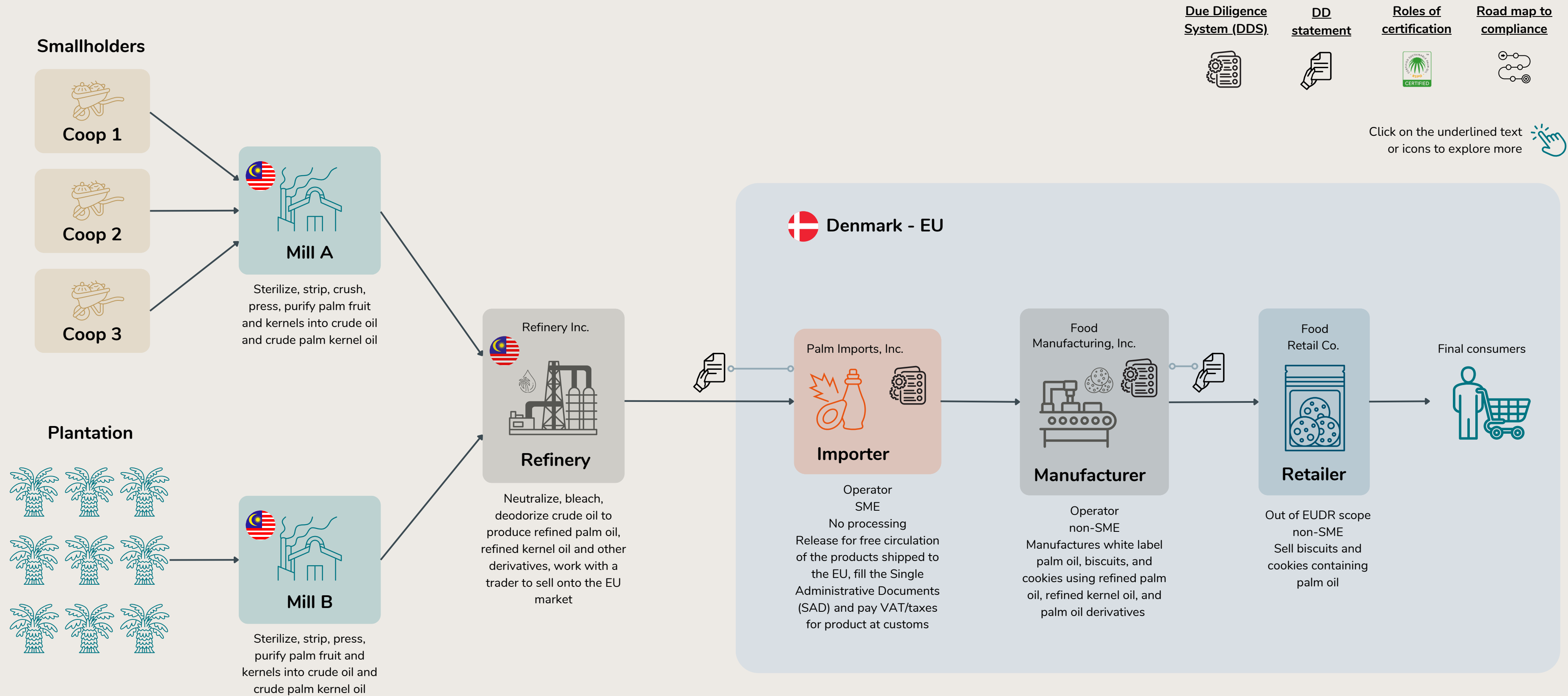
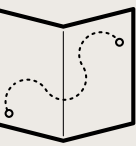
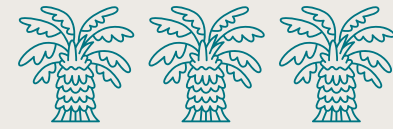


Case Scenario 3 | Palm oil





Producers



The smallholder coops and plantation owner do not have any direct requirements under EUDR, but they will likely be contacted for relevant EUDR information, including geolocation data, and other information to satisfy legal requirements.

Challenges regarding Smallholders

Smallholders make up the first and also the most vulnerable link in palm oil supply chains.

An estimated 35-40% of world palm oil is produced by smallholders. The EUDR ultimately requires smallholders to implement costly traceability systems that allow for providing proof of no deforestation and legality at production level.

Failure to provide with information needed by EU importers will result in losing access to EU markets.

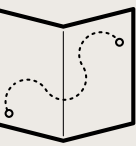
As a result of smallholders being left behind, forests will receive more pressure in the form of deforestation and forest degradation, due to loss of income and poverty.

Smallholders face a number of specific risks that require adequate attention from the public/private community of stakeholders involved with the implementation of EUDR:

- **Shifting to other markets or producers:** Importers seeking to mitigate their compliance risks and associated costs could opt for redirecting their sourcing to countries with lower risk profiles, thereby bypassing smallholders in high-risk countries. Also, EU buyers might adopt a cautious approach towards engaging with smallholders operating in areas designated as high risk by the EU.

- **Buyer lock-in and loss of bargaining power:** Smallholders and cooperatives might become overly dependent on individual or specific buyers for access to the EU market. This worsens the already limited bargaining power of the smallholders when engaging with the EU market.
- **Unequal documentation requirements and risk perception:** EU importers are likely to prioritise compliance with the EUDR while minimising their costs. There is the risk of buyers seeking to avoid forest-adjacent smallholders, due to the potential increase in documentation required to ensure compliance in those situations.
- **Additional costs of the EUDR being charged at farm level:** The additional documentation required will incur an added cost, burdening smallholders at farm level, with buyers avoiding to pass the extra costs onto end-users and related loss of competitiveness in the market.

This section is from Forests of the World's report "*Why smallholders must be favoured in the quest for traceability - briefing for companies*", which highlights the importance of involving and supporting smallholders in the implementation of traceability systems. In the report, Forests of The World have analysed a number of possible scenarios and provide recommendations for companies on how they can best support smallholders. Read about best practices [here](#). Find the full report [here](#).



Mill A



Mill A, based in Malaysia, has been sourcing palm fruit from Smallholder Coops 1, 2, and 3 for several years, and it produces crude palm oil from palm fruit and palm kernels. The lead operator of the Mill has great relationships with the coop leaders.

Mill A is aware of the challenges associated with smallholder oil palm production in the region, including deforestation and child labour risks, but does not feel like it can enact change, due to having limited resources.

Still, Mill A is working toward RSPO certification to be able to sell its product at a higher premium but does not have a procedure to segregate certified and non-certified product at this point.

EU-based Operators might consider dropping such suppliers from their supply chains.

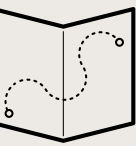
Mill B



Mill B, also located in Malaysia, regularly sources palm fruit from a large plantation to produce crude palm oil, due to the plantation's high productivity and relatively low-cost product. In recent years, land conflicts have been identified with local indigenous populations. Land clearing has also been common as a means of increasing revenues, resulting in significant biodiversity loss.

Up until now, Mill B has turned a blind eye to these issues, due to their impressive margins and pressure from foreign investors. However, management has identified EUDR as a potential risk to their business and is looking into ways to address the regulation in the lowest cost way.

Mill A and Mill B do not have any direct requirements under EUDR, but they will be contacted by the EU Operators to share producer information.



Refinery Inc.



Refinery Inc. is an oilseed refinery based in Malaysia. The company has many products, two of which are refined palm oil and refined palm kernel oil, which are used as inputs for food products and cosmetics. It also produces soybean oil, peanut oil, and rapeseed oil.

The company has weak relationships with its palm suppliers, as it sources from many traders located in SE Asia, based on the best available market price. It sells its products to an exporter, which typically ends up in the EU.

EUDR obligations

Refinery, Inc. does not have direct requirements under EUDR, as it's not customs clearing the product into the EU market. However, in order to continue exporting into EU markets, the company will have to implement a due diligence system and chain of custody system that provides transparency and clear flow of information to the EU importer.

Palm Imports, Inc.

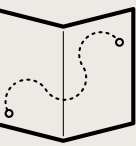


Palm Imports, Inc. is an SME operator located in Denmark. The company imports numerous palm products – refined palm oil (HS code 1511 90), refined palm kernel oil (HS code 1513 21), and derivatives palm olein and palm stearin (HS codes 1511 90 20 and 1511 90 30) – and sells them to food and cosmetics manufacturers in Denmark.

Management has been working to better understand its obligations under EUDR and has started by mapping the supply chains of some of its typical suppliers. Because it is the first company in the supply chain to make relevant commodities available on the EU market, it will be required to exercise due diligence on all relevant commodities purchased, even though it is an SME.

EUDR obligations

Due Diligence – Prior to placing relevant products – refined palm oil (HS code 1511 90) and refined palm kernel oil (HS code 1513 21) – on the market, Palm Imports, Inc. must exercise due diligence in accordance with Article 8 to prove the products are deforestation-free and produced in accordance with relevant legislation in the country of production (Article 4.1), or that due diligence has revealed a negligible risk of non-compliance (Article 4.4).



Palm Imports, Inc.

EUDR obligations (cont.)

A robust due diligence system includes the following elements:

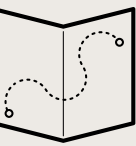
- 1. Information** – the information, documents, and data collected must demonstrate that products is (a) deforestation-free, (b) has been produced in accordance with relevant legislation, and (c) is covered by a due diligence statement (Article 3). Specifically, the information should reference the requirements laid out in Article 9, including:
 - a description of the product, including the trade name and type of product (Article 9.1.a)
 - the quantity of the relevant products entering or leaving the market (Article 9.1.b)
 - the country of production (Article 9.1.c)
 - geolocation data on all plots of land where the commodities were produced in the form of latitude and longitude coordinate points (farms < 4ha) or polygons (farms > 4ha) (Article 9.1.d; Article 2.28)
 - information on suppliers and buyers (Article 9.1.e; Article 9.1.f), and
 - verifiable information concluding that the product is deforestation-free (Article 9.1.g) and was produced in accordance with the relevant legislation of the country of production (Article 9.1.h).
- 2. Risk Assessment** – using the information gathered, conduct risk assessments according to the risk classification of the country of origin, following the European Commission benchmarking system.
 - Final risk designation for Malaysia provided by the benchmarking system will determine if risk assessment/risk mitigation are needed. Relevant products derived from ‘low risk countries will permit a simplified due diligence approach. Relevant products derived from ‘high risk’ countries will require enhanced scrutiny (Article 13).
 - Importer must not place relevant products on the market unless the assessment reveals no or only a negligible risk of the relevant products being non-compliant (Articles 4.4 & 10).

- In the absence of a benchmark—e.g., in the case of the European Commission’s announced delay to release country risk benchmarks—a country is considered “standard” risk until assessed otherwise.

- 3. Risk Mitigation** – If the risk assessment provides a non-negligible risk conclusion, then risk mitigation measures must be fulfilled until the final Risk Assessment concludes negligible risk. Only then can the Due Diligence Statement be submitted to the Competent Authority (controlling the port of entry) via the TRACES Information System (Article 11). Risk mitigation examples may include:
 - Collecting additional or more detailed information, data, or documents
 - Conducting independent surveys or audits
 - Switching to source certified products with stronger sustainability requirements and third-party verification
 - Engaging with suppliers through capacity building and investments, particularly with smallholders
 - Changing suppliers where the above measures are not feasible

Submission of Due Diligence Statement – prior to placing the palm oil products on the EU market, a due diligence statement must be submitted to the Competent Authority via the TRACES Information System, only if the risk assessment concludes negligible risk (Article 4.2). It should include all required information outlined in Annex II.

Record keeping – relevant information such as Due Diligence Statement reference numbers and information collected for Risk Assessments (Article 9)—must be kept for 5 years (Article 4.3).



Palm Imports, Inc.

EUDR obligations (cont.)

Reporting / Information Disclosure

- If Palm Imports, Inc. is made aware of new information that indicates a relevant product on the market is not compliant, it must immediately inform the competent authorities of the Member States in which they made the product available, as well as traders and operators to whom they supplied the products (Article 4.5).
- Communicate relevant information—country of origin, supply chain map (if applicable), evidence of products being legal and deforestation-free, Due Diligence Statement reference numbers, and a description of the Due Diligence System implemented to ensure negligible risk—to downstream operators and traders (Article 4.7).
- Palm Imports, Inc. will not be subject to public reporting of its due diligence system, as it is an SME.

Documented procedures

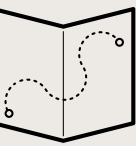
- Document the due diligence system, reporting procedures, and record keeping procedures (Article 12).
- Document all risk assessment and risk mitigation procedures, demonstrating how the information was checked against the risk assessment criteria set out in Article 10.2 and how they determined the degree of risk. Review at least annually. Documented procedures should be made available to competent authorities upon request (Article 10.4).
- Document any decisions on risk mitigation measures (Article 11.3).

Independent audits – Palm Imports, Inc. is not required to conduct independent audits of its due diligence system, as it is an SME operator (Article 11.2.b and 12.2)

Responding to checks & controls by competent authority of Denmark – offer all necessary assistance to competent authorities to facilitate the carrying out of checks, including access to premises, documents, and records (Article 4.6).

General requirements – Assume responsibility for compliance of the relevant product with Article 3 of the text (Article 4.3).

Food Manufacturing, Inc.



Food Manufacturing, Inc. is a large snack-foods manufacturer and wholesaler with headquarters in Denmark and manufacturing facilities located across European Union member states.

It sources refined palm oil, refined kernel oil, and palm derivatives to produce many of its packaged products, including biscuits/cookies (HS code 1905 31) and white label palm oil (HS code 1511 90), which are sold to major retail grocery chains in Denmark and EU member states.

The company sources palm oil from an Importer who sources from a refinery in China, but it has limited transparency into the supply chain or product origins before the refinery stage. Food Manufacturing, Inc. suspects the products are grown in heavy palm-producing countries like Malaysia or Indonesia, which are linked to deforestation and human rights risks.

As a public-facing brand, the risk and compliance teams have been increasingly worried about the potential reputational impact of these issues, causing the food manufacturer to set a sourcing goal of purchasing 100% RSPO-certified palm by 2030. After the recent passing of the EU Deforestation Regulation, the company is trying to reconcile its role in EUDR, and how it might be able to use the RSPO certification to satisfy some of the requirements.

EUDR obligations

Due Diligence – Prior to placing relevant products – white-label palm oil (HS code 1511 90) – on the market Food Manufacturing, Inc. must exercise due diligence in accordance with Article 8 to prove the products are deforestation-free and produced in accordance with relevant legislation in the country of production (Article 4.1), or that due diligence has revealed a negligible risk of non-compliance (Article 4.4). Due diligence is not required for biscuits/cookies (HS code 1905 31), as they are out-of-scope products.

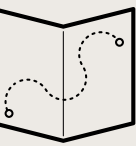
If all relevant products being placed on the market are covered by a prior due diligence statement, Food Manufacturing, Inc. can focus its due diligence efforts on reviewing Palm Imports, Inc.'s Due Diligence System. It must be able to ascertain the company has a robust due diligence system and has correctly assessed risk of deforestation, legality, and mixing in the refinery in China. Food Manufacturing, Inc. will want to ensure the supplier's system has documented and implemented the following processes:

- Information collection – following requirements laid out in Article 9
- Risk assessment – following requirements laid out in Article 10
- Risk mitigation – following requirements laid out in Article 11

Submission of Due Diligence Statement – Prior to placing its white-label palm oil on the market, the company must submit a Due Diligence Statement to the European Commission (Article 4.2). It should include all required information outlined in Annex II.

Because a Due Diligence Statement was already submitted when Palm Imports, Inc. imported the palm oil, Food Manufacturing Inc. may refer to the previous DD Statement when submitting their own (Article 4.9)

Food Manufacturing, Inc.



EUDR obligations (cont.)

Record keeping – relevant information such as Due Diligence Statement reference numbers and information collected for Risk Assessments (Article 9) -must be kept for 5 years (Article 4.3).

Reporting / Information Disclosure

- If Food Manufacturing, Inc. is made aware of new information that indicates a relevant product on the market is not compliant, it must immediately inform the competent authorities of the Member States in which they made the product available, as well as traders to whom they supplied the products (Article 4.5)
- Communicate relevant information to downstream operators and traders, including due diligence statement reference numbers (Article 4.7)

Documented procedures – if Food Manufacturing, Inc. refers to a prior due diligence statement, the company should:

- Document the supplier's due diligence system, reporting procedures, and record keeping procedures (Article 12)
- Document all of the supplier's risk assessment and risk mitigation procedures, demonstrating how the information was checked against the risk assessment criteria set out in Article 10.2 and how they determined the degree of risk. Review at least annually. Documented procedures should be made available to competent authorities upon request (Article 10.4)

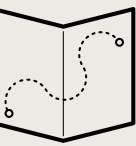
- Document any of the supplier's decisions on risk mitigation measures (Article 11.3)

Independent audits – Food Manufacturing, Inc. must conduct independent audits of its Due Diligence System at least annually (Article 11.2.b and 12.2). As a risk mitigation action, it can also conduct independent audits on its suppliers, such as Palm Imports, Inc. (Article 11.1.b). Audits should include checks to ensure the systems in place are capturing non-compliances before products are placed on the market.

Note: "independent" does not imply "third-party". Audits can be conducted by the companies themselves, so long as the auditor is not involved in nor have direct responsibility for the performance of the activities being audited.

Responding to checks & controls by competent authority of Denmark – offer all necessary assistance to competent authorities to facilitate the carrying out of checks, including access to premises, documents, and records (Article 4.6)

General requirements – Although Food Manufacturing, Inc. can refer to a previous due diligence statement, it will still retain responsibility for the compliance of relevant products with the regulation (Article 4.10)



Food Retail Co.



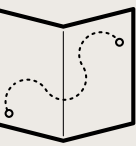
Food Retailer Co. is a non-SME grocery chain with stores located across Denmark, and it plans to expand to other EU member states in the years ahead. The company purchases biscuits/cookies from Food Manufacturing, Inc. Because these products are not in-scope commodities for EUDR, the company does not have any regulatory obligations in this scenario.

EUDR obligations

Because Food Retail Co. only purchases snack food products, the company is not in scope and thus has no legal obligations under the regulation.

However, considering the reputational risk of buying/selling products that could be connected with non-compliant (EUDR) palm oil, it may be worth putting some degree of due diligence in place. Potentially avenues could be:

- Ensuring all products supplied by Food Manufacturing Inc. are covered by a due diligence statement
- Receiving confirmation from Food Manufacturing Inc. that they are “checking” the due diligence system of the importer



Role of certification schemes

General

- Use certification as a tool for data collection and as a risk mitigator.
- Be aware of gaps in certification schemes.
- Certification schemes must be evaluated and benchmarked to EUDR, for example: [RSPO <> EUDR gap analysis](#).
- Certification is not a guarantee for compliance with the EUDR.

Round Table for Responsible Palm Oil (RSPO)



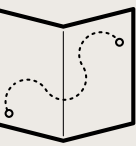
RSPO is the most widely used international certification scheme for palm, but it has been subject to controversy in the past.

Overview of RSPO CoC Models:

- Best for EUDR: Identity Preserved– ensures unique traceability to a single RSPO certified mill, with up to 5% non-certified allowed with justifications.
- Medium for EUDR: Segregated – provides traceability from various RSPO certified sources (IP products), allowing up to 5% non-certified with justifications.
- Not useful for EUDR: Mass Balance – allows transfer of certified claims between products, not fully suitable for EUDR compliance, but RSPO is developing tools to make it work.

N.B. for a mass balance system to be useful for EUDR, the operators must ensure that both the certified and the non-certified shares of the mix are EUDR compliant, meaning: (1) known origin and access to geolocation information and (2) negligible risk of legality and deforestation factors.

Updates for EUDR: RSPO has shared plans to develop a new digital platform for traceability that allow members to include EUDR relevant information as well as report on the conventional part of their supply.



Best practices regarding inclusion of Smallholders

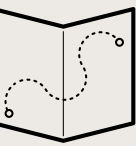
To ensure that smallholders are not negatively impacted by the EUDR, the regulation already includes a provision that focuses on the EU Commission assisting smallholders by creating partnerships with producing countries.

See below some additional best practices that EU companies impacted by the EUDR can put in place in relation with traceability systems and the added burden they bring to smallholders:

- **Designing for farmer cooperatives:** Smallholders are not always familiar with or have the economic capacity to use digital technologies. Encourage working with cooperatives instead of individual farmers when designing traceability tools. Financing and training will be easier.
- **Storing data close to source:** Smallholders and cooperatives should have the ability to store and own farm-related data and use it for other purposes like cooperative management, certification, accessing loans and collaboration with service providers.
- **Interoperability:** Traceability systems should be interoperable to allow easy data sharing.
- **Simple and intuitive design:** Digital tools targeting grower groups should be simple and intuitive in their design to accommodate low levels of technical capacity and literacy.
- **Fair business models and reliable partners:** Smallholders regularly need financial and organizational support. They need EU stakeholders to help with maintenance and development of digital systems that are free of charge and open source.

- **Data premium:** Traceability systems should facilitate monetization of data and data premiums for farmers.
- **Documentation needs to be based on local conditions and capacity:** In order to comply with EUDR requirements on geolocation and legality, verification and archiving of documents such as property deeds or labour contracts should be made accessible by applying easy to use systems and adapted formats or methodologies.

This section is from Forests of the World's report "*Why smallholders must be favoured in the quest for traceability - briefing for companies*", which highlights the importance of involving and supporting smallholders in the implementation of traceability systems. In the report, Forests of The World have analysed a number of possible scenarios and provide recommendations for companies on how they can best support smallholders. Find the full report [here](#).



Best practices for a Due Diligence System



Internal Responsibilities and Procedures

Designate individual responsibilities for all applicable elements of the regulation and inform the entire organization of these roles and responsibilities.

Outline procedures/processes for each element of the Due Diligence System; ensure each element is either documented or created where missing. Main components of a Due Diligence System include:

- Basic Quality Management System requirements – clear detailed list of procedures, instructions for keeping records and conducting internal reviews.
- Procedures on how to collect information related to EUDR compliance and how to conduct risk assessments.
- Clear criteria for risk assessments to ensure only legal and deforestation-free products enter the EU market.
- Procedures for implementing effective risk mitigation actions when risk assessment produces “non-negligible” results.
- Ensure Due Diligence System procedures and records are easily accessible to company staff and Competent Authorities when requested.

Have one source of updated documents and procedures that are visible to all relevant staff. Maintain one master list to track procedures; list should include a brief description, elements of due diligence covered, date of creation, date of last review, and responsible team.

Review procedures annually to ensure relevancy and that relevant staff are trained on the appropriate procedures.

Standardize monitoring of suppliers (supplier score cards, supplier qualification processes, special guidance, etc.).



Access to Information

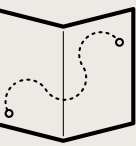
- Keep all documentation and records of risk assessments for a minimum of 5 years.
- Establish a strong knowledge sharing system with suppliers to ensure suppliers of relevant products are aware of requirements and are committed to them.

Certification: may supplement or support the collection or transfer of information. However, risks of the certification scheme must be assessed prior to use (see Certification under Risk Assessment, below).



Risk Assessment

- Determine which products will need risk assessments and if they will require a full risk assessment or simplified risk assessment (depending on country risk level, per Article 13).
- For simplified due diligence implemented on material produced in a low risk country, you can avoid conducting risk assessment and risk mitigation. However, you will need to demonstrate that there is a negligible risk of circumventing the regulation or mixing with products of unknown origin, or originating from high-risk or standard-risk countries.
- Develop risk assessment methodology and risk assessment report template to document process and keep accurate and dated records. You can access a sample risk assessment report template [here](#).
- Develop risk assessments for all relevant areas of risk at the country or subnational level for each commodity’s supply chain. Risk assessments should include legal violations related to harvesting activities, trade and transport, concerns of corruption/document falsification/lack of enforcement, risk of mixing, presence of forests and prevalence of deforestation or forest degradation, review of trade/regulatory complaints, reliability of documentation, and risk assessment of certification.



Best practices for a Due Diligence System (cont.)

- Review risk assessments on an annual basis.
- Should non-conformities be found, implement red flags to prevent products from moving forward without the required information for EUDR-relevant products. Document any actions taken for monitoring and reporting purposes.

Certification: If using certification schemes to supplement data collection, supplier management, or as a form of risk mitigation, the risk of non-compliance of the scheme with EUDR should be assessed, with gaps clearly identified (either within the standard, or the scheme itself, i.e. in cases of corruption).



Risk Mitigation

Create a list of anticipated risks/non-conformities potentially found during risk assessment phase.

Establish action items or plans for each risk item or potential non-conformity. A mitigation hierarchy should clearly outline mitigation actions in accordance with severity of risk.

Risk mitigation options may include:

- Supplier training/capacity building
- Desk or on-site audits of suppliers or producers
- Sourcing from low risk-areas
- Removing supplier from supply chain
- Changing the raw material of the product

Certification: requiring certification may be used as a form or risk mitigation in particular instances or regions. Only if the risk of the certification scheme has been assessed.

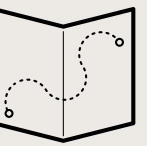


Due Diligence Statement

If needed, develop a Due Diligence Statement template (according to Annex II of the Regulation) where information can be filled and later transferred (using API or other) to Information System (TRACES) to be used (1) for every import/shipment, (2) for every export, (3) before placing on the market relevant products (if non-SME operator) or (4) before making available on the market (if non-SME trader) and make sure it includes the following information:

- Name of the importer/exporter,
- Address, and sometimes the Economic Operators Registration and Identification (EORI) number – for import and export.
- A description of the product, including the trade name, the scientific name, and the quantity of the product.
- The country of production and geolocation information of the plots of land relevant to the harvest of commodities, including time range of production (geolocation file using GeoJSON format).
- For cattle (beef/leather) only, geolocation of all farms where the cattle were raised, as well as evidence due diligence was carried out on feed fed to cattle (geolocation file using GeoJSON format).
- Reference numbers of existing due diligence statements are needed if importers/ exporters are referring to them (per Articles 4.8 and 4.9)
- A statement confirming that due diligence has been carried out in accordance with Regulation (EU) 2023/1115 and no or negligible risk for non-compliance was found.
- The date and a signature.

Roadmap to compliance



Assess all product references within commercial activity to understand scope of EUDR and determine potential extent of EUDR obligations.



Engage also with clients which are impacted by the EUDR to ensure their due diligence and reporting needs will be covered.



Develop a due diligence system, including information collection, risk assessment, and risk mitigation procedures which assess all of the relevant criteria outlined in the regulation.

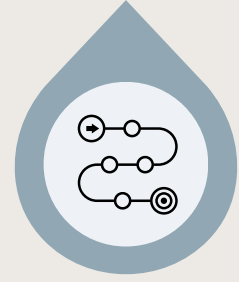


Engage with and support suppliers toward EUDR compliance, for example:

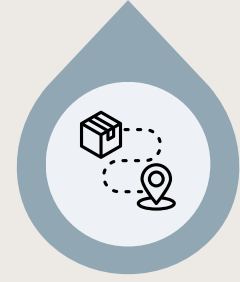


- Provide training and/or financial incentives to implement EUDR procedures.
- Develop a premium product and share in cost to help suppliers come into compliance with EUDR.
- Strengthen relationships with Cooperative leadership and establish commitments to work toward EUDR compliance.
- Conduct technical assessments and, if necessary, invest in equipment needed for producers to generate and communicate accurate geolocation and time range of production data.
- Participate in multi-stakeholder platforms oriented to ensure EUDR compliance with public and private sector actors.
- Support implementation of certification schemes and recognise premium prices.

Map relevant supply chains and begin engagement with suppliers to prepare for compliance with EUDR.



Invest in supply chain traceability software and train suppliers on proper use. If possible, go for sector-wide solutions developed jointly through coordination of communities, NGOs, industry and Governments.



Assess robustness of due diligence systems of upstream suppliers, if necessary (per Article 4.9), in order to ascertain that due diligence has been exercised properly before referencing previous Due Diligence Statements.

