Regulation (EU) 2023/1115 of the European Parliament and of the Council of 31 May 2023 on the making available on the Union market and the export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010 (Text with EEA relevance)

Furthermore, the undersigned organizations gained tremendous experience and valuable lessons from the implementation of the recent Carbon Border Adjusted Mechanism transitional period. The initial issues around the availability and the functioning of the CBAM Portal together with the issues related to the readiness of Member States CBAM competent authorities as well as the different and in some Member States lengthy and complex registration process to obtain access credentials to such Portal, can be used as evidence. The undersigned organizations can also conclude that the publication of the learning material, as well as the series of webinars organized by the Commission before the 1st of October 2023, were simply not enough and/or were not provided in a timely manner for a global reach. Economic operators were forced to become skilled users of the CBAM Portal only during the actual live environment, causing unnecessary non-technical errors during the creation of the CBAM reports that could have been mitigated. This of course required follow-up and the allocation of additional support from national CBAM service desks, which in many instances were already overwhelmed and saturated by recording the technical issues around the Portal. All things considered, the level of uncertainty CBAM declarants had to experience and the spontaneous extension of the legal deadline to submit the first CBAM report clearly suggests that any IT system/portal being introduced requires a 'default' time and deployment window for trade to work with and truly prepare, pending its implementation.

While the CBAM reporting is retrospective and does not impact actual cargo flows, EUDR goods will require physical clearance upon arrival. This means that any delay in registration, error in the IT systems, or any lack of clarity in the implementation can and will result in immediate blockages. Due to the scope of the regulation, this can bring the entire European supply chain to a standstill. The effective and efficient implementation and enforcement of the EUDR are essential to achieving its goals. However, in the absence of a due diligence reference number provided by the obligation holder, logistics service providers would have to treat all goods falling under Annex I of EUDR regulation as prohibited. In practice, this would entail the return to origin of a high volume of shipments containing EUDR goods, that may be deforestation-free or may even contain other non-EUDR goods. Returning shipments is counterproductive to the aim of reducing the environmental impact of deforestation.

As an additional point, while each country/region is entitled to drive and implement their own policies, when it comes to addressing global issues, one could hope for the major economies to seek some level of alignment, to the extent possible. However, the undersigned organizations have observed that this is not entirely the case when it comes to addressing global deforestation. Businesses with bases in both the EU and UK will find themselves having to satisfy two quite different sets of obligations. The UK government has confirmed the full list of commodities, which is different from the EU. A global annual turnover threshold at £50m is being set up to ensure that only larger businesses who can most effectively influence supply chains are in scope of the regulation. In addition, businesses that are using 500 tonnes or less of each commodity per annum can apply for an exemption from the obligations. We also understand that there will also be a grace period for economic operators (whether directly in-scope or as suppliers or service providers to in-scope operators) to prepare before the beginning of the first reporting period.

Drawing a conclusion to the challenges and points raised above, the undersigned organizations urge the EU institutions for the postponement of the date of application of Article 3 as provided by Article 38(2) of the Regulation 2023/1115, until the full availability and proper functioning, training, testing of the Deforestation Information System can be guaranteed for everyone, and sufficient reasonable time is given to traders and operators to start populating the collected information about their products in such Portal.

The undersigned organisations would like to thank the European Institutions for its attention and for the opportunity granted to present its position. With EUDR under the magnifying glass, EU legislators

should make an exemplary effort to listen to industry stakeholders concerns and urgently engage bilaterally in Brussels. The undersigned organisations remain available should there be questions or requests for clarifications.

For further information, please contact:

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