

EU Customs, Forced Labor and Deforestation Law Update

Pablo Muñiz

6 February 2025

Agenda

Forced Labour Products Ban Regulation (FLPBR)

Deforestation Regulation (EUDR)

Union Customs Code (UCC) Reform



**Forced Labour Products Ban Regulation
(FLPBR)**

EU FLPBR | Background

Goal



The EU [FLPBR](#) introduces a blanket ban on all products made with forced labour on the EU market.

Rationale

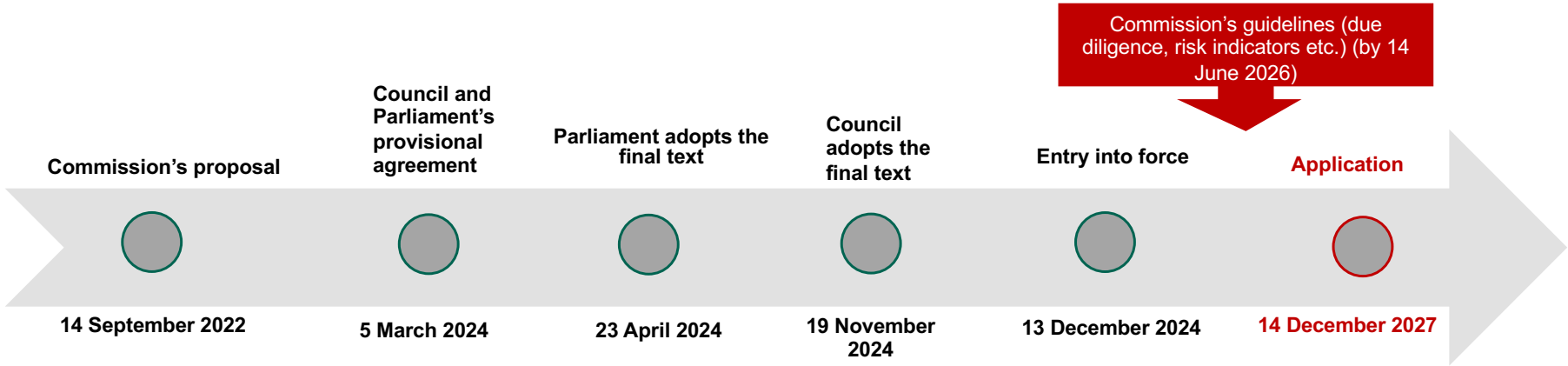


- The EU hopes that, the EU FLPBR will make a real difference to tackling modern-day slavery which affects an estimated 27.6 million people globally.
- Contributes to the achievement of UN Sustainable Development Goal 8.7 – the eradication of forced labour by 2030 and the implementation of the International Labour Organisation Conventions.
- The examples of forced labour (i) of the Uyghurs in the Xinjiang Uyghur Autonomous Region and (ii) in the Linglong factory in Serbia were particularly in mind when the FLPBR was adopted (see recital 15)

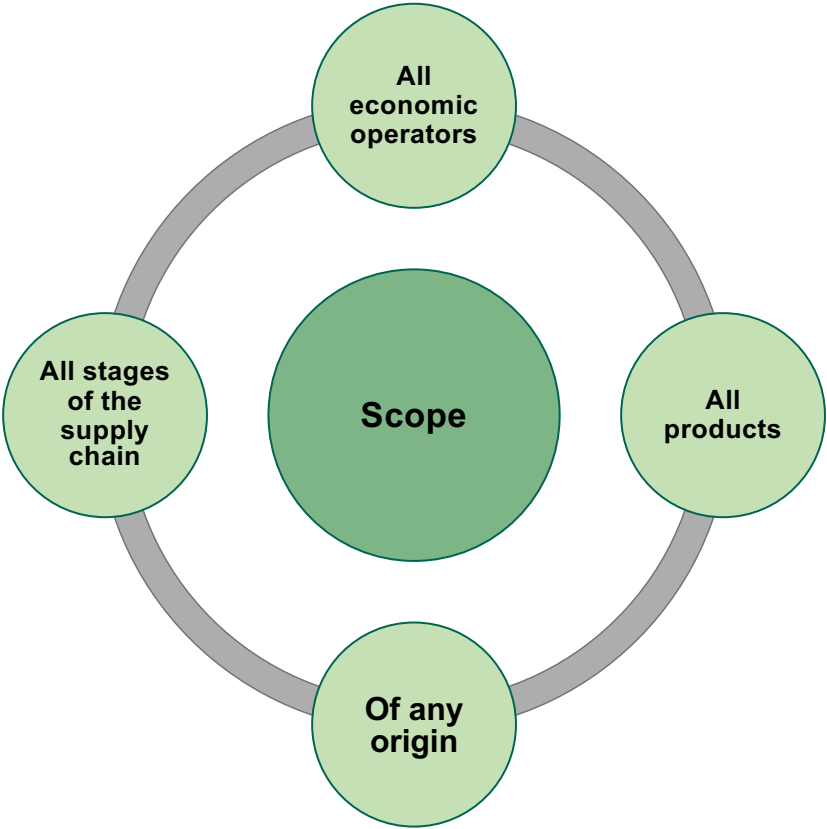




EU FLPBR | Current status



EU FLPBR | Scope and main obligations



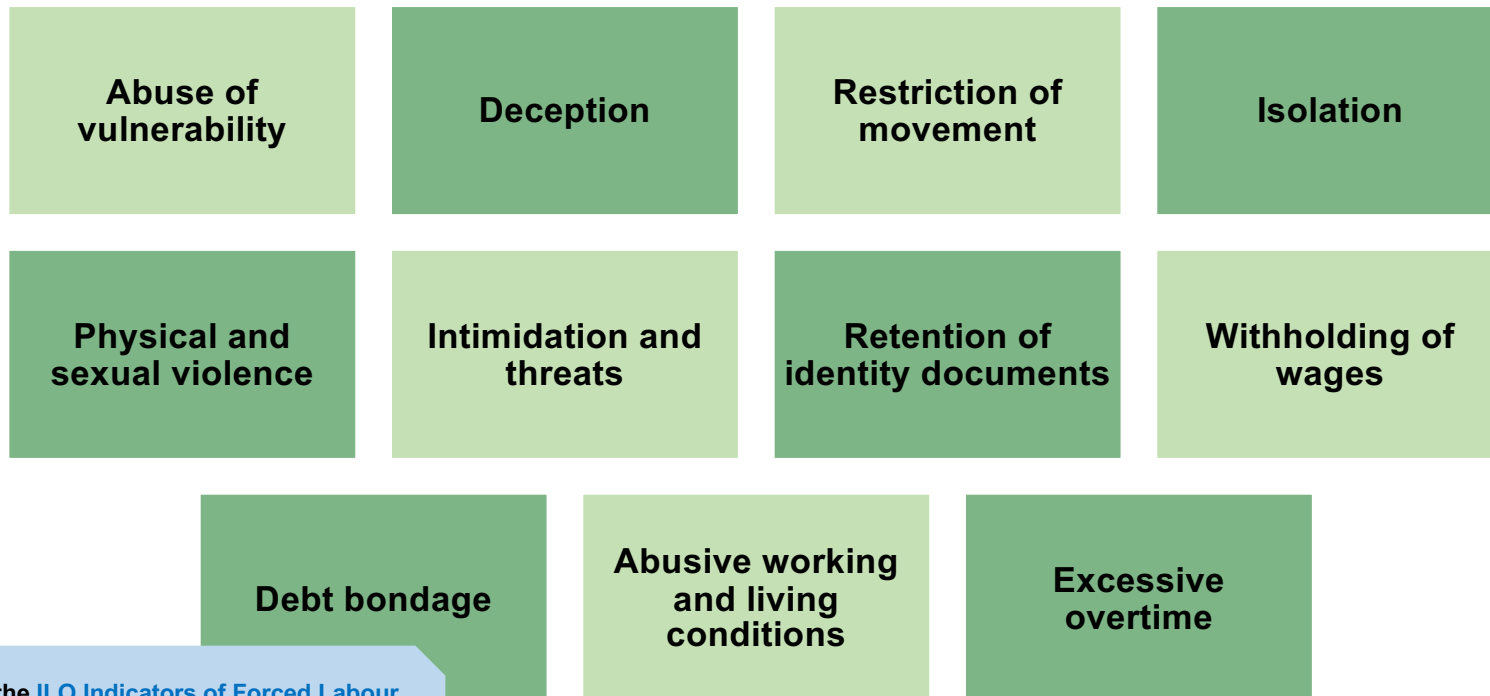
Prohibition to place / make available on the EU market and to export from the EU any products made, in whole or in part, with forced labour

Products offered for sale online are deemed to be made available on the EU market if the offer is **targeted at end-users in the EU**, i.e. the economic operator directs its activities to one or more EU Member States



In practice, **due diligence** will be needed

EU FLPBR | Indicators of forced labour



Based on the [ILO Indicators of Forced Labour](#).

In the future, the European Commission's guidelines on risk indicators of forced labour

EU FLPBR | Enforcement and penalties



Competences

- **EU Member States** where suspected forced labour takes place in the EU
- **European Commission** where suspected forced labour takes place outside the EU

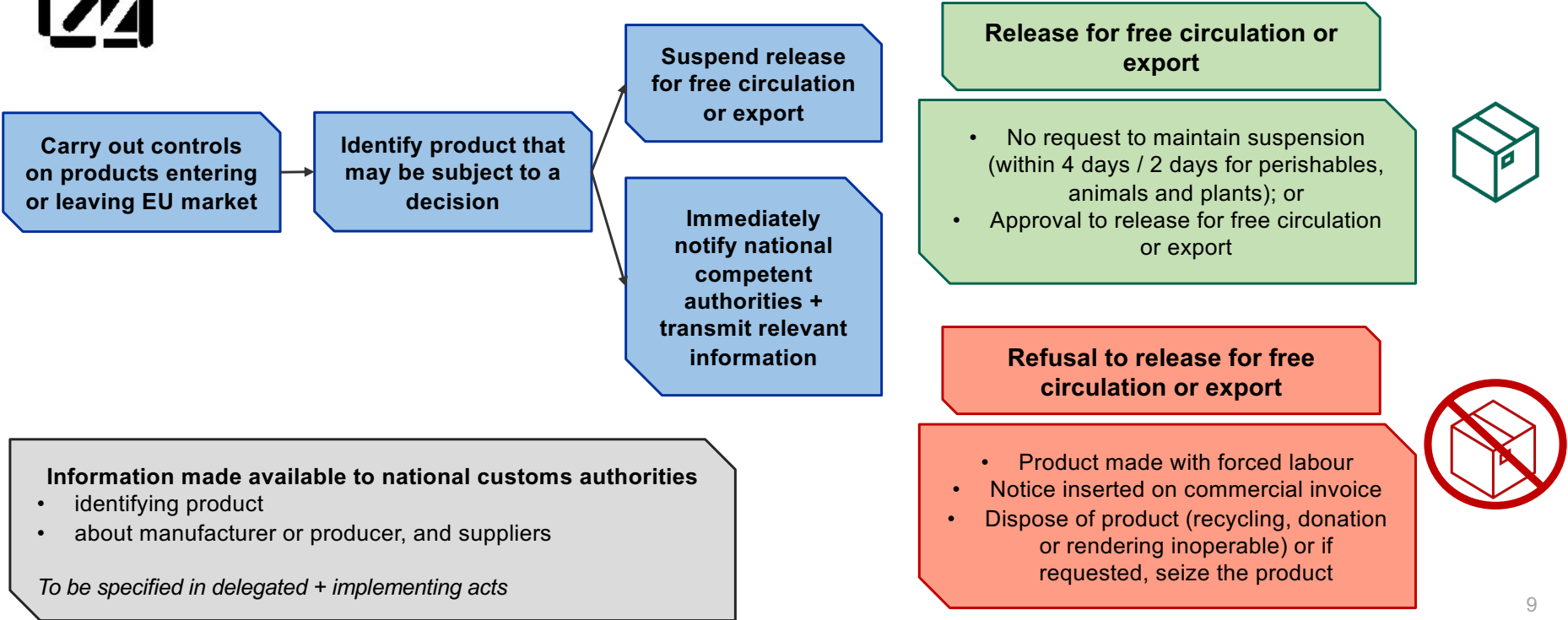
Enforcement

- Enforced at the EU border through customs controls

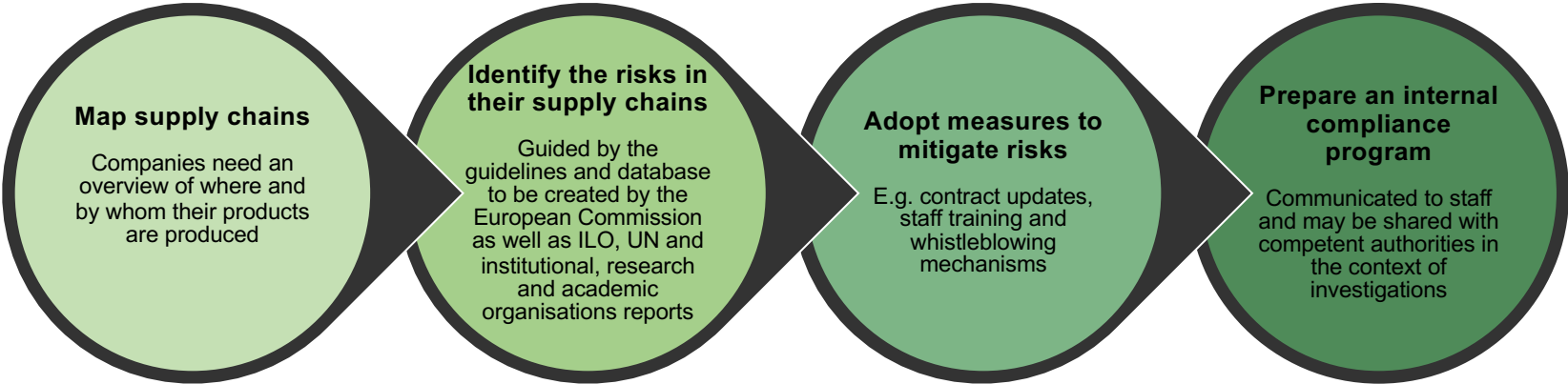
Penalties

- Companies that do not comply with decisions may be **fined**

EU FLPBR | Role played by national customs authorities



EU FLPBR | Ideas on how companies can prepare



Companies should also consider other EU due diligence legislation e.g. EUDR and prepare an **integrated EU compliance strategy**

An aerial photograph of a dense, lush green forest. The trees are packed closely together, creating a textured canopy. A white rectangular box is superimposed over the center-left portion of the image, containing the text 'Deforestation Regulation (EUDR)'.

Deforestation Regulation (EUDR)

EUDR | Background

Goal



The [EUDR](#) prohibits placing or making available on the EU/EEA market or exporting from the EU/EEA market covered products that are not deforestation-free

Rationale

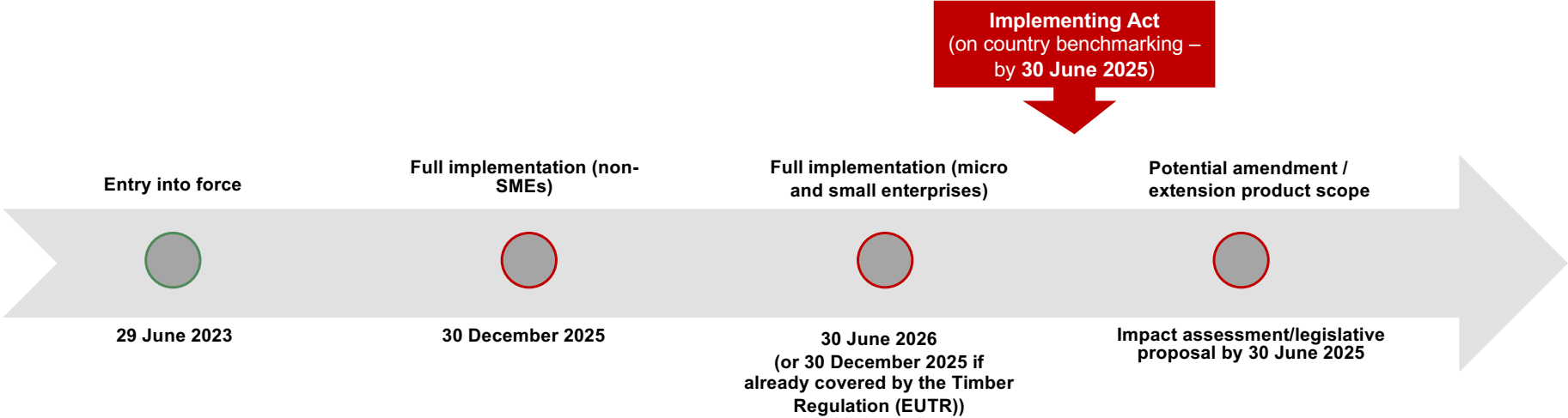


- Limit consumption of commodities/products coming from supply chains associated with deforestation or forest degradation
- Increase EU demand for “deforestation-free” commodities/products
- Reduce EU demand-driven GHG emissions and biodiversity loss

Latest Updates

- **2 October 2024:** Commission published several guidance documents including [in-depth guidance](#), a new [FAQ Document](#), new [TARIC data codes](#), and a [proposal](#) to delay to the EUDR’s application.
- **6 December 2024:** [Implementing Regulation](#) on Information System published in the OJ and launch of the Information System.
- **23 December 2024:** the [Regulation](#) to delay the EUDR’s application published in the OJ and updated [FAQs](#).

EUDR | Current status and timeline



EUDR | Scope



Cattle



Rubber



Cocoa



Soya



Coffee



Wood (including furniture and paper)



Oil palm and derivatives



Product coverage

- Products listed in the seven product categories included in Annex I
- By 30 June 2025: potential amendment / extension of the product scope (e.g., maize and biofuels)



Geographical coverage

- Applies to both imported and exported products
- No exemptions

EUDR | Main obligations

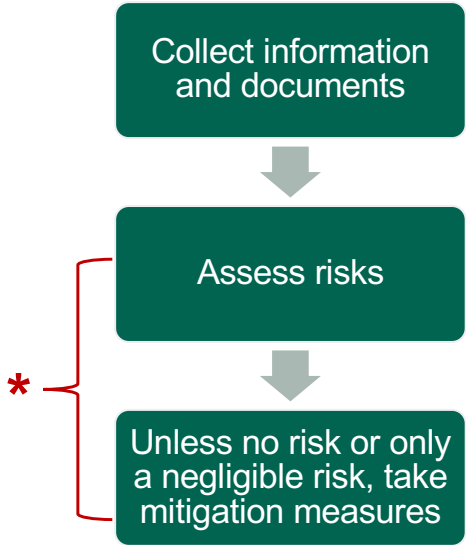
Prohibition to place/make available on the EU market and export from the EU the covered products unless products are:



All countries will be classified based on high-, standard-, and low-risk of deforestation → implications for due diligence obligations

* Steps 2 and 3 of due diligence not applicable if the country of origin is low risk and there is a negligible risk of circumvention or mixing

Key Due Diligence steps:



Increased checks by authorities if the country of origin is considered “high risk”

EUDR | Enforcement

Enforcement Body



- Audits and enforcement take place at **EU Member State level (national competent authorities)**
- **Risk-based** approach (e.g., enhanced annual checks of relevant commodities/products from high-risk countries)

Possible Actions



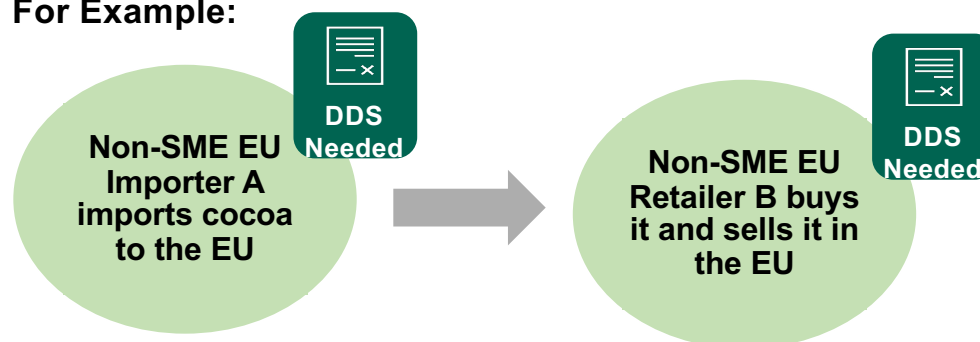
- **Adopt interim measures:** short term seizure or suspension of importation or placing on EU market of commodities/products
- **Request corrective actions from operators or traders:** withdrawal or donation of non-compliant products
- **Impose penalties**
 - fines (*at least 4%* of operator or trader's **total annual EU-wide turnover**, potentially increased to exceed the potential economic advantage gained)
 - confiscation of products or related revenues
 - temporary exclusion (max. **12 months**) from public procurement or public funding
 - temporary prohibition of importation

EUDR | Due Diligence Statements

Who must Submit a Due Diligence Statement?

- **Operators** placing EUDR goods on the EU market i.e. making available goods on the EU market for the first time. This includes imports released for free circulation.
- **Traders** making available EUDR goods on the EU market i.e. supplying a product on the EU market for distribution, consumption or use in the course of a commercial activity (unless they are a SME)
- **Exporters** of EUDR products

For Example:



EUDR | Submitting DDS

Due diligence statements to be created and submitted using an online [Information System](#)

- Live since December 2024
- Training and user manuals available [here](#)



Due diligence statement

National customs authorities



Reference number of statement made available before release for free circulation



Before being able to use the platform, operators and traders will need to **register**

- **Importers/exporters** = with Economic Operators Registration and Identification (EORI) number
- **Domestic operators/traders** = with EORI number, VAT number, National Company Number or Taxpayer Identification Number

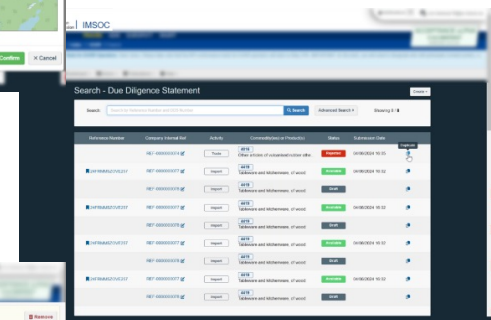
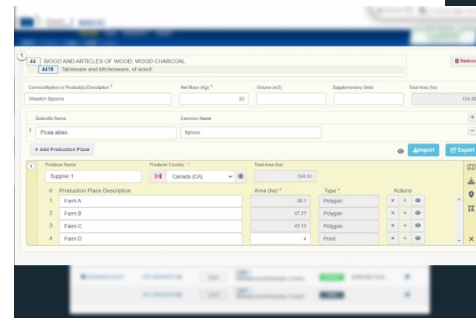
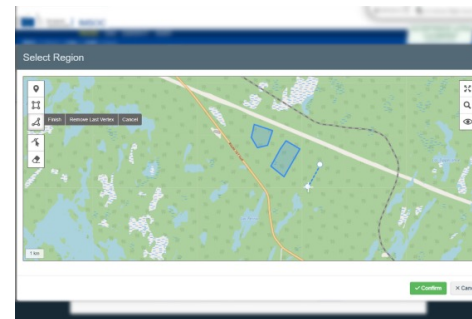
EUDR | Submitting DDS

What must be included in the DDS?

- Operators name, address and EORI number (where relevant)
- Details of the relevant products e.g. HS code, description, trade name and quantity
- Country of production and geolocation of all plots of land where the relevant commodities were produced (can be uploaded in bulk in GeoJSON Format)
- Reference number of any existing DDS referred to in the DDS
- Declaration



Cancellations and amendments of DDS possible for **72 hours** unless the DDS has already been used in a customs declaration or another DDS



Source: European Commission

EUDR | Ideas on how companies can prepare



Companies should also consider other EU due diligence legislation e.g. EU FLPBR and prepare an **integrated EU compliance strategy**



**Union Customs Code (UCC)
Reform**

UCC Reform | Background

- **EU Customs Reform** includes a proposal for a **regulation establishing the Union Customs Code (UCC)** and the **EU Customs Authority** and repealing the current UCC
- Responds to the **current pressures** under which EU Customs operates, e.g. increase in trade volumes from **e-commerce** transactions (more than 4 billion shipments in 2024), fast-growing number of **EU standards** that are checked at the border
- **Key pillars**



EU Customs
Data Hub



EU Customs
Authority



Trust and
Check trader
scheme



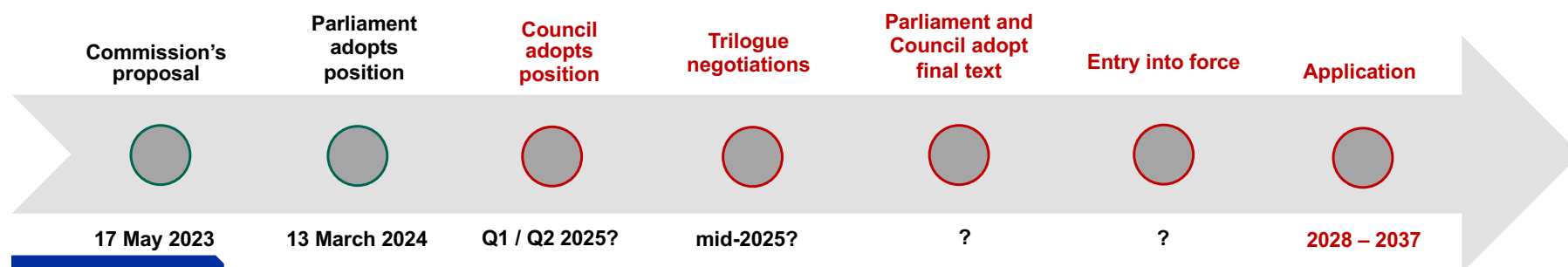
Simplifications
for e-commerce
transactions



Minimum core of
customs
infringements
and non-criminal
sanctions



UCC Reform | Current status



Current status

- Dutch MEP **Dirk Gotink** leads the European Parliament's negotiations
 - European Parliament's position is **unlikely to be revised** by IMCO Committee
 - Dirk Gotink and 6 other MEPs sent **letter** to Polish Finance Minister in **December 2024** calling for the **start of inter-institutional negotiations** during the Polish presidency of the Council
- Negotiations within the Council under the Polish presidency are **ongoing** → division of workload into following topics: (i) EU Customs Authority, (ii) EU Data Hub, (iii) customs processes, (iv) infringements, and (v) e-commerce
 - In **September 2024**, Germany, Austria, Denmark, France, the Netherlands and Poland issued a **statement** calling for the implementation of the Digital Services' Act and the **swift implementation of the UCC Reform in relation to e-commerce platforms** → identifies Shein and Temu
 - Council plans to issue a **communication on e-commerce** by **February 2025** → new ideas on how to prevent the influx of non-complaint products from online platforms; could add new elements to the UCC Reform

EU Customs Data Hub and EU Customs Authority



EU Customs Data Hub

- **Shift** from system based on **customs declarations** to system based on the provision of **information**
- **Key functionalities:** electronic implementation of customs legislation; **risk, economic and data analysis**; customs surveillance
- Economic operators can **begin using the Hub** by 1 March 2032 (**1 January 2029**)
- **Fully operational** by 31 December 2037 (**31 December 2032**)
- **Voluntary, pilot phase** to test Hub's functionalities
- **Fall-back procedures**



! Broad consensus amongst EU MS, but concerns regarding technical aspects of Hub, e.g. how data flows between national customs authorities



EU Customs Authority

- A central, operational capacity for the coordinated governance of the Customs Union in specific areas
- Established as of 2026 → fully operational by 2028 (**as of 1 January 2028**)
- EU Member States and European Commission represented on Management Board, as well as an expert designated by European Parliament
- **Customs Advisory Board** comprised of representatives and associations for relevant stakeholders that will assist the EU Customs Authority's Executive Board
- Creation of an **online platform** for stakeholders to **report non-compliant goods** that enter the EU market

! Broad consensus amongst EU MS

UCC Reform | Simplifications for e-commerce transactions (1)



Simplifications for e-commerce transactions

“The proposed EU Customs reform will bring **long-term and systemic solutions** to the **e-commerce challenge**”.

“It is important that the **co-legislators adopt the Customs reform package as quickly as possible**, as this reform brings a **real strategic capability** for the EU to act as one in **responding to the threats posed by illicit and noncompliant e-commerce traffic**”.

“If the business model is deemed to exploit the structural difficulty to apply sufficient compliance checks to the enormous volumes of items individually packaged and sent from abroad, **we should also be open to other measures**”.



- Maroš Šefčovič, **Commissioner-designate for Trade and Economic Security**

UCC Reform | Simplifications for e-commerce transactions (2)

Apply from **1 March 2028**
(1 March 2026)



Simplifications for e-commerce transactions

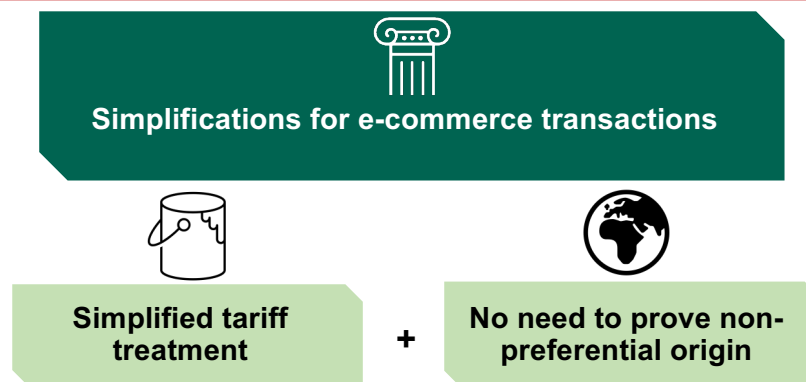


Creation of 'deemed importer'

- **'deemed importer'**: any person involved in the distance sales of goods to be imported from third countries into the customs territory of the Union **who is (including persons)** authorised to use the special scheme laid down in Title XII, Chapter 6, Section 4 of Directive 2006/112/EC (Article 5(13), UCC Proposal) (IOSS)
 - European Parliament position expands scope of concept
- **Responsible for the customs debt for e-commerce products** (rather than private consumers)
- Must **ensure compliance with "other legislation applied by customs authorities"** (including **General Product Safety Regulation (Regulation (EU) 2023/988)** → **obligation held by all importers** (including indirect customs representatives); shift to increased checks at the border and increased coordination between national customs authorities and market surveillance authorities
- Failure to comply with deemed importer's obligations is a **separate customs infringement**

UCC Reform | Simplifications for e-commerce transactions (3)

Apply from **1 March 2028**
(1 March 2026)



- Customs duty calculated by applying a **new bucket tariff** in the Combined Nomenclature to the product's customs value (net purchase price without VAT and **including total transport costs** until the product's final destination) **upon the importer's request**
- **Five-tier bucket system**: each bucket includes a duty rate and identifies the chapters of the Combined Nomenclature to which it applies → 0% (Bucket A), 5% (Bucket B), 8% (Bucket C), 12% (Bucket D) and 17% (Bucket E)
- Do **not** need to **prove** a **product's non-preferential origin**

UCC Reform | Simplifications for e-commerce transactions (4)



Simplifications for e-commerce transactions



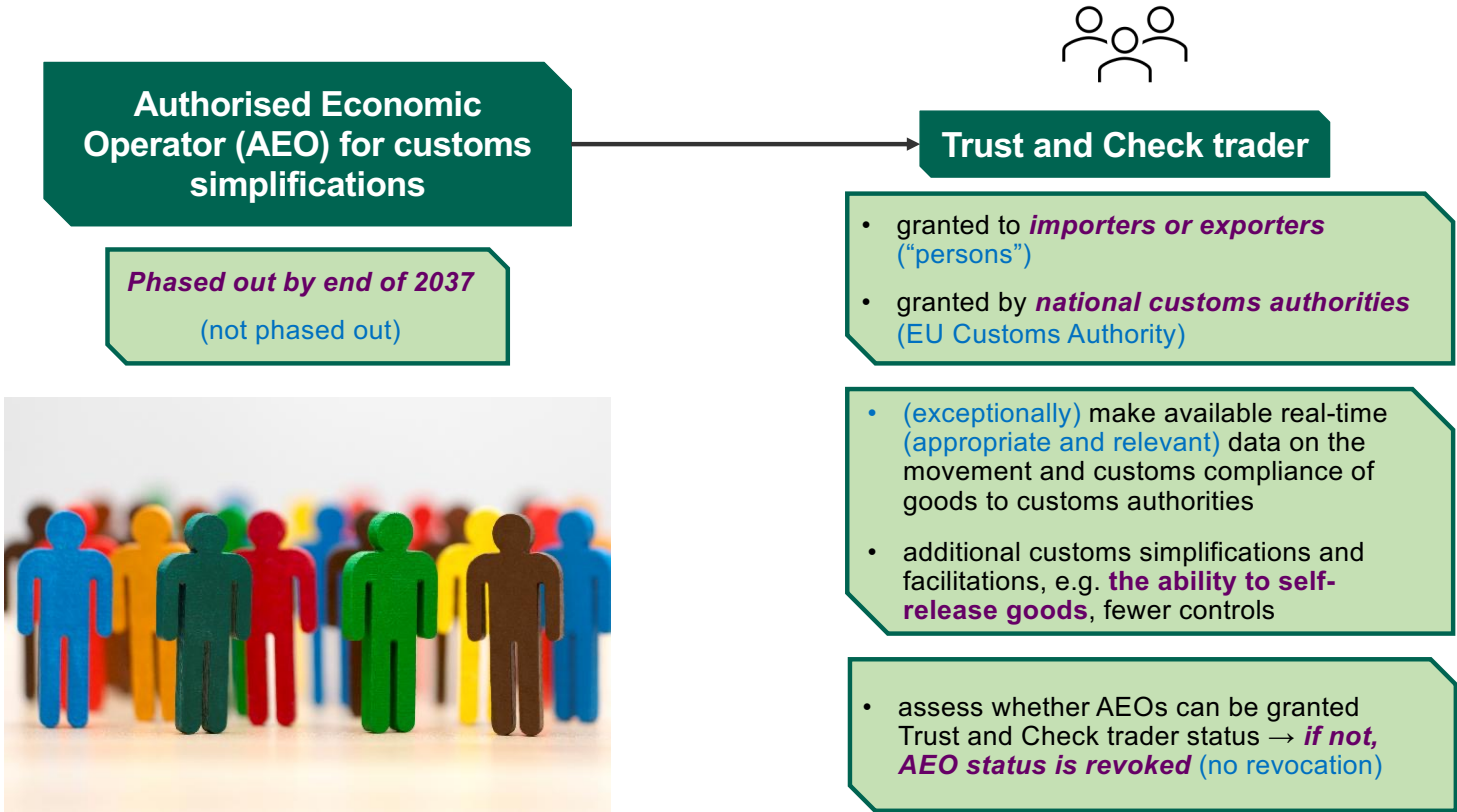
Elimination of *de minimis*
150 EUR threshold for
imports

- **Eliminate the 150 EUR *de minimis* threshold** on imports which exempts goods from **customs duties**
- European Parliament has not adopted a position on the proposal to amend Regulation (EC) No 1186/2009 – however, they removed a reference to the elimination of this threshold from Recital 48 of the UCC proposal
- European Parliament's lead negotiator (Dirk Gotink) supports elimination of threshold



European Commission expected to publish a **communication** on e-commerce
→ multiple delays
Council of the EU also planning to publish a **communication**

UCC Reform | Trust and Check trader scheme



Thank you

Brussels

Glaverbel Building
Chaussée de la Hulpe 166
Terhulpesteenweg
B-1170 Brussels
Belgium

T +32 (0)2 647 73 50
F +32 (0)2 640 64 99

Geneva

26, boulevard des Philosophes
CH-1205 Geneva
Switzerland

T +41 (0)22 320 90 20
F +41 (0)22 320 94 20

London

Holborn Gate, 330 High Holborn
WC1V 7QH London
United Kingdom

T +44 (0)20 7406 1471



Pablo Muñoz
Partner
pmuniz@vbb.com