

The EU regulation on deforestation-free products seen from ‘the ground’: Adapting the implementation to the complexity and aspirations of territories of production

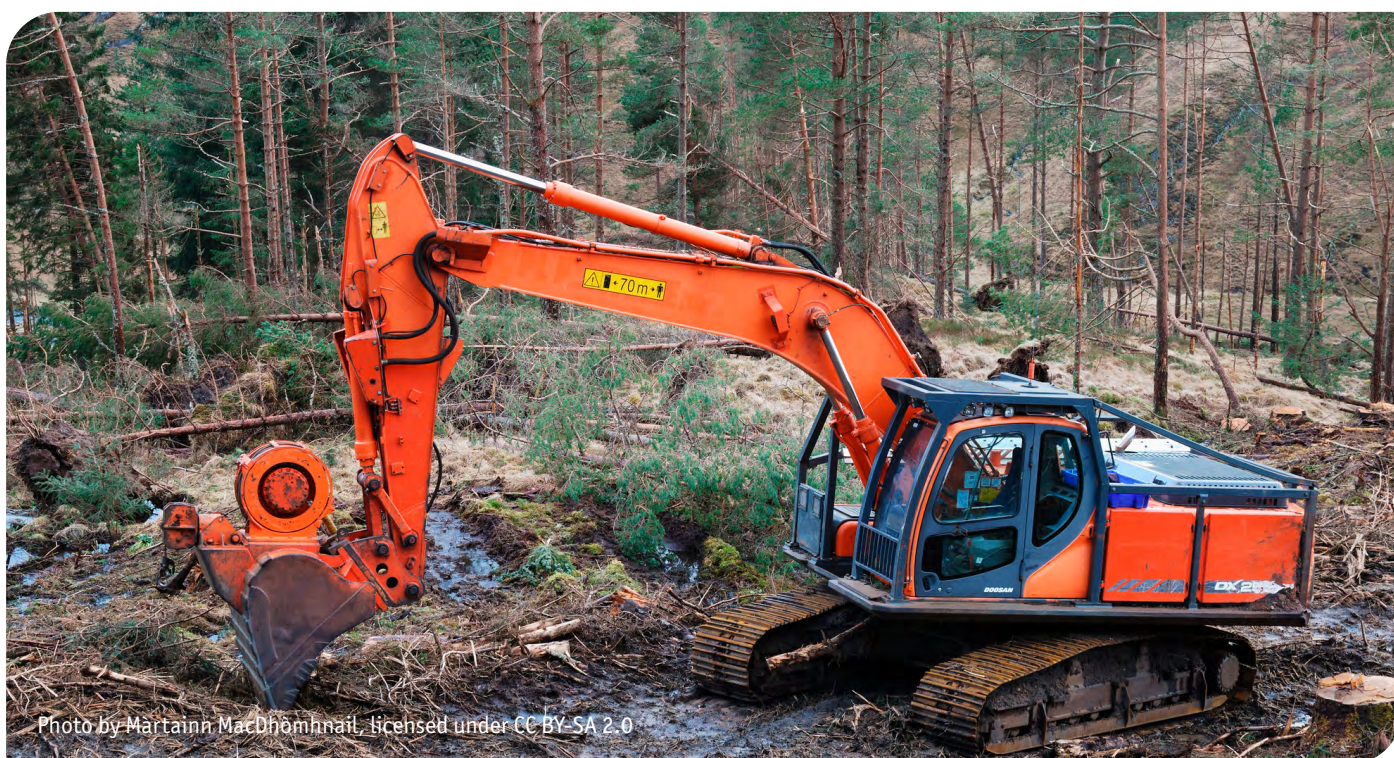


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Context

The [European Union Deforestation-Free Products Regulation \(EUDR\)](#) is one of the most discussed pieces of European Union law. The text, adopted in May 2023, aims to combat biodiversity loss and climate change by prohibiting the import or export of seven commodities in the EU market if linked to deforestation and forest degradation. The Regulation specifically targets cattle, cocoa, coffee, oil palm, rubber, soya, and wood as well as some derived products identified by their commodity code.

To achieve its objectives, the EUDR introduces specific obligations for traders and operators that are placing these commodities in the EU market or exporting them from the EU. It also mandates competent authorities from EU Member States (EU MS) to oversee and ensure compliance with the Regulation. Originally scheduled to enter into force on January 1, 2025, the implementation has been recently postponed by one year. Therefore, the coming 12 months represent a crucial moment for the future of the EUDR and the disentangling of its criticalities.

The present policy brief draws on multidisciplinary research work by members of the [EPICC research project](#) (Environmental

Policy Instruments across Commodity Chains) both at the level of EU policy making and in three territories of production and extraction (Brazil, Indonesia, and Colombia). The overall objective of the project was to shed light on the micro and macro conditions that may facilitate the mitigation of environmental and social impacts that occur at the selected locations of extraction and production. The research leveraged the EUDR as the most recent example of public-private governance intervention where power and links are traced and territorial dynamics are changed by decisions made far down the chain, namely in the European regulatory, political and socio-economic space.

Given the scope and aim of the research, the research team aimed to combine multiple perspectives and voices from those territories and in the EU through participatory and qualitative approaches. We paid particular attention to the integration of inputs and experiences originating from the territories of production and extraction to make sure that territorial perspectives, expectations and aspirations were not left aside.

Key insights

The insights from this multidisciplinary and multi-sited approach to the EUDR highlight the need to:

- rethink EU trade policies away from liberalisation and mobility of commodities towards a more coherent framework that would reduce the EU's deforestation footprint and tackle climate change,
- open spaces of reflection vis-à-vis the future of the global food system, specifically regarding the predominance of an export-driven model at the expense of local food security and the right to food
- identify and address possible negative impacts of the EUDR implementation, particularly concerning land-related issues, the right to food and the future of small-scale farmers in producing countries,
- expand the due diligence process and financial implications to logistic (e.g. maritime shipping companies) and financial investors,
- rethink the review process and foreseen changes of the Regulation in order to recognize the historical responsibility of the EU in driving global deforestation and guarantee regulatory and financial support to promote the adoption of holistic of social and environmental conditions in producing countries,
- adopt transparent participation, monitoring, and control procedures, in particular regarding data that will be used to ensure the legality and sustainability of production,
- ground global value chain research in the territorial work, knowledge and experience of people living in commodity-producing regions,
- root EU policy decisions about international trade in a deep understanding of the historical and present unevenness of economic and political power between the EU and partner countries in the Global South.

The recommendations in this policy brief should be understood in their context rather than posed as universal solutions, given the context-oriented and local character of the research.

Arguments

Argument 1: The temporal benchmark and the legality requirement may not be ambitious enough, if not counter-productive

EUDR, Article 3 - Prohibition

Relevant commodities and relevant products shall not be placed or made available on the market or exported, unless all the following conditions are fulfilled:

1. *they are deforestation-free [after the cut-off date of 30 December 2020];*
2. *they have been produced in accordance with the relevant legislation of the country of production; and*
3. *they are covered by a due diligence statement.*

Products obtained illegally or tied to deforestation and forest degradation before December 30, 2020, are prohibited from being exported to or imported into the EU market. Compliance with the deforestation-free requirement should be verified using satellite

imagery based on the cut-off date, while legality is expected to be assessed by private actors and customs authorities through key regulatory standards outlined in the EUDR.

However, the legislative approach raises three key concerns:

The benchmark's leniency compared to national environmental laws (e.g. Brazilian Forest Act) could undermine conservation efforts in the commodity's country of origin.

Focusing on the 2020 benchmark might obstruct ongoing and past efforts to monitor and sanction deforestation before this date, prioritizing post-threshold actions instead.

The assessment of legality by private actors and customs authorities might oversimplify national applicable laws and human rights situations on the ground. Similarly, there may be attempts to adopt clearer ways to integrate compliance with national legal systems, potentially exacerbating land disputes and community concerns.

Argument 2: Ecosystems are part of broader social-ecological systems

The experiences of communities, workers and Indigenous People in the territories highlight the absence of a singular, universal understanding of forests. This stands in contrast to the Regulation's reliance on an internationally agreed definition of forests, based on the FAO definition. The focus on quantitative parameters may miss the complexity of the socio-ecological relationships that exist around ecosystems.

Small-scale farmers and Indigenous Peoples have long highlighted that cash-crop industrial agriculture impacts territories far beyond deforestation. Practices like monoculture, pesticide-heavy farming and oil-based fertilizers contribute to pollution, endanger health, harm biodiversity and threaten territorial autonomy and the right to self-determination in those regions. Similarly, the construction and expansion of logistics avenues for commodity circulation have significant social and environmental consequences. As such, a narrow focus on restricting deforestation-linked imports – primarily targeting canopy loss or its transformation – falls short of EU environmental and human rights obligations. Deforestation and forest degradation are only one side of the coin, and the EUDR should not be an end in itself. The revision of existing notions and the expansion of the scope should hence happen in alignment with the different modes of living of Indigenous Peoples, traditional communities and other social groups that may be affected by the Regulation.

Argument 3: Adopt a comprehensive approach to forest degradation that ensures local food security.

The Regulation defines 'forest degradation' as "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." The narrow focus on 'primary forests' risks overlooking cultural values and intergenerational knowledge transfer impacted by such operations, but also local food security and food autonomy. This definition may undermine the objectives of the Regulation, allowing for the transforming of diverse lands into monocultures.

In the implementation and revision of the Regulation, the EU should reconsider the impact its consumption patterns may have in promoting unsustainable practices on land used for agri-food production. Future revisions must also include mining as a key deforestation driver to prevent socio-environmental harm in those territories.

Argument 4: Territorial and land rights should not be subordinated to environmental and biodiversity concerns.

Recognizing land rights of Indigenous People, traditional communities, landless families and small-scale farmers is crucial in combating deforestation and socio-ecological harm, as these communities play a vital role in preserving and regenerating diversity. Article 3 of the EUDR mandates guaranteeing that products are produced in accordance with relevant legislation, including land use rights, human rights, labour rights and Free Prior and Informed Consent (FPIC). Although the inclusion of human rights must be welcomed, the Regulation's approach to legality has three key shortcomings that should be addressed:

- **Marginal consideration:**
Human rights, land rights, and indigenous rights may be neglected if there are no proper channels for third-party watchdogs and victim justice.
- **Risk Assessment Complexity:**
The risk assessment process is not built to ensure openness, transparency and participatory processes. Instead, it mandates the risk assessment to the EU regulator, EU MS competent authorities and private actors, potentially excluding local stakeholders and their understanding of the situation.
- **Mitigation vs. Prevention:**
When violations of human rights are expressed in terms of risk and mitigation, the focus is not on the violation per se but on the existence of a process that reduce the likelihood of it. The Regulation prioritization of risk mitigation over preventing and redressing human rights violations, could mean that products are still placed into the EU market in case of unavoidable negative impacts.

Argument 5: Expand the scope of the Regulation to global logistics and financial flows as key to growing patterns of extraction.

Global trade in deforestation-embedded agricultural commodities is inherently dependent on and facilitated by the presence of a system of logistics, investments, and financial capital, as well as by the continuous liberalization of international trade by means of lower tariffs and trade barriers. Infrastructure like roads, railways, silos and ports drives the continuous expansion of the global agri-food system, linking extraction areas to markets like the EU. Yet, the EUDR omits these logistics and financial drivers. Future revisions should include the responsibility of EU financial entities and the environmental and human rights impacts of logistics.

Argument 6: Align implementation with local contexts, resistance efforts, and regional food systems.

The implementation of the EUDR will require recognizing diverse socio-economic landscapes and commodity chains as well as the interactions between producers, intermediaries and public authorities. In this sense, it is crucial to understand the unique histories, legal frameworks, and economic conditions of each territory, specifically the historical and ongoing resistance by local communities against deforestation (e.g. through community protocols), emphasizing the importance of prioritizing voices beyond global commodity chains to support small-scale farmers and local aspirations.

However, this complexity is currently mostly translated into risk assessments and ranking, rather than a deep and holistic understanding of the ways in which global commodity chains unfold locally and shape socio-ecological dynamics. The diversity of actors and territories should be acknowledged, in particular when it comes to the assessment of the legality of production and the adequate consideration of the stakeholders in the realisation of the due diligence statement. The EUDR should hence move beyond focusing solely on global commodities and producers integrated in the targeted chains, and actively support those outside of, or resisting international trade to strengthen local and regional food systems' resilience and autonomy.

More information

For more information on the project -including [the longer policy brief](#) on which this Analysis and Policy Brief is based- visit the EPICC website at <https://epiccproject.org/>

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About the research team

This policy brief stems from the EPICC (“Environmental Policy Instruments across Commodity Chains: Comparing multi-level governance for Biodiversity Protection and Climate Action in Brazil, Colombia, and Indonesia”) research project. EPICC is a multidisciplinary consortium of five academic partners, financed by the European Biodiversity Funding (Biodiversa+). The research focused on three agricultural (palm oil, soybean and beef) and two mineral (gold and tin) commodity chains connecting specific regions of Brazil, Colombia, and Indonesia to the EU market. The investigations specifically centered on the origins of the palm oil chain in Bangka Belitung (Indonesia), soybean in the Tapajos Region (Brazil), and beef in the Putumayo Department (Colombia).