

LIST OF QUESTIONS FROM UCAB DELEGATION ON EUDR IMPLEMENTATION IN UKRAINE'S CONTEXT

- 1. According to the General Principles of the Country Benchmarking System of 2 October 2024, the Commission will classify countries based on quantitative indicators of deforestation based on UN FAO data. Countries will be classified as low-risk if they fall under specific thresholds of deforestation both in absolute terms (*hectares of forest lost per year*) and relative terms (*percentage of forest cover lost annually*). Could the European Commission provide an indication at what level it will set the thresholds for absolute and relative deforestation to distinguish low-risk and standard/high-risk countries?**

Answer:

The European Commission is awaiting the decision by the European Parliament and the Council on the proposed amendments associated with the delay of start of EUDR implementation. Once the decision is adopted, the Commission will put forward implementing legislation specifying the applicable thresholds for deforestation to distinguish between various levels of risk among countries. The proposals will be put forward at least 6 months before the intended date of application, likely by 30 June 2025.

- 2. According to the Global Map of Forest Cover Changes posted on the official website of the European Commission, EU Observatory on deforestation, the Deforestation/tree cover losses indicator for Ukraine since 2016 is 0. In view of the above, can we assume that Ukraine will be assigned a Low risk level in the EUDR understanding? If not, what is the planned risk level for Ukraine?**

Answer:

The European Commission abstains from providing information pending the approval of the proposal to delay the start of EUDR implementation as well as related proposal for 'zero-risk' benchmarking.

- 3. The Regulation states that if the land plot exceeds 4 hectares, the points of the entire land plot should be provided, if less than 4 hectares, 1 central point is sufficient. In Ukraine, a land plot within the meaning of the EUDR is a plot of land which was assigned to a physical person – rural resident, in the framework of the land reform. The average size of a land plot is 2.5 hectares. However, the Ukrainian agricultural business uses the term 'a field' - hundreds of land plots that border each other and are cultivated by one economic operator. However, documentary evidence is tied to individual land plots. For example, if a company has 100 land plots of**

2.5 hectares each under lease and cultivation, will it be enough to provide 100 central points for each of the 100 plots, since these are different land plots that may belong to different people, but are legally cultivated by a particular company?

Answer:

The EUDR relies on definitions from ‘national relevant legislation’ in producing countries to define the status and characteristics of individual plots of land. Therefore, the definitions present in the relevant Ukrainian legislation in force should be recognized as such by the operators and the EU Member States competent authorities when reviewing due diligence statements (DDS) submitted by the operators and traders. If the ‘plot of land’ under relevant Ukrainian legislation is assigned clearly identified geospatial characteristics, the operators should be guided by the EUDR requirements for geolocation measurements applicable to relevant geospatial parameters.

4. What is considered "land" under the EUDR Regulation? If, in the context of the relevant legislation of Ukraine, a plot of land with a cadastral number is a plot which has been assigned to a physical person, residing permanently in rural areas and cultivating land as his primary professional occupation.

Answer:

A ‘plot of land’ means land within a single real-estate property, **as recognised by the law of the country of production**, which enjoys sufficiently homogeneous conditions to allow an evaluation of the aggregate level of risk of deforestation and forest degradation associated with relevant commodities produced on that land; (Art 2 (27)) of EUDR.

It means that the EUDR would recognize the provisions of Ukrainian legislation (‘relevant legislation of the country of production’) which define plot of land as a share of land assigned to a physical person in the course of land reform process. However, EUDR would make such recognition conditional on: 1) the plot of land is physically inseparable as a single real estate property, 2) has homogenous conditions allowing to evaluate aggregate level of risk of deforestation.

- 5. If a 0.5-hectare forest grew on a plot of land (with an area of 2 hectares), and agricultural activities were carried out on the rest of the land, would then this plot be considered a “forest” under the EUDR? Are the territories on which trees were planted and cattle were grazed subject to the Regulation? Should deforestation be prohibited in such areas?**

Answer:

In case a plot of land contains both an area falling under the definition of ‘forest’ and an area which is ‘agricultural use’, the two areas are to be considered separately. The area fulfilling the criteria of the definition of ‘forest’ falls under the scope of the Regulation, while the area fulfilling the criteria of ‘agricultural use’, does not fall under the scope of the Regulation in terms of conversion. Whether the part of the plot of land used for agriculture is bigger than the part of the plot of land considered a forest under the definition, is not relevant. As an example, this means that if a 10-hectare property has a 2-hectare area that can be considered as forest area by objective criteria and 8 hectares are cultivated under agricultural use, then the 2 hectares of forest are classified as forest, regardless of the fact that it only makes up 20% of the total property.

In the assessment of whether a certain plot of land constitutes forest, the actual forest properties should prevail over the designation in land registers and cadastral maps. For demonstrating agricultural use in the past, land registers and cadastral maps can be further elements to complement the satellite data. (Point 5, p. 33 of Guidelines).

- 6. Does the Regulation apply to land plots that were deforested before 2020?**

Answer: No.