

EUDR Issues and proposals for solutions

- **The information system**, in its current form, is not fit for purpose, both in terms of the amount of data it can handle, its heavy reliance on manual operations and the lack of an API to manage relations with company's own systems. We received reassurance through the "deforestation platform" that these issues would be resolved. Nonetheless, the timeline¹ for this operation as well as the absence of a second round of testing, would make timely implement the Regulation extremely difficult. Companies need to test the updated system, at least six months ahead of the implementation date to adapt their internal systems to the one developed by the European Commission as well as time to train their staff globally.
- **Confirm that derived products – such as tyres – would only have to report on the commodity they are derived from** in Annex I, (e.g., for tyres, natural rubber **only** – and not derived products from other commodities such as stearic acid, which is also present in tyres). Doubts regarding the need to report on stearic acid were already raised with you last summer (see Annex to the letter sent 31 August 2023), but no answer was received. It is now too late to adapt the industry's supply chains to also include stearic acid – or indeed any other commodity beyond natural rubber – in the EUDR obligations of the rubber industry.
- **Level playing field for tyres produced outside the EU:** the current interpretation given by the European Commission allows for natural rubber and tyres produced in Europe between June 2023 and 30 December 2024 (transition period), to be placed on the EU market after 30 December 2024 without having to show compliance with the EUDR. Tyres placed on the EU market during the transition period can also be made available on the market after 30 December 2024 without having to show compliance with the EUDR. The same should be granted for tyres produced outside the EU and placed on the EU Market after 30 December 2024, provided that their production date is before 30 December 2024 (this can be checked on the tyre sidewall).
- Natural rubber is mainly produced in Southeast Asia and it takes about six months to reach the EU market: therefore, we expect that **rubber covered by a purchase order made during the transition period, which will reach the EU market after 30 December 2024, will not need to comply** with EUDR obligations.
- **Reduce the number of DDSs in the supply chain:** based on our testing experience of the Information System, a Due Diligence Statement (DDS) seems to be required per each business transaction. This approach creates a huge administrative burden and makes enforcement difficult, with no benefits to the deforestation-free objective of the regulation. As the same plots of land will be reported in several shipments, ETRMA would like to propose the following solutions:
 - Give the possibility to operators and traders to include several shipments (or transactions) in a DDS, provided that this DDS contains the geolocation coordinates of all the parcels of the relevant commodity/products concerned. As a consequence, the same DDS (identified by one number and one security token) will be used multiple times for a period of time (e.g. monthly).

¹ Internal API test in July, training materials following that, trainings as of September, System open for registration mid-November and System fully operational mid-December.

- Give the possibility to cover transactions within the same group with only one DDS that follows the products, until these are sold to a third entity, outside that Group.
 - Add guidance for DDS requirement for traders downstream the value chain to avoid an excessive and unnecessary declarations.
 - In cases where a product is imported by a company, including customs that is based outside the EU, confirm that only EU established entities should be covered under DDS obligation.
 - Exclude from the need of producing a DDS rubber materials and tyres sent to the EU for R&D purposes. These tyres will never be placed on the EU market for consumption and are often destroyed after the tests.
- **Provide pragmatic solutions regarding legality to prevent the exclusion of smallholder farmers** from EU supply chains. Assurance of compliance with local regulation can be a complex task for smallholder farmers. This is especially the case regarding matters of land tenure, where many producing countries are still in the course of implementing land tenure formalization programs. Smallholders have also expressed concerns that some requirements unnecessarily invade their privacy and that doing the necessary due diligence would result into the request of personal information which they are not willing to share.

We suggest that due diligence on land tenure focuses on objective illegality screenings to identify plots of land in protected (e.g., national parks and wildlife reserves, etc) or restricted use areas (while respecting customary and native land tenure). We also ask that the commission confirm that (Art 3 - 40-h) 'tax, anti-corruption trade and customs regulations' be focused on corporate regimes (and not aiming at smallholders' personal situation). Further to that, we seek confirmation that other legality elements such as labour and environmental laws, and human rights and FPIC risks can be tackled with on-farm assessments/surveys supplemented by spatial data where applicable.

- **Protect the circular economy** by confirming that production waste that is processed in or outside a facility and then reintroduced in the tyre mix would not have to follow the EUDR as well as tyre carcasses that are later used for retreading (in this case only the new tyre tread would have to be EUDR compliant).
- **In the tyre and rubber value chain there might be SMEs that then sell the rubber products to big operators or traders.** However, the implementation timeline and the obligations for SMEs would not allow big traders down the supply chain to receive the necessary information for them to be compliant.

To this end, we propose that the Commission clarifies that SMEs will have to provide the DDSs' numbers and security tokens to the downstream operators and traders that request them. Should they be the first operator to place on the market a commodity or product, they will have to provide all the necessary information needed by the downstream operators – who will have otherwise no means to carry out to necessary due diligence requested by the regulation.