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European Commission Proposes One-Year Delay to European Deforestation Regulation

The Commission published guidance documents to the regulation and proposed to postpone its entry into application to 30 December 2025.

On 2 October 2024, the European Commission (Commission) adopted a proposal for a one-year delay to the implementation of the European Deforestation Regulation (EUDR), which was set to take effect from December 30, 2024. The Commission noted the proposal is a response to feedback from global partners and stakeholders calling for additional time to prepare for its implementation and enforcement. To this end, the Commission concomitantly published additional technical guidance documents, including official guidelines and additional FAQs.

Background to the EUDR

As part of the Green Deal, the EUDR introduces a set of rules seeking to ensure that products consumed in the EU do not contribute to deforestation[1] and forest degradation.[2]

The EUDR imposes supply chain due diligence requirements on operators and traders of products linked to deforestation and forest degradation. The EUDR covers the following commodities: cattle, cocoa, coffee, palm oil, rubber, soy, and wood, including certain items made from or containing these commodities (e.g., leather, chocolate, and furniture). As part of their due diligence exercise, operators and traders will have to ensure that these products are deforestation-free and comply with the relevant legislation of the country of production.

For more information and background to the EUDR, see this Latham blog post.

Proposed Delay

The EUDR entered into force on 29 June 2023, with the main requirements originally intended to apply to larger in-scope companies from 30 December 2024, 18 months after its entry into force.

The Commission has now proposed to postpone the EUDR's application by one year, pushing the effective date to 30 December 2025 for most operators and traders. For micro and small undertakings, the new effective date will be 30 June 2026.

This proposed postponement aims to provide a phase-in period for Member States and businesses to prepare for the new requirements, with assistance of the newly published guidance.

Additional Guidance and Support for Implementation

In addition to announcing the proposed delay, the Commission published several further updates related to the EUDR, such as technical guidance to support global stakeholders, Member States, and third countries in their preparations for implementation and enforcement of, and compliance with, the EUDR.

The guidance clarifies definitions for terms relevant to the EUDR's scope of application, such as "operator," "placing on the market," "making available on the market", and "export". The Commission hopes that these definitions will assist operators and traders in understanding their obligations under the EUDR. The documents also provide guidance on the risk assessment and risk mitigation part of the due diligence exercise, as well as clarification of the inclusion of packing materials, waste, and recovered products within the EUDR's scope.

The guidance further elaborates on the role of certifications and third-party verification schemes in the risk assessment and mitigation process. While these schemes can support operators in meeting their due diligence obligations, they cannot replace the operator's ultimate responsibility. The documents provide criteria for assessing the reliability and relevance of these schemes, emphasising the need for independent audits and transparent governance.

The Commission has also updated the "Frequently Asked Questions" document to cover an additional 40 questions from a range of stakeholders.

Information System and IT Support

The Commission announced that the dedicated IT system for the submission of due diligence statements electronically will be ready to start accepting registrations in early November 2024 and will be ready for full operation in December 2024. The Commission said it has set up a single point of contact for IT support for stakeholders, supported by videos, multilingual user manuals, and training sessions. This system will facilitate the submission and management of due diligence statements, ensuring a streamlined process for compliance.

Country Benchmarking Update

The Commission is also publishing the principles of the methodology it will apply for classifying countries as low, standard, or high risk. This country benchmarking system aims to facilitate operators' due diligence processes and enable competent authorities to monitor and enforce compliance effectively.

The Commission indicated that the "large majority" of countries will be classified as low risk. The full list of countries and associated risks is expected to be published by 30 June 2025.

Further, the Commission and the European External Action Service introduced a Strategic Framework for International Cooperation on the EUDR, focusing on five priority areas, eight key principles, and various implementation tools that seek to ensure a just and inclusive transition to deforestation-free supply chains, contingent on global partner commitment.

Next Steps

To become effective, the proposal to postpone the EUDR must now be approved by the European Parliament and Council.

The Commission noted that the formal guidance document for the EUDR will be formally adopted when the document is available in all EU languages.

Latham & Watkins will continue to monitor developments related to the EUDR and provide updates as necessary.

This post was prepared with the assistance of Toon Dictus.

ENDNOTES

1 Under the EUDR, "deforestation" means the conversion of forest to agricultural use, whether human-induced or not.

2 Under the EUDR, "forest degradation" means structural changes to forest cover, taking the form of the conversion of: (a) primary forests or naturally regenerating forests into plantation forests or into other wooded land; or (b) primary forests into planted forests.

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