

Recommendations on the Strategic Framework for Engagement with Producer Countries and implementation of Article 30 of the EUDR

How prioritising sustainable land use and traceability in EU's cooperation mechanism can ensure EUDR's effectiveness, mitigate risk, and generate global momentum towards deforestation and conversion-free supply chains

Introduction

Article 30 of the EUDR - Not just a support measure

Just as the new EU Deforestation Regulation (EUDR) will send a powerful market signal to consumer and producer countries to eliminate deforestationsourced products from the EU supply chains, the legislation's Article 30 provision on cooperation with producer countries may signal an end to forest conversion altogether. The Nature Conservancy **(TNC)** strongly believes that to fulfil the potential of this landmark legislation, the new mandatory due diligence requirements should be coupled with support measures for producers and local authorities that will secure permanent changes in agricultural production. This collaboration with producer countries is vital for eliminating the biggest threat to the overall effectiveness of this legislation, which is segregation of the deforestation-free product and diversion of the tainted commodity to other markets. We therefore warmly welcome the European Commission's intention to establish the EU Strategic Framework on Engagement with Producer Countries (the Framework), which will outline the implementation of the Article 30 provision. Given the outstanding and ongoing risks to successful implementation of the legislation, the Framework should not be seen simply as a support feature, **but rather as a necessary** legislative mechanism that will mitigate risks and ensure effectiveness of this law.

The following policy brief offers a set of key recommendations for the formulation of the new Framework, to guide the implementation of the Article 30 provision in the EUDR. Whilst by no means an exhaustive list of potential features of the framework, our premise for this brief comes from the question of efficacy i.e., how can the Framework and the subsequent implementation of Article 30 ensure the success of the EUDR and mitigate risk? We offer answers to this question by highlighting the need to prioritise cooperation activities that directly support the objectives of this regulation, particularly around sustainable land use and traceability. We also outline relevant policy tools for effective implementation of these mechanisms, look at producer country engagement criteria, and consider how the framework can coordinate the engagement of European

governments, institutions, and private finance entities with producer countries more effectively.

TNC also hopes this briefing will be useful to other countries around the world, such as China and the United States, which are considering their own regulatory options around embedded carbon and deforestation risk in commodity imports.

Top 5 Key Recommendations

To implement Article 30 of the EUDR, the EU Strategic Framework should:

- Define the implementation of EUDR's
 Article 30 by three key metrics: enhanced effectiveness, risk mitigation, and generating global momentum by outlining and prioritising cooperation measures with producer countries.
- 2. Prioritise sustainable land use measures and enhancement of traceability capacity as key cooperation issues and set out a clear policy toolkit that includes direct investment, technical assistance and stakeholder mobilisation options.
- Set out clear criteria for determining which producer countries the Commission will engage with, considering factors like deforestation exposure, scale and national capacity.
- 4. Use the Framework to set a strategic direction, set concrete implementation goals and identify existing EU institutional tools that can help with Article 30 implementation.
- 5. Ensure that the Framework acts in a coordinating capacity, creating guidance and pathway for EU institutions and its member-states to feed into the objectives and opportunities of cooperation activities under the EUDR.

Context

The need for the Framework to address risk

A key component of the legislation is to establish cooperation with producer countries to address the causes of deforestation at its core. Article 30, outlining this commitment, is a crucial feature of this legislation and introduces a wide array of engagement options, which have not yet been conclusively defined. As part of Article 30, the Commission has committed to "develop a comprehensive EU strategic framework for [producer countries] engagement." Based on the final text of the legislation, the role of the Framework will be to facilitate and outline the nature of these engagements. We welcome this commitment as an opportunity for the EU to establish a concrete set of targets, priority action areas, criteria for bilateral engagement, and a bold, positive agenda that will not only support global transition away from deforestation, but importantly, ensure the ability of this regulation to be effective.

A major component of safeguarding the effectiveness of this regulation is to ensure that the mandatory due diligence requirements not only de-couple the EU market from deforestation practices, but that these requirements have tangible effects on the ground. In our **2022 paper on the implementation of the EUDR**, we identified some key risks and loopholes that may affect the effectiveness of the legislation.

Risk of diversion to other markets – the risk that farmers, producers, and traders in response to the EUDR will simply re-route their supply chains to Europe, ensuring that the EU receives compliant goods from non-deforested areas, whilst continuing business-as-usual practices either for domestic markets or other major international consumer markets like China.

- Risk of leakage to other ecosystems whilst the EUDR will put increased pressure on deforestation practices, the demand for agricultural production will not decline, resulting in higher likelihood that the production may shift to other ecosystems currently not within the scope of the regulation. This may put additional strain on biologically diverse mixed biomes which are already experiencing high conversion rates.
- Disproportionate negative effect on smallholders
 Despite the additional 6-month grace period
 - Despite the additional 6-month grace period for smallholders prior to the application of the new due diligence requirements, smallholders in producer countries may find it difficult to adjust to the new regulation leading to their disproportionate exclusion from the EU market.

Whilst the EUDR has now entered into law, these risk factors still remain. For example, since the Trialogue agreement last December, we have received feedback from key supply chain actors in producer countries that work is already underway to shift their sourcing arrangements from already low-risk deforestation areas to comply with the EUDR, whilst diverting sourcing from high-risk deforestation areas to other markets. In practice, this means that the mandatory due diligence requirements may prove ineffective in stopping deforestation practices, carrying significant opportunity cost. We therefore believe that the establishment of the cooperation framework and fulfilment of Article 30 should be seen as a key and necessary component of the EUDR, designed to fulfil its objectives and mitigate associated risks whilst also generating momentum for sustainable practices needed to solve this challenge.

Prioritising support mechanisms and policy tools to ensure success and mitigate risk

Focus and acknowledgement of directly relevant support measures and incentives

Whilst the implementation of Article 30 is not going to be the 'silver bullet' solution, it can, however, generate further global momentum around deforestation avoidance by prioritising cooperation measures and offering appropriate financial and technical support for this to happen. This will send an encouraging signal to global actors to join the EU in promoting these solutions, whilst simultaneously addressing the aforementioned risks to the effectiveness of this legislation.

An important role for the framework will be to prioritise and categorise the activities laid out in **Article 30**. The provision outlines a range of support options from restoration and the sustainable use of forests to transition to sustainable commodity production and trade methods. In our view, while all the activities listed in Article 30 should be reflected in the Framework and subsequently implemented, focusing on increasing efficiency of land use and enhancement of existing traceability monitoring platforms gives the Commission the best and most efficient pathway to address the needs of this regulation whilst mitigating associated risks. These pathways are also most relevant for the supply chains at the centre of this legislation, and would involve - and benefit - the most crucial actors along the supply chains; from farmers and producers, to traders, the financial sector and national and sub-national jurisdictions.

Increasing the efficiency of land use and changing agricultural production patterns

The biggest driver of deforestation is land conversion to expand agricultural production to meet global demands. In recent years, a variety of innovative and sustainable land use alternatives have emerged that eliminate the need for ecosystem destruction whilst simultaneously meeting the global supply chain demand for key agricultural commodities. Soy production can be diverted away from native vegetation to suitable degraded lands. Improved management of cattle pastures through rotational grazing, improved soil management, and promotion of silvopastoral systems can make existing pastureland more productive, avoiding degradation and subsequent expansion elsewhere. Similarly, improved planning and

development of <u>palm oil</u> plantations and subsequent replantation techniques can increase the share of sustainable palm oil products in global markets. Importantly, there is great scope and potential for this transition; 36 million hectares of pastureland in the Amazon suitable for sustainable intensification and agricultural production, a further 18 million hectares of degraded land available for soybean cultivation, and an estimated 4.5 million hectares across Indonesia and Malaysia for sustainable palm oil production.

Increasing the efficiency of agricultural land use and

optimizing agriculture therefore is the most effective pathway to address deforestation, as it offers a viable alternative that has the potential to be permanent.

Furthermore, this process also invites opportunities for innovation to increase farming productivity in addition to promoting regenerative agriculture, which can secure additional carbon and biodiversity benefits.

Relevance to EUDR

During her visit to Brazil in June 2023, EU Commission President Ursula von der Leven highlighted the need to promote sustainable land use as a key measure to combat deforestation in the Amazon. We welcome this message as a clear signal of leadership recognition that addressing commodity production at its core is one of the most effective ways to combatting deforestation, as well as for its relevance to the **EUDR**. The EUDR's primary objective is to contribute to the elimination of global deforestation and forest degradation by targeting agricultural production as the key driver of ecosystem loss. We believe that prioritising cooperation mechanisms that focus on improving land use would address this goal directly, as this would help to promote permanent changes in commodity production practices, paving the way for elimination of agriculture-driven deforestation entirely. Introducing support measures around land use would ensure tangible, permanent and demonstrable effects on the ground in areas the EU market previous sourced from. This tackles the issue head on and at scale could address the EU's footprint on deforestation and forest degradation. Just as importantly, a signal of support and investment in these practices would in itself help to generate further momentum and encourage other actors - including the private sector and governments to invest themselves.

Finally, support for new and innovative agricultural practices could be particularly helpful to smallholders who may struggle to ensure their compliance with the new due diligence requirements.

Risks mitigated

Investment in sustainable agricultural practices and more efficient use of already converted areas can contribute to avoiding leakage or displacement of deforestation to ecosystems not covered by the regulation. Supporting this transition, especially in areas of high deforestation exposure, would increase the likelihood that production will not continue at the expense of natural ecosystems, instead incentivising permanent sustainable production at the source of EU's supply chain. Consequently, depending on the scale of implementation, the EU could safeguard the tangible de-linking of deforestation from its supply chains by ensuring permanent changes in critical production areas - disincentivizing producers from shipping their products to other, non-EU markets.

Additionally, the sustainable land use measures offer a pathway for smallholders to comply with the EUDR requirements. Assisting smallholders with the transition to sustainable agricultural production, particularly in commodity sectors with large numbers of smallholders like cattle ranching or cocoa plantations, will maintain their competitiveness and ensure compliance with the due diligence rules under the regulation, whilst simultaneously improving farmers' capacity to earn more income.

How?

While there is ongoing momentum to scale-up sustainable land use across producer countries, many obstacles remain. Namely, the issues primarily revolve around access to finance and technology for farmers to embrace the opportunities that will help to avoid further land conversion, and lack of local government policy development and capacity. The EU, through this Framework, can identify key measures of cooperation to support the transition to sustainable land use in key commodity areas of production, including:

- More widespread and visible political endorsement and promotion of sustainable land-use policy and opportunities in bilateral and multilateral settings.
- **Financial support** for multistakeholder platforms facilitating transition to sustainable land use.
- Projects and other direct investment initiatives targeting areas of highest deforestation risk.
- **Technical assistance** and education practices

- demonstrating pathways for producers to sustainable land use.
- Mobilizing European Private Sector investment including through existing EU legislative tools like the EU Taxonomy regulation.
- Trade relief and tariff reduction Using trade preferences as a lever to encourage reduced tariffs for markets who actively apply and encourage sustainable land use mechanisms at scale.
- Work with sub-national authorities to increase local capacity and awareness of alternative sources of agricultural commodity production as well as improving local regulatory frameworks, implementation, and control.

Enhancing Traceability in producer countries

Traceability is the defining feature of the EUDR, as it informs the requirement for importers to demonstrate that the commodities or products entering the EU market have not been sourced from deforestation affected areas. The regulation will require operators, using - among other things - geo-location data to document the history of a given product from the plot of land it was sourced to the EU market. A good traceability regime as part of the EUDR is in an essential part of the equation, enabling the regulation to function effectively and transparently. While it can be challenging to get right, the experience of successful initiatives at local levels demonstrates that it is ultimately an achievable prospect. This is not about re-inventing the wheel either; for years now, producer markets have been developing and refining their traceability and monitoring regimes, bringing together governments, producers, traders, and other key partners to promote transparent agricultural supply chains. Existing examples include the Cocoa and Forests Initiative in Côte d'Ivoire and Ghana, and the Soybean ViSeC initiative in Argentina and Paraguay.

The introduction of EUDR's traceability requirements inevitably adds another level of complexity to an already multi-faceted process. One of the key concerns raised by the industry is the ability to effectively segregate commodities going to the EU market. Soy supply chains, for example, are very fragmented and involve multiple actors along the chain including farmers, intermediaries, traders, and exporters.

The ability to accurately collect data can be hampered, particularly when we add other common challenges including lack of effective governance structures to traceability and monitoring or technological constraints, including farmer access to digital record-keeping.

Another key aspect where the engagement of producer companies will be critical will be the assessment of the production units' legal compliance. Most countries or even sub-national jurisdictions have a set of relevant laws that are usually very complicated to navigate. Adding to the issue, the monitoring of the legality is often inconsistent and the data about conformity is often not public, or it is hard to obtain. According to a recent Trase study approximately 32% of EU's soy imports from the Brazilian Amazon and Cerrado in 2020 were likely to have come from farms where nonauthorised deforestation took place, and some 16% was likely to have come from farms with both deficits of Legal Reserve and non-authorised deforestation. It is essential to work with local governments to ensure the information required for the due diligence is available and supports their monitoring regimes.

Relevance to the EUDR

As an essential pillar of the regulation, scaling up support for producer countries in establishing robust and effective traceability regimes is in the EU's best interest for two main reasons. First, as traceability standards improve in producer countries, there will be less pressure on compliance checks and enforcement. Accelerating the stronger traceability systems globally would have immediate effects on all stakeholders along the supply chain, particularly benefiting countries and regions marked as 'high risk' under the Article 29 benchmarking system. Secondly, there is a strong correlation between having effective and transparent traceability regimes and reduced rates of deforestation. Support for development of traceability regimes will therefore be another important step towards reducing deforestation and forest degradation globally. The additional benefit of this approach is that it is not strictly limited to the impact of EU supply chains. Supporting a traceability system in a region traditionally associated with EU commodity consumption will not only determine the EU market's impact, but will also help to address any other consumption impacts in a

targeted region – be it to other consumer markets or for domestic usage.

Risks mitigated

While enhancing traceability may not directly eliminate the risks of diversion and leakage, more transparent supply chains will help relevant authorities to recognise deforestation patterns and challenges more accurately as they emerge. Should more traceability platforms emerge, especially ones that are compatible with the EUDR, this may incentivise producers and traders to transition to sustainable production. Ready and able platforms that do not incur additional costs will provide a better environment for stakeholders to participate in the process. Additionally, paying special attention to support for smallholders through these platforms and bridging the capacity and technological gaps they often encounter will help them maintain access to the EU market, whilst ensuring they are not excluded from the broader supply chain.

How?

- building arrangements with relevant public and private entities through, for example, Memorandums of Understanding (MoUs), aimed at enhancing the technical expertise and knowledge capacity of relevant stakeholders who are most reliant on traceability systems (farmers, producers, traders, etc.) To enhance the capacity and compatibility of existing traceability systems, the EU should also consider measures around financial investment and training programs particularly for farmers/producers who currently lack access to technology required to effectively participate in a traceability platform.
- Information sharing Utilising the new EU Observatory on Deforestation, the EU can facilitate widespread sharing of traceability data that is commonly available and easy to access. This could include access to data from the Copernicus programme and tools or from other relevant publicly or privately available sources.
- Direct financial support to help accelerate implementation of existing or upcoming agricultural commodity monitoring systems.

Criteria for strategic producer country engagement

Three considerations for targeted approach; Deforestation exposure risk, scale, and capacity

One of the major challenges with the implementation of Article 30 will be the determination of **where the cooperation mechanisms should be deployed and with whom the EU should engage**. A key feature of the upcoming Framework, therefore, should be to set up clear and transparent criteria to make this determination.

The one factor that has already been outlined as part of the legislation is the intention to target countries according to their benchmarking rating as set out in Article 29 of the legislation. We welcome this prioritisation; it is a gesture of goodwill and a needed commitment that will help ensure more equitable implementation process.

However, the Framework should delve deeper to ensure a more strategic set of criteria that will address the goals and objectives of this legislation. As with the prioritisation of the cooperation mechanisms above, it is important for the EU to set up criteria for engagement that will focus on fulfilling the EUDR's goals and address risks. Reflecting these objectives in the criteria will also enable the EU to set up a targeted and strategic approach that can set up cooperative arrangements in areas of highest relevance and impact. We recommend that the EU ensure at least three key considerations are reflected:

1. Targeting EU's deforestation exposure areas -

This is the most direct consideration and entails examining regions and areas that are most affected by European commodity consumption and are of highest deforestation exposure risk. Identifying high deforestation risk areas that are linked with the EU's supply chain would then enable the Commission to deploy cooperation initiatives through a direct and precise strategy for engagement. For example, according to Trase, 80% of deforestation linked to EU imports of soy and beef from Brazil occurs in less than 5% of producing municipalities such as Correntina or Porto Alegre do Norte. This approach could accomplish two things; it would target areas traditionally most affected by European agricultural consumption - potentially fixing the problem permanently - and mitigate the risk of continued conversion should traders decide to divert production elsewhere.

- 2. Scale A key determination and one that will look at the highest potential impact is to evaluate the gross share import by EU of the listed product by the country/jurisdiction. In addition to considering deforestation exposure risk, targeting the wider supply chains and helping the biggest producer regions transition to more sustainable means of production could garner the widest possible impact, which is consistent with the overall goal of this legislation to reduce global deforestation rates. The most obvious examples include Brazil for beef and soy, Indonesia for palm oil, and Côte d'Ivoire for Cocoa. As such, targeting areas of production with the highest export rate would have a widespread effect not only on cleaning EU's supply chain, but that of other major consumer markets as well.
- 3. Producer capacity/governance With the introduction of the EUDR, certain agricultural producing countries will be better prepared to handle the requirements compared to others. In selecting its engagement, the EU should consider the state of producer countries' national and subnational legislations to curb and control deforestation, whether such countries have the resourcing to enforce these laws - both in terms of dedicated government resources and budgeting, as well as the existence or lack thereof of deforestation monitoring systems. Any lack of governance capacity to curb deforestation is likely to be reflected in the risk rating of the benchmarking system, however it is important to understand what specific issues may apply on a case-by-case basis, to effectively target the capacity shortcomings and bridge the gap to the EUDR requirements.

For the widest and most equitable engagements to result from this legislation, we suggest the utilisation of all three criteria requirements in the formulation of the Framework.

¹ Deforestation exposure is allocated to the actors along the supply chain in proportion to the volume of the commodity that they export from a given jurisdiction relative to the total production of the commodity (by all actors) in the same jurisdiction.

The "snowball" effect

Mobilisation of EU resources and setting strategic coordination around deforestation activities for the widest possible impact.

While the promotion of sustainable land use and traceability will significantly contribute to the fulfilment of this regulation's objectives, there is a third element that the implementation of Article 30 can tangibly influence. It can contribute to growing momentum amongst private and public entities globally increasingly moving away from deforestation and forest degradation practices, resulting in accelerated transition to a new sustainable normal in key deforestation hot spots. We call this the 'snowball effect': the ambition showcased by the EU and its Member States through current initiatives like the EUDR could encourage other supply chain actors, be it the financial sector, producers or other consumer markets to join the shift towards zerodeforestation practices. The EU can send such signal globally. However, for the most widespread impact it should ensure a strategic and a coordinated approach, utilising its existing resources and initiatives effectively and efficiently.

Setting goals and retaining flexibility to future proof

While in this briefing we have focused on prioritising cooperation activities and criteria for partnerships, another useful feature for the Framework would be to establish more specific targets to better define what outcomes the cooperation with producer countries could realistically achieve. The EU can use the implementation of Article 30 to contribute to the estimated benefits identified in the initial impact assessment as a guide. The assessment points to "well above 71,920 hectares of forest less affected by EUdriven deforestation and forest degradation annually by 2030 and (...) a reduction of at least 31.9 million metric tons of carbon emissions to the atmosphere." Recently, that figure has been revised to over 248,000 hectares avoided due to the implementation of the regulation. However, given the expansion of scope and the higher level of ambition presented in the final text of the legislation, we believe that the EU can significantly raise these estimates. Additionally, given

the options presented in this policy briefing, the EU can set **additional targets to better define the outcomes of cooperation activities**, for example defining a set number of smallholders transitioning to sustainable land use practices in areas most affected by EU's agricultural commodity consumption. Finally, given the specificity of different agricultural supply chains, we would urge the EU to consider individual targets for each commodity.

Regardless of specific measurement tools the EU may deploy, it is crucial for the Framework to retain a measure of **flexibility**, as upcoming developments in the implementation of the EUDR may change its trajectory. In less than two years, the Commission is set to consider the inclusion of other natural ecosystems and administering due diligence requirements to financial institutions. This will present new challenges and opportunities, and as with the current state of the legislation, the implementation of Article 30 will be important in ensuring the full scope of the EUDR is successful.

Guidance to fulfil Article 30 obligations

Although the EUDR is in its infancy, and more remains to be done to fulfil the potential and promise of this legislation, the EU and its Member States have already led the way in promoting measures to combat deforestation and forest degradation globally by targeting areas most affected through initiatives like the EU Global Gateway or European Fund for Structural Development Plus (EFSD+). With the EUDR entering into EU law, we now have a flagship legislative initiative on deforestation that can generate the most widespread impact. The Framework therefore offers a unique opportunity to provide guidance to relevant EU institutions and Member States on how to best contribute to the fulfilment of Article 30 and the EUDR more broadly.

As part of the Framework and based on the priorities and engagement criteria set out in this document, the Commission should consider **generating voluntary guidelines for Member States on how best to contribute to the cooperation activities of the EUDR**.

This would enable a coordinated and potentially more effective implementation process – identifying scope and guidance for existing and future Team Europe Initiatives, Multi-Annual Indicative Programmes for Third Countries (MIPs), and other bilateral official development assistance (ODA) initiatives. Other bilateral activities too could be guided by the Framework, for example activities under the Trade and Sustainability Chapter of new or existing Free Trade Agreements. A coordinated approach would be particularly welcome in accelerating EUDR implementation and achieving multiple objectives across the varied geographical scope of producer countries.

Reflecting Deforestation Prevention in EU Taxonomy

As mentioned in the Sustainable Land Use section of this briefing, **mobilising private sector and investment will play a crucial role in reforming the agricultural commodity production sector.**

Emerging innovative finance mechanisms are providing opportunities for producers to do so. The potential investment in sustainable agricultural practices, as well as instruments that deal with traceability and value chains, resonates across the spectrum of environmental objectives included in the Taxonomy Regulation, most notably as part of climate mitigation and biodiversity objectives. The EU should therefore elaborate and consider the relationship between the objectives of Article 30 and the Taxonomy Regulation, namely by encouraging further investment by the private sector in sustainable agricultural commodity sector avoiding further natural ecosystem conversion.

The Taxonomy Regulation should reflect deforestation prevention measures more clearly and the Framework can serve as a useful tool for outlining specific types of business measures, practices, or instruments feeding into sustainable forests. Upcoming efforts to revise

and add to the Taxonomy Regulation through the EU's stakeholder request mechanism process presents an opportunity to accelerate the flow of private finance to existing initiatives that address unsustainable land-use practices. With the EUDR now formally enacted into the EU law, newly generated investments into efforts stopping further agricultural driven land conversion could have an immediate impact on its implementation process. This would also provide an opportunity to send another clear signal as to how private sector financing could ensure compliance or support ambitions of the EUDR.



Credit @ Eva Lepiz / TNC A mahogany tree surrounded by land cleared for agriculture in Belize, Latin America.

Conclusion

Accelerating action to meet global 2030 goals

In this briefing, we focused on three elements that can result from the robust and strategic implementation of Article 30 of the EUDR: enhanced effectiveness, risk mitigation, and generating further global momentum in the transition to sustainable conversion-free **practices.** However, there is another element that must be considered: time. With the ambitious goal put forward at COP 26 to end deforestation by 2030, time is of the essence; and while it remains a possibility to meet this deadline, there are several obstacles that remain. The regulation itself will not be fully operational until December 2024, and in the meantime producer country adaptation to the new rules may take longer than expected to formalise. For example, the Brazilian Confederation of Agriculture and Livestock (CNA) recently proposed a voluntary system to trace each of Brazil's 225 million cattle, however noted that the transition will take - at best - over eight years to implement, exceeding the 2030 deadline.

It is here where the implementation of Article 30 may make the biggest difference; even modest support in relevant areas may exert the largest positive impacts to the overall effectiveness of the legislation, not only encouraging other public and private sector entities to contribute to the effort, but also accelerating the transition to more sustainable agricultural commodity production, within the desired timeframes. The Framework can therefore capture the vision for cooperation with producer countries in a targeted way to make these opportunities possible and position the EU to continue its global leadership role in combatting deforestation. The Nature Conservancy, along other with other civil society organisations, stands ready to partner with the EU Commission and Member States to support the implementation of Article 30 as a crucial mechanism in delivering the timely success of the EUDR.



