Wetlands in the EUDR

Discussion Paper I (Gap Assessment)

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EU Deforestation-Free Products Regulation

The EU Deforestation-Free Products Regulation ("**EUDR**"), adopted in June 2023 as part of the EU's Green Deal and the bloc's commitment to global sustainability, requires companies placing specific commodities on the EU market or exporting from the EU—namely soy, palm oil, coffee, beef, wood, cocoa, and rubber—to prove their supply chains do not contribute to deforestation after December 31, 2020. The regulation introduces traceability and risk assessment requirements imposing strict due diligence requirements on companies to ensure products are not sourced from recently deforested land. Stricter controls apply for high-risk countries. International concerns have since emerged regarding administrative burdens, impacts on small-scale producers, and supply chain readiness, prompting the European Commission to propose, and the Council and the European Parliament to approve, a 12-month delay in enforcement—now set for December 2025 for large companies and June 2026 for SMEs.

Against the backdrop of elevated international opposition to the EUDR, one of its specific features, its restrictive habitat scope – non-forest land falls outside the scope – has so far found scarce attention, even though it may yield considerable impacts for non-forest lands, specifically for wetlands, concerning displacement (leakage).

The displacement (leakage) problem was briefly acknowledged during the legislative process but ultimately backloaded: The EUDR includes provisions for a review in 2024 – impact on other wooded land (such as wooded savannahs) – and in 2025 on grasslands, wetlands, and peatlands. Review results (those for 2024 are overdue) have not yet been made public.

Wetlands International Europe seeks to inform this review process by leading a string of discussions with experts from around the globe concerning the specific risk profile for wetlands, mitigation strategies, as well as opportunities for wetlands within or outside the EUDR. A first workshop was held in December 2024, and further discussions and in-depth analysis are planned for 2025, with the aim to present results at the Ramsar Conference of the Parties in July 2025.

This briefing paper serves as the screen setter for the discussions and briefly summarizes the input and output from the December 2024 workshop.

Regulatory Context

The EU has several regulatory instruments addressing deforestation, particularly focusing on combating illegal logging, promoting sustainable supply chains, and reducing the import of deforestation-linked commodities. Key instruments include:

1. EU Timber Regulation (EUTR)
    - Prohibits the placing of illegally harvested timber and timber products on the EU market.
    - Requires due diligence from operators to ensure timber legality.
2. Forest Law Enforcement, Governance, and Trade (FLEGT) Action Plan
    - Promotes sustainable forest management and combats illegal logging through Voluntary Partnership Agreements (VPAs) with timber-exporting countries.
    - Licenses timber imports into the EU from VPA countries to ensure legality.
3. Renewable Energy Directive (RED II)
    - Sets sustainability criteria for bioenergy, ensuring it does not contribute to deforestation or forest degradation.
    - Promotes sustainable sourcing of biomass.
4. Sustainable Finance Regulations:
    - Sustainable Finance Disclosure Regulation (SFDR): Implemented to enhance transparency in the financial services sector, the SFDR requires financial market participants to disclose how they integrate environmental, social, and governance (ESG) factors into their investment decisions. This aims to reduce greenwashing and promote sustainable investment practices.
    - EU Taxonomy for Sustainable Activities: Serving as a classification system, the EU Taxonomy defines which economic activities are considered environmentally sustainable. It focuses on six

environmental objectives, including climate change mitigation and adaptation, and aims to guide investors toward genuinely sustainable projects.

- Corporate Sustainability Reporting Directive (CSRD): Building upon the Non-Financial Reporting Directive (NFRD), the CSRD expands the scope and detail of sustainability reporting requirements for companies. It mandates more comprehensive disclosure of ESG metrics, thereby increasing corporate accountability and providing investors with consistent and comparable sustainability data.

These measures – further supported by key strategic documents, notably the EU Action Plan on Deforestation and Forest Degradation (2019) and the EU Biodiversity Strategy for 2030 – collectively aim to mitigate deforestation by regulating trade, promoting sustainability, and enhancing global cooperation.

EUDR: What It Does

The EUDR adds to this basket of measures, while also lifting sustainability commitments to another, more comprehensive and stringent level. The regulation is distinct for its wide economic scope; it covers seven commodities and a long list of relevant products (listed in Annex 1 of the regulation), all of them having significant trading volumes in the EU. According to the Commission's impact assessment, it holds direct obligations for about 500,000 operators and indirect ones for about 75 million suppliers across countries and continents. It further includes a diplomatically potentially contentious "country benchmarking" to identify the level of risk in a country of producing commodities that are not deforestation-free.

The Stakes

Relevant commodities and products must not be placed on the market or exported, unless it is evidenced that they are "deforestation-free", i.e. that they have not been produced or made or fed with on land that has been deforested after 31 December 2020 (Article 3). Legacy deforestation prior to that date is not covered. In the case of wood and products made using wood, evidence must be provided that the relevant wood has not been harvested through forest degradation, said forest degradation occurring after 31 December 2020.

Note that deforestation and forest degradation risks are limited to the primary forests and naturally regenerated forest, each with "no clearly visible indicators of human activity".

Furthermore, on top of deforestation-free sourcing, operators must confirm that these commodities and products must be "produced in accordance with the relevant legislation of the country of production".

In addition and supporting the characteristics of "deforestation-free" and "legally compliant", all traded commodities and products must be covered by a due diligence statement.

EUDR Obligations

Operators – all natural and legal persons who place relevant products on the EU market or seek to export them, including persons that transform any of the products (e.g. cocoa to chocolate) for the purpose of placing them on the market – must file a due diligence statement to the competent authorities in the relevant EU member state.

The due diligence statement must include a full inventory of the traded products, the country of production (of the product and all its elements), the "geo-location of all plots of land where the relevant commodities that the product contains… were produced", the name, postal address and email address of the suppliers (throughout the supply chain), as well as "adequately conclusive and verifiable information" that the products are deforestation-free and that they have been produced with the relevant legislation of the country of production.

Operators must lead a full risk assessment and, where relevant, take risk mitigation measures, to ensure the compliance requirements. The risk assessment must take into account a wide array of economic, historic and social facts, such as the prevalence of deforestation in the country of production as well as the presence of indigenous peoples.

A leaner, simplified risk assessment can be lead in countries that have been assessed and classified by the European Commission as low risk. Statements must be made available and stored for at least five (5) years, and due diligence statements must be updated if new information emerges. Due diligence statements may reference due diligence supply statements for the same products made along the supply chain, and small and

medium enterprises (SMEs) are exempt from due diligence obligations if the products are already covered through another due diligence statement (e.g. from the importer of the products concerned).

EUDR: What It Does Not Do

Given the widespread criticism (see below), the European Commission felt the need to publish a "Myth Buster" document. In the document, the body addresses a number of rumors and fears responding to statements such as "A farmer cannot cut down and sell one of their own trees" and "The EUDR is an SME [small and medium sized enterprise] killer".

Regulatory details aside, what stands out is the narrow habitat scope of the EUDR. The regulation targets forest systems (and, within those, only the conversion of degradation of primary forests and naturally regenerating forests). Other natural habitats – especially wooded non-forest lands and wetlands – fall outside scope. This is remarkable for several reasons. First, the excluded ecosystems share many of the ultimate objectives that are being addressed by the regulation. Wetlands, specifically, score high – if not higher – both on biodiversity assets as well as on greenhouse gas ("GHG") emissions and climate mitigation potential. The EUDR notes that 11% of global annual GHG emissions are due to deforestation. It omits that wetlands cover only 5–8% of the global land area, while contributing 20–30% of the global soil carbon stock and over 20% of the total CH4 (methane) emissions (Coo et al. 2024).

Second, non-forest habitats, specifically wetlands, share many of the same drivers of degradation that forest habitats content with. The European Commissions' impact assessment notes that the EU's consumption is responsible for 13-16% of global deforestation despite its share of global population of 7, and that the bloc is responsible for about 248,000 hectares of deforestation annually. While similarly robust impact studies are not yet available for wetlands, the expectation is that there is proportional congruence, i.e., that EU consumption is responsible for similarly high shares of wetland conversion. The global risk is certainly acute. The decline in wetlands has been substantially sharper over the past 50 years than the decline in forests. Global wetland loss since 1970 stands at 35%. Third, by placing non-forest habitats, including wetlands, out of scope, the EUDR itself increases pressure on these ecosystems, as commodity producers favor accessing those habitats that do not give rise to trade bans and due diligence requirements. While the rules are too fresh to trace actual changes, there is growing evidence from other jurisdictions. For instance, stricter rules aiming to protect Amazon forest have accelerated conversion of Cerrado savannah and Pantanal wetlands for agricultural production.

Unlike its Amazon neighbor, where destruction has been curtailed in recent years as a result of national policies to protect it, deforestation rates in the Cerrado increased by 43% in 2023, with the greatest destruction concentrated in the state of Bahia, where almost a quarter of its original 9 million hectares (22 million acres) of vegetation — an area the size of Wales — have been lost since 1985.

Criticism

The EUDR has fast become one of the most contentious pieces of EU legislation in global discourse. A few criticisms often raised are:

Impact on Small Producers

Critics highlight that the EUDR may disproportionately affect small-scale farmers and landowners, particularly in developing countries. These producers might lack the resources and technology to meet the regulation's stringent traceability and compliance requirements, potentially excluding them from EU markets. Traceability is also often difficult with current supply chains regularly mixing products by middlemen.

International Trade Concerns

Several non-EU countries, especially those in South America, have expressed that the EUDR could act as a trade barrier, affecting their agricultural exports. They argue that the regulation imposes unilateral requirements without adequate consultation, potentially leading to economic disadvantages for their producers.

Administrative Burden

Some stakeholders are concerned about the increased bureaucracy the EUDR might introduce for European farmers and foresters. They fear that the regulation

could lead to significant administrative challenges, especially for small and medium-sized enterprises. It did not help that core features of the compliance system – information system, operational rules, other – were still being made at the end of 2024.

Equity

Some countries, especially poorer ones, are considerably more exposed to the EUDR than others, simply because the EU is their main trading partner. The EU responds with its 2024 Strategic Framework for International Cooperation Engagement, but implementation has been minimal so far, and few funds have been proved.

Opportunities

There is clarity in the objectives. As Recital 82 of the EUDR puts it, "protecting forests should not lead to the conversion or degradation of other natural ecosystem…". Less clear is how to ensure this. The EUDR wants clarity "no later than two years after that date of entry into force", on whether the scope of the EUDR should be extended to other natural ecosystems, including other land with high carbon stocks and with a high biodiversity value such as grasslands, peatlands and wetlands. Including wetlands in the EUDR scope would not be without challenges. There are conceptual challenges. The definition of "wetlands" is complex and arguably less precise than what is done to define forests (i.e., measuring the canopy density).

That said, considerable guidance is available, including definitions from the Ramsar Convention on wetlands and EU regulations, notably the 1992 Habitats Directive. One could also move in phases and start with the most vulnerable and high-impact wetlands (e.g., peatlands and mangroves Then there is the assumption that compared to commodity-driven forest conversion, wetland conversion is spread across a wider set of commodities. In addition to the seven commodities of the EUDR, high-impact drivers are rice, wheat, maize, millet, sorghum, sugar cane, barley, and shrimp for coastal wetlands.

Integrating wetlands would exponentially increase the taxonomy of products of Annex 1 of the EUDR. This said, one could initially focus on commodities already covered by the EUDR (namely palm oil, beef, and timber), ensuring they are not linked to wetland conversion. Monitoring wetland conversion is complex due to seasonal changes, water levels, and remote locations. Current satellite technologies (e.g., Sentinel, Landsat) can robustly detect wetland loss, but traceability systems for commodities linked to wetlands would need refinement.

First Workshop

Early Discussions

The first workshop was held on 18 December 2024. It focused on three core questions in the context of the EUDR, each of them discussed in a break-out group using interactive murals (cf. Appendix ##):

1. Evaluate the impact of commodity production on wetlands (including the 7 EUDR commodities and others).
    a. Which major soft commodities (e.g., palm oil, soy, timber, cattle, rubber, cocoa, coffee) are driving the largest amount of wetland conversion and degradation, and how do these impacts vary globally?
    b. What types of wetlands (e.g., peatlands, mangroves, marshes, floodplains) are most vulnerable to conversion from soft commodity production, and what makes these ecosystems particularly susceptible?
    c. What types of wetlands (e.g., peatlands, mangroves, marshes, floodplains) are most vulnerable to degradation from soft commodity production, and what are the primary ways commodity production degrades wetlands?
    d. Which types of soft commodity production within the EU are driving the most wetland conversion and degradation, and which wetland types are most affected by these activities?
2. Simplify the definition of wetlands for legal implementation.
    a. How can the definition of wetland best capture the areas at risk while avoiding overlaps with definitions of other ecosystems?
    b. If the definition was simplified, which types of wetlands could we identify as the most threatened?
    c. Should the EUDR recognize and foster the wise

use of wetlands? What would this entail?

3. Assess maps and data availability for traceability and monitoring.
   a. Can data and maps provide scientific evidence of wetland degradation and conversions?
   b. Can all maps and data be gathered in an Observatory for wetlands?
   c. What is needed to allow transparent and accountable reporting and monitoring?
   d. Which cut-off date should be set for wetlands?

Break-out Group 1 (Commodities)

Break-out Group 1 (Commodities) identified several soft commodities contributing to wetland conversion and degradation, namely

- Beef: Linked to large-scale wetland conversion, particularly impacting peatlands. o Notable regions: Europe, North, and Latin America.
- Palm Oil: Major driver of peatland degradation. Conversion of peatlands is prominent in Southeast Asia and Tropical Africa. 3. Rice: o Implicated in wetland degradation, particularly in Asia. Notable example: Mega Rice Project in Kalimantan.
- Shrimp and Mud Crab: Conversion of mangroves for aquaculture.
- Timber and Pulp: o Impactful in Southeast Asian regions. Associated with large-scale forest clearance, a□ecting peatlands and floodplains.
- Cocoa and Rubber: Indirectly involved in wetland conversion and deforestation.
- Peat Extraction: Especially relevant to Europe and peatland regions.

The types of wetlands most affected include:

- Peatlands: Particularly vulnerable to conversion for palm oil, peat extraction, and beef production. Notably impacted in Southeast Asia, Europe, and Africa.
- Mangroves: Degraded primarily due to shrimp and mud crab farming. Conversion for aquaculture and coastal development is significant.
- Floodplains: Affected by large-scale agriculture, timber, and rice production.
- Marshes: Vulnerable to drainage and conversion for beef and dairy farming.

Geographic Considerations

- Europe: Notable for impacts related to dairy farming, peat extraction, and root crop production (e.g., potatoes, carrots).
- Southeast Asia: Hotspot for palm oil plantations, timber production, and rice farming on peatlands.
- Tropical Africa: Facing peatland conversion for palm oil and timber production.
- Latin America: Significant impacts from beef and dairy farming on wetlands.

Break-out Group 2 (Legal Concepts)

Break-out Group 2 (Legal Concepts) discussed several options how wetlands could be defined, i.e., broad (following Ramsar and Habitat Directive) and narrow (focusing on core wetland types, especially peatlands and mangrove forests). It would be important, participants noted, that the definition of wetlands and the traceability and monitoring capacities go hand in hand.

Then, the group discussed the social dimension highlighting that wetlands are not just a habitat type but a social phenomenon and that indigenous and local communities must be particularly protected. Another item discussed concerned the uneven temporality between forests and wetlands.

While emissions from deforestation are often one-off events (release with conversion), wetlands, specifically peatlands, often represent continuous sources of emissions.

Setting a cut-off date for wetland conversion (drainage) seems arbitrary given that wetlands under drained systems emit GHG in continuity (until depletion which may be hundreds or thousands of years in the future). In other words, including wetlands in the scope of the EUDR would put in question any recent cut-off date.

Furthermore, it would also bring in focus the need for wetland restoration, and the EU's Nature Restoration Law is a good example for how contentious restoration targets and strategies would prove. Finally, the break-out group discussed whether the reciprocity principle between EU and non-EU operators and suppliers (deforestation is banned whether it happens inside or outside the EU) would come under pressure, specifically from European farmers, if the EUDR was extended to cover wetlands, in general, or peatlands, in particular. There is little deforestation occurring in the EU, but a lot

of peatland degradation.

Break-out Group 3 (MRV)

Break-out Group 3 (MRV) discussed how conceptual uncertainty produces uncertainty in the capacity to monitor and trace wetland conversion and wetland degradation. It is also generally more difficult to monitor wetland changes (submerged and dynamic systems) than it is to monitor static forest coverage. It should be a priority to design capable and robust MRV systems.

Next Steps

It would seem important to focus, in the months ahead, both on minimal effort or cost-effective ways to bring wetlands into scope of the EUDR, as well as alternative approaches that reduce pressure on wetlands globally. The first effort would like on prioritizing specific wetland types, specific drivers, and robust MRV options. The second effort would look at incentive schemes, FLEGT approaches, emissions trading, and other approaches. We will convene a follow-up workshop in the month of March, allowing participants from the first workshop to participate and extending the scope to experts that work in any of the fields selected for alternative approaches. Details to be discussed with WI staff.

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