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EU Regulation on Deforestation-free products

**A change making 2025:
One more year to get ready for EUDR Implementation
What should be done? Next steps & action for all**

Expert Talk, organized by the Business Support Facility for Resilient Agricultural Value Chains (ABF and MOVE/ComCashew) – 14th Januar 2025





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Traduction en Français

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Noëlie Svava, GIZ -Advisor from the “Sustainable Agricultural Supply Chains Initiative” (SASI)



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Indra Van Gisbergen, Forest Governance Campaigner,
Forests and the European Union Resource Network (fern)



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Q&A



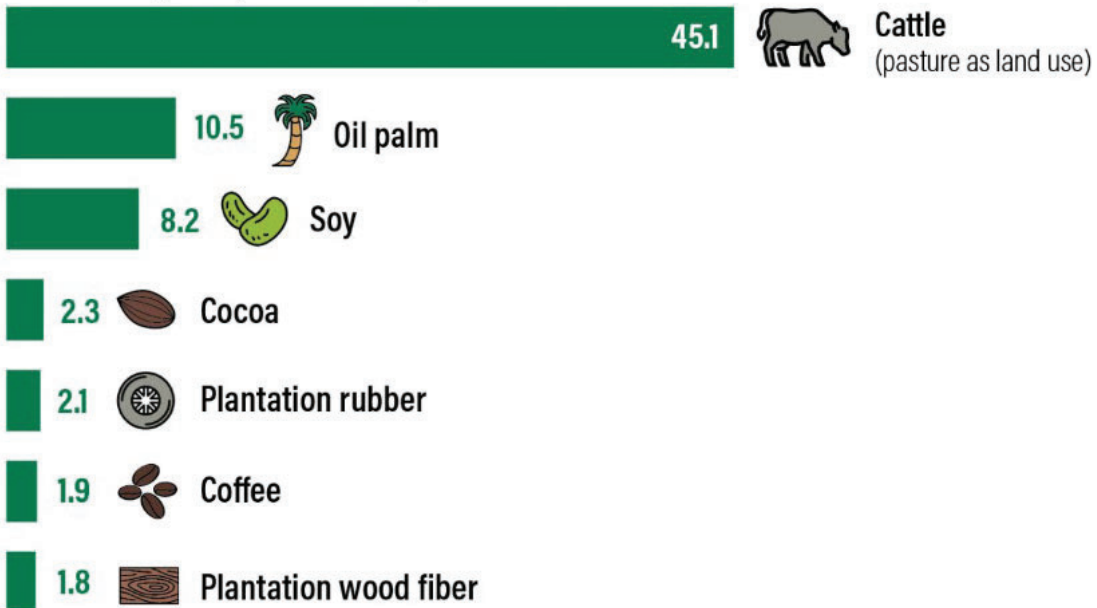


Short background on commodity-driven deforestation & EU market



Total forest replacement by analyzed commodities (2001-15)

Deforestation (2001-15, million hectares)



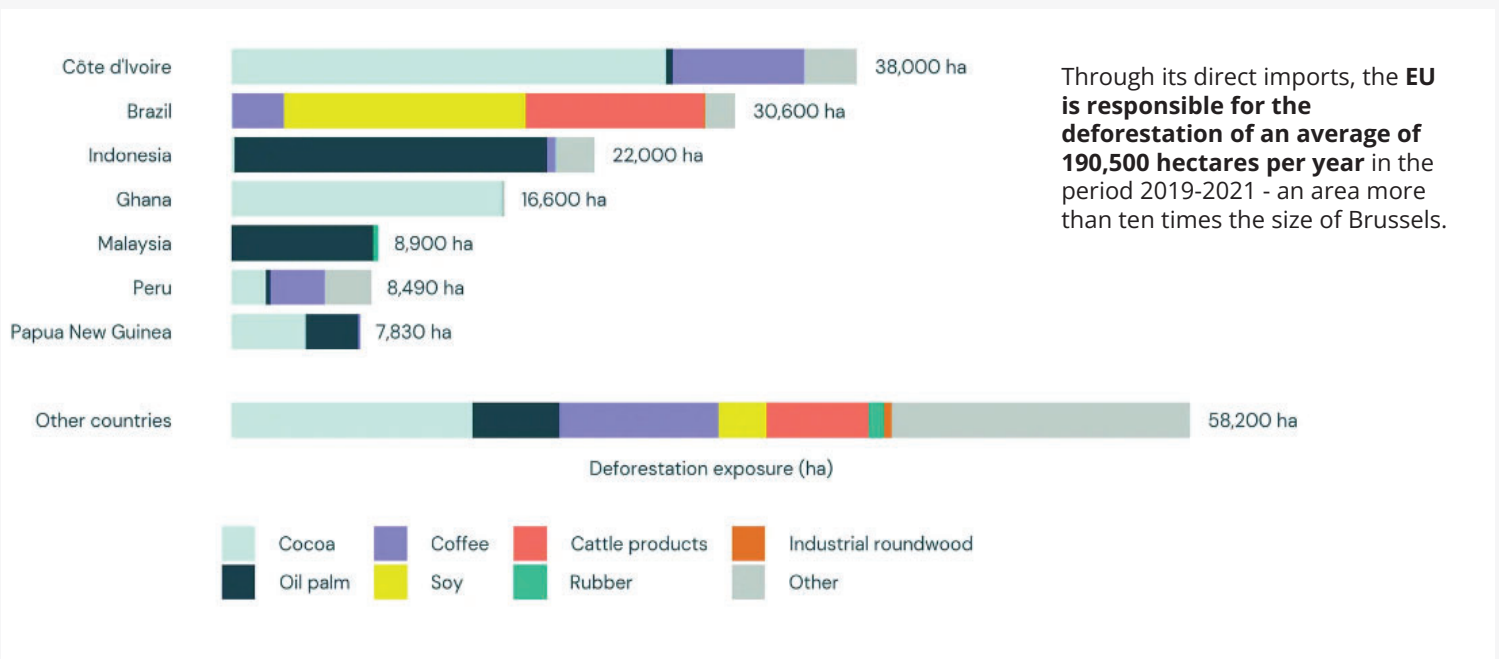
Source: [World Resources Institute](#)
Global Forest Review
21.02.09



WORLD RESOURCES INSTITUTE



Deforestation and the role of EU



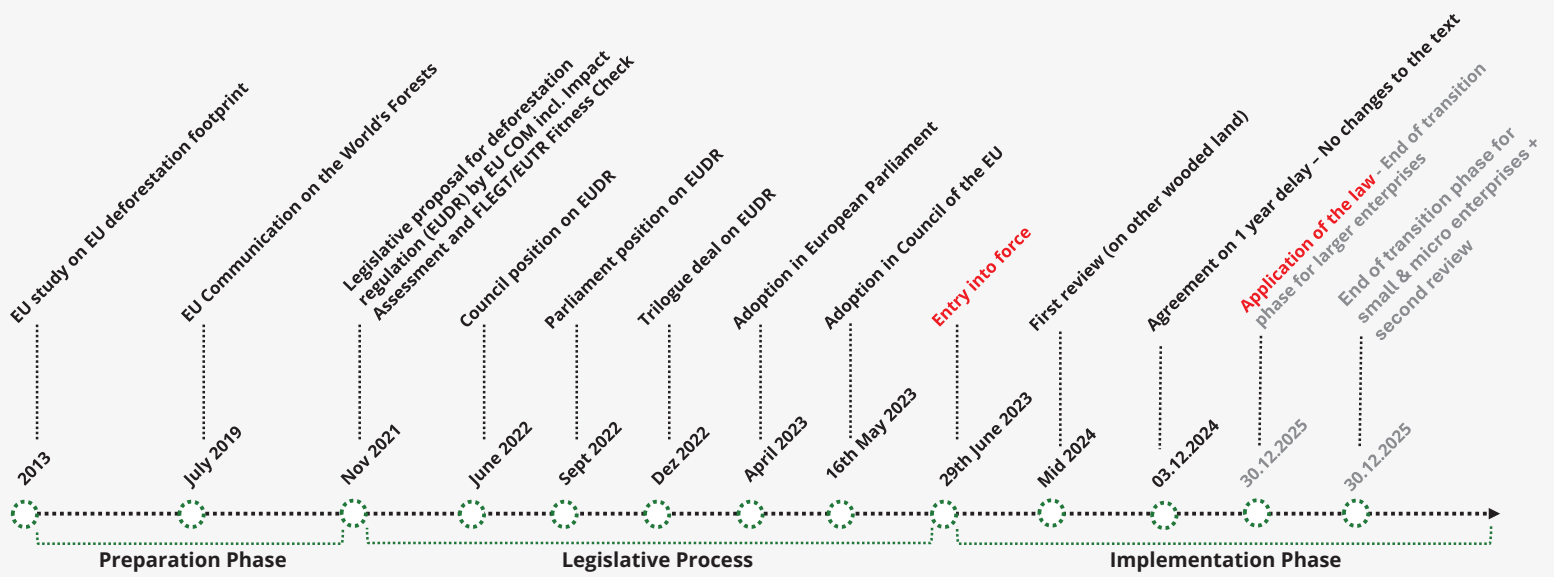
Source: TRASE (2024)

EU Regulation on Deforestation-Free Products (EUDR)

Disclaimer: This presentation contains no official opinion or assessment of the regulation, nor does it reflect the views of the European Union or the Federal Government of Germany. It is compiled based on an assessment by GIZ/INA to facilitate discussion and shall not be used as legal advice on the regulation.



Timeline for EUDR



Objectives and scope



Objectives



- Minimizing the EU's contribution to worldwide **deforestation and degradation**
- Reducing the EU's contribution to **greenhouse gas emissions** and global **biodiversity loss**

Relevant commodities



Beef and leather, cocoa, coffee, natural rubber, palm oil, soy and wood and certain derived products (see Annex I)

Scope



Applies to all products

- Placed on the EU-market = **imported or produced in the EU** and then traded on the EU internal market
- **Exported from the EU-market**

Conditions for placing on the market and export

When relevant commodities and products are placed on the market or exported, they must be...

..deforestation-free,

No deforestation: After 31st Dec 2020, no conversion of forest according to FAO definition into agricultural land; Palm oil & rubber plantations + **agroforestry** = agricultural land → no conversion of forest into palm oil, rubber or agroforestry.
No degradation: After 31st Dec 2020, no conversion of primary forest or naturally regenerating forest into plantation forest or “other wooded land” and no conversion of primary forest into planted forest.

..produced in accordance with relevant legislation of the country of production,

Laws applicable in the country of production concerning the legal status of the area of production in terms of:

- land use rights
- environmental protection
- Forest-relevant regulations incl. forest management & biodiversity conservation, if directly related to wood harvesting
- Third parties' rights
- Labour rights
- human rights protected by int. law
- FPIC as a principle
- Tax, anti-corruption, trade and customs regulations

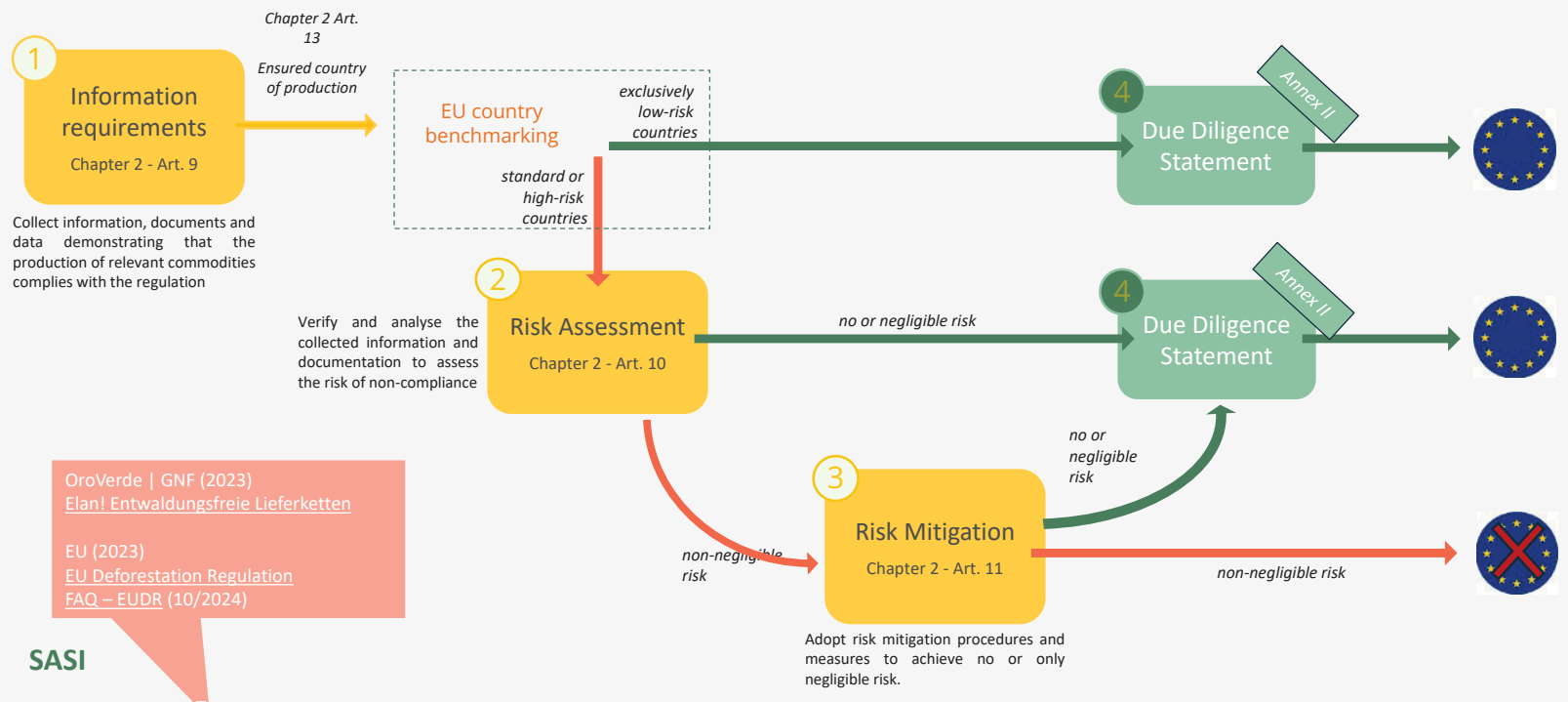
..covered by a due diligence statement

Must be **submitted to customs before import**; contains geolocation of the plot of production

Obligations of traders and operators

	Large Companies established on EU market	SMEs established on EU market (<250 employees & <40 Mio. EUR annual turnover)
Operators (placing commodities on EU market or exporting it)	<ul style="list-style-type: none"> • Three-step due diligence (Special rules for commodities & products already covered by a due diligence process) • Reporting of information about potential non-compliances to competent authorities 	<ul style="list-style-type: none"> • Three-step due diligence (Special rules for commodities & products already covered by a due diligence process) • Reporting of information about potential non-compliances to competent authorities
Traders (trading commodities already placed on the EU market)	<ul style="list-style-type: none"> • Three-step due diligence (Special rules for commodities & products already covered by a due diligence process) • Reporting of information about potential non-compliances to competent authorities 	<ul style="list-style-type: none"> • Documentation of buyers and sellers • Reporting of information about potential non-compliances to competent authorities

Due Diligence Obligations for companies



Due Diligence Obligations for operators

1 Data and information collection

- a) Name
- b) Quantity
- c) Country of production
- d) Geolocation of the production site (point data, >4h polygons) & time of production
- e) Supplier of product
- f) Buyer of product
- g) Information on deforestation-free production
- h) Information on legal production

2 Risk assessment

- a) Risk status in benchmarking
- b) Presence of forests in country & area
- c) Presence of indigenous groups
- d) Consultations and cooperation with indigenous groups
- e) Credible claims of indigenous groups
- f) Deforestation rate & degradation
- g) Credibility of documents
- h) Concerns on the country re e.g. corruption
- i) Supply chain complexity
- j) Risk of circumvention
- k) Conclusions of EU Expert Group
- l) Substantiated concerns
- m) Any relevant information
- n) Certification

3 Risk mitigation

- a) Requesting additional documents
- b) Additional verification through surveys or audits
- c) Support for producers, in particular smallholders, through capacity building & investments

4 Due diligence statement

- a) Company name
- b) HS code, scientific name, quantity
- c) Country of production and geolocation of all plots of production
- d) Statement on the assumption of responsibility

Aspects for which companies might ask smallholders for information/ documents
Aspects from which smallholders/ IPLCs might directly benefit

Benchmarking by EU Commission



Implications of the benchmarking

Risk	Corporate due diligence			Enforcement by competent authorities of EU Member States
	Collection of information & documents	Risk assessment	Risk mitigating measures	
Low risk	✓	Always: complexity of supply chain & circumvention Other criteria: Only if information on non-compliances	Only in the case of information about non-compliances	Competent authorities control 1% of relevant companies
Standard risk	✓	✓	(✓)	Competent authorities control 3% of relevant companies
High risk	✓	✓	(✓)	Competent authorities control 9% of relevant companies and trade volumes

Law enforcement

Enforcement



- **Before customs** = before placing on the market or export: check of due diligence statement by competent authority; immediate check if risk of non-compliance identified
- **On internal market**: checks by **competent authorities of the Member States** (Low risk: 1% | standard risk: 3% | high risk: 9%)
- Supported by digital information system run by EU COM

Penalties



- Fines proportional to environmental damage and value of commodity
- Confiscation of commodities and of profits from the sales
- Temporary exclusion from public procurement & access to public funding for max. 12 months
- Temporary prohibition to place on or export from the EU market
- Prohibition to use simplified due diligence procedure

Role of third parties



- **Substantiated concerns** from third parties to competent authorities & companies
- Actors with sufficient interest can initiate administrative or judicial reviews of actions by competent authority

Cooperation with third countries



Partnerships and cooperation to jointly address deforestation and forest degradation
EU COM developed [comprehensive EU strategic framework](#) for engagement with partner countries
Cooperation may include structured dialogues, administrative arrangements, provisions in existing agreements or agreements or roadmaps that enable producer countries to make the transition to an agricultural production in compliance with the regulation.



Participatory processes with civil society, indigenous groups, local communities, private sector and smallholders



EU COM shall engage in **bilateral contacts and multilateral frameworks** to halt deforestation and forest degradation, including the UNFCCC, CBD, WTO, G7 and G20



Thank you!

SASI – Sustainable Agricultural Supply Chains Initiative by

On behalf of





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Indra Van Gisbergen – 14 January 2024



Fern

Making the EU work for Forests & People



- **Evidence based advocacy:** research & input to EU policies linked to forests & people – 5 campaigns
- Work with allied **partners**
- **Creating space** for voices from the ground to be heard
- **Interact with EU policy makers** on a continuous basis: EP/EC/Council (member states)
- Work in **synergies & coalitions**

Reminder: EUDR = Part of a Package

2019 EU Action Plan to Protect & Restore the World's Forests

5 Pillars

Demand side measures:

1. Reduce deforestation in supply chains (EUDR)

Supply side measures:

2. Engage with (via Partnerships) with Producer & other Consumer countries
3. International cooperation/Trade agreements
4. Green Finance

Monitoring: 5. Forest Observatory



EU Deforestation regulation exists How did we get there?

- **Civil Society & NGO Campaigning for 10 years !**
- **Unite forces – facilitate/coordinate strong coalitions**
 - Together4Forests - over 200 NGOs
 - BXL NGO Coalition (technical)
 - OAK Coalition
 - Cocoa (commodity specific)
 - Smallholders coalition
 - Green Livelihoods Alliance
 - Coalition in Indonesia (15 CSOs)
- **Work with CSOs in producer countries:**
 - Access to information
 - Training – strategic workshops in 3 regions
 - Lobby tours to BXL & EU member states



EU Deforestation regulation = in force How did we get there?

- Intense Regular contacts with policy makers & private sector over 4 years
- High level events + publications
- Public campaign: Together4Forests
 - Close to 1.2 million responses of citizens to EC public consultation in Dec 2020 – record!
 - More than 206.000 messages to European Parliament
 - Over 50.000 letters to national governments in spring 2022



Reactions on EUDR

Impact of EU elections: push back within Europe:

- Concern about compliance by European companies – Equal treatment? Lead : German EPP
- Push back Green Deal by new EC & EP

Producer countries: Brazil, Indonesia,

Smallholders reactions: in producer countries – in Europe

Companies: Mixed reactions – frontrunners/push back lobby by private sector

NGOs – Hand off ! Don't mess with the Deforestation Law





What about: Smallholders & EUDR?

- Obligation of companies: collect information – assessment risk – mitigation of suppliers' risks
- Company buys from smallholders
Smallholder involvement in specific supply chains:
 - Cacao
 - Coffee
 - Rubber
 - Palm oil (only 30% in Indonesia)



Smallholders/IPLC & EUDR

Curse or opportunity ?

- Smallholder compliance - (geolocation & legality)
- Concern of exclusion of smallholders market – who says this?
- Divergent opinions:
 - private sector
 - EUDR Support from various SH groups (Ivory coast, Ghana, Cameroon, Indonesia,...)



Effective EUDR Supply side measures are crucial to halt deforestation in supply chains

Legal HOOK = Article 30 EUDR: Engagement with Third countries

Aim: address root causes of deforestation through partnerships and cooperation

Foresees explicitly :

- EC to engage in a **coordinated approach** with producer countries
- EC to develop a **Strategic Framework for engagement with producer & consumer countries**
- **Mobilisation of relevant European Union instruments** to this end
- Engagement in dialogue and cooperation with **other major consumer countries** and work towards a global playing field
- Engagement in “Partnerships” which “*shall allow the full participation of all stakeholders*”, including civil society, Indigenous Peoples, local communities, women and smallholders”

EC's strategic framework

2020: Fern published report about what a Comprehensive Strategic Framework should contain

2.10.2024: EC Communication regarding a Strategic Framework for international Cooperation finally published

➤ [Analysis of the EC 's SF](#) = disappointing? Why?

- The SF is no longer comprehensive
- Limited to international cooperation & “partnerships” approach is dropped
- No full participation (favouring engagement)
- No framing, and no guidance on “how” to achieve goals
- Lack of clarity re Forest Partnerships and Voluntary Partnership Agreements (VPAs)
- Unclear approach towards other consumer countries
- Unclear leadership – lack of coordination and policy coherence



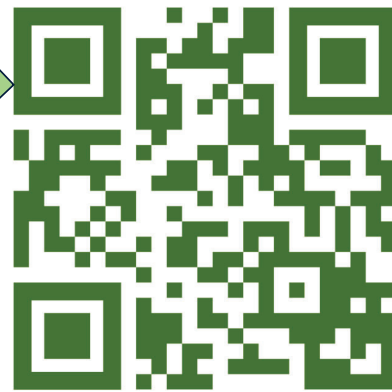
Never too late to put effective partnerships on the rails & insert key elements

Team Europe Initiative on the EUDR = key tool

- 81 million EURO to support FLAGSHIP programmes including the SAFE programme in 10 countries
- Offers opportunity to support essential priorities:
 - (1) Address Smallholders needs
 - (2) Support independent monitoring of deforestation-free production & legality (CSOs & local community monitors)
 - (3) Support development of national credible and transformative traceability systems



Check out the full report here



TRANSFORMATIVE TRACEABILITY

How robust traceability systems can help implement the EUDR and fight the drivers of deforestation





Criteria for a traceability system that is credible (and therefore can help meet EUDR)

- 1. Is based on accurate, ground-truthed data**
 - Most urgent: generate accurate farm polygon boundaries; clarify what is “legal” production
- 2. Data is publicly accessible and comprehensible**
 - Allow third-party actors (e.g. NGOs, farmer orgs) to access at least some data from system.
- 3. Has a multi-stakeholder consultation body**
 - E.g. A steering committee – contribute to design; do regular evaluation
- 4. Is subject to periodic independent audits**
- 5. Has a clear and accessible grievance mechanism, including being open to findings from NGO independent monitoring**
 - Allow non-government stakeholders to highlight issues with data, or chain of custody system. Government should respond to issues raised.
- 6. Capable of excluding double-counting of polygons**
 - Mandatory and comprehensive national systems are best placed to mitigate the danger.
- 7. Gives smallholder farmers control and access to data**
 - Farmer orgs must be able to feed back on/interrogate data. Improves data quality + their bargaining position



Criteria for a traceability system that is transformative & delivers change on the ground

8. Tracks characteristics that are important to all stakeholders (not just companies)

- e.g. prices & payments made along the supply chain (info that is interesting to people in producer countries)

9. Is linked to remedy & enforcement actions

- Advantage of a public traceability hosted by the government – when an incident comes up in the traceability system, they can respond in real time with enforcement actions

10. Is linked to incentives for producers

Key recommendations for producer countries



- Make available, or partially available, publicly held datasets that can help verify legality claims for commodities.
- Work with companies to ensure interoperability of traceability systems.



- Develop public traceability systems in line with the 10 criteria in this paper, so that in the medium or longer term they can be used to prove EUDR compliance.
- Develop a long-term funding mechanism for the traceability system that includes contributions from companies

Key recommendations for the European Commission



Support farmers to engage in necessary traceability steps (e.g. compliance cost for cocoa cooperative in Cote d'Ivoire roughly 30k investment and 60k in annual running costs)

Clearly communicate expectations of national traceability systems and support their development



Provide a way for EUDR benchmarking to recognize and take account of public traceability systems that meet the 10 criteria for credible and transformative traceability.

Game NOT over...

2025 is a crucial EUDR Readiness year

Demand side

- **EUDR Implementation:**
 - Discussion re Legality: define what is meant by national laws in producer countries
 - Country benchmarking – contribute inputs to consultants
- **EUDR Enforcement:**
 - Bring substantiated concerns
 - How?
 - Collect evidence through fact finding missions
 - Dialogue with companies & platforms. TFA?
 - Credible field monitoring by well trained CSOs/local communities



Game NOT over...

2025 is a crucial EUDR Readiness year

Supply side

- Deliver and expand EUDR support programmes
- Donor coordination & coherence
- EU leadership & forest diplomacy
- Create space for MS dialogue
- Provide clear incentives (beyond development aid)
- Step up ambitions regarding resources (funding & HR – including diplomats)
- Support human & environmental rights defenders & CSO monitors
- Monitor & Evaluation: build in flexibility & rapid response to address priorities/possible negative impacts
- Political support for strong EUDR enforcement which goes hand in hand with tailor made support measures



**Thank you for
your attention**

www.fern.org

**Contact:
indra@fern.org**

