



Windsor Framework Democratic Scrutiny Committee

OFFICIAL REPORT (Hansard)

Regulation (EU) 2024/3234 amending Regulation (EU)
2023/1115 regarding Provisions relating
to the Date of Application:
Department of Agriculture, Environment and Rural Affairs

9 January 2025

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Philip McGuigan (Chairperson)
Mr David Brooks (Deputy Chairperson)
Dr Steve Aiken
Mr Jonathan Buckley
Mr Peter Martin
Ms Emma Sheerin
Mr Eóin Tennyson

Witnesses:

Ms Charmaine Beer	Department of Agriculture, Environment and Rural Affairs
Ms Catherine Fisher	Department of Agriculture, Environment and Rural Affairs
Mr John Joe O'Boyle	Department of Agriculture, Environment and Rural Affairs

The Chairperson (Mr McGuigan): I ask the witnesses to come forward. Charmaine Beer and John Joe O'Boyle from DAERA are joined by Catherine Fisher, who is the director of the Windsor framework implementation directorate in DAERA. I hand over to you to provide us with some evidence, and we will then take questions.

Ms Catherine Fisher (Department of Agriculture, Environment and Rural Affairs): I will make the opening remarks. Thank you, Chair, for the invitation to speak to you today.

I will start by giving you some background on the EU deforestation regulations. Regulation (EU) 2023/1115 on the making available on the Union market and the export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) 995/2010, commonly referred to as the "EU deforestation regulation" (EUDR), was adopted to reduce deforestation and forest degradation. The EUDR lays down rules regarding the placing and making available on the Union market, as well as the export from the Union market, of relevant products that contain, have been fed with or have been made with the following commodities: cattle, cocoa, coffee, oil palm, rubber, soya and wood. In particular, the regulation aims to ensure that those commodities and relevant products are placed or made available on the EU market or exported only if they are deforestation-free, have been produced in accordance with the relevant legislation of the country of production and are covered by a due diligence statement.

Most of the provisions of the EUDR were to apply from 30 December 2024. Following engagement with member states and stakeholders, the Commission proposed to postpone the application of the regulation by 12 months to allow third countries, member states, operators and traders to be fully

prepared, including to allow those operators and traders to establish the necessary due diligence systems covering all relevant commodities and products. The regulation that is being considered today — regulation (EU) 2024/3234 of the European Parliament and of the Council of 19 December 2024 amending Regulation (EU) 2023/1115 as regards provisions relating to the date of application — postpones the application date of the EUDR by 12 months until 30 December 2025. The EUDR and regulation (EU) 2024/3234 are primarily focused on the trade of goods and their impact on global forestation and are therefore fully reserved, with responsibility sitting with the UK Government. The Department for Environment, Food and Rural Affairs (DEFRA) currently leads on the EUDR. DAERA has received queries from businesses on the detail of the application of the EUDR. The Department has passed those queries on to DEFRA, and DEFRA has advised that the UK Government will communicate the relevant arrangements at the earliest possible opportunity.

The EU and the UK Government are still in discussions about the extent to which the EUDR will apply in Northern Ireland. The EUDR has not yet formally been added to the Windsor framework. Once those discussions and processes are complete, you will be given the opportunity to scrutinise the EUDR and have it sent back here, if its addition to the Windsor framework is agreed.

The regulation that is being considered today — regulation (EU) 2024/3234 — is concerned only with the postponement of the dates of application in the EUDR. Those are the postponement by 12 months of the date of application that is set out in article 38(2) of the EUDR and the dates in interlinked provision of that regulation, namely the dates provided for the repeal of regulation (EU) No 995/2010, which is now 30 December 2025, and:

"for the deferred application of the provisions referred to in that paragraph to micro-undertakings or small undertakings",

which is now 30 June 2026; and the postponement by six months until 30 June 2025 of the classification by the Commission of countries or parts thereof that present a low or high risk in order to provide:

"operators and traders with the information on assignment of risk ... well in advance of the date from which their due diligence obligations"

will apply.

Given the current lack of clarity on the extent of the application of the EUDR in Northern Ireland, the delay in the implementation being applied through regulation (EU) 2024/3234 is most welcome. The 12-month postponement will enable the discussions between the UK Government and the EU to conclude, enable the clarity on the extent of the application to be confirmed and enable DEFRA to provide the relevant arrangements to traders and operators in a more timely manner.

It appears likely that the delay to the implementation of the EUDR through the application of regulation (EU) 2024/3234 will not have a significant impact specific to the everyday life of communities in Northern Ireland in a way that is liable to persist and that there will be no change to the current position. If the EUDR were to apply in Northern Ireland, it would be likely that not applying the replacement EU act — regulation (EU) 2024/3234 — would place Northern Ireland operators and traders impacted on by the regulation at a disadvantage to the rest of the EU. In such a circumstance, Northern Ireland would be the only place in the EU where the implementation of the EUDR would not be delayed.

I hope that you have found that short overview useful. We will now take questions.

The Chairperson (Mr McGuigan): Thank you very much, Catherine. That was useful, particularly the last bit.

When the Committee is notified of EU legislation that will be applied here, we have certain criteria to meet. We receive legal advice about impact, as well as advice from the Departments about specific negative impacts that may be liable to persist. On the basis of the evidence that we hear and on the legal advice, we are supposed to apply criteria — I say "supposed to" — about whether to hold an inquiry. That is the basis of our job. You have been clear that the application of the regulation will have no negative impact that is liable to persist. I appreciate that.

Mr Brooks: My party and I had deep concerns about the overarching legislation — it predates our role, and, therefore, we did not have a role in scrutinising it — because of the perhaps disproportionate weight of due diligence requirements on our businesses that source and supply, in particular, timber. That is particularly problematic because of our geography and topography. Just to be clear on what you said, the impact of this is to delay and give more time for businesses to get whatever they need in place to deal with the regulation, so it will not have a negative impact on them: is that right?

Ms Fisher: That is correct, yes.

Mr Brooks: Thank you.

Dr Aiken: Just for clarity, we are not in the EUDR yet, are we? It has not been attached to the Windsor framework, so we sit outside it.

Mr John Joe O'Boyle (Department of Agriculture, Environment and Rural Affairs): The EUDR is in place, but it is not at its implementation date. That is what this regulation is —

Dr Aiken: It has not been added to the body of the Windsor framework yet.

Mr O'Boyle: No.

Dr Aiken: We are looking at a delay in legislation that does not apply to us yet, because it has not been incorporated in the Windsor framework.

Mr O'Boyle: That is right.

Dr Aiken: Right. OK. Thanks for that.

Mr Buckley: Thank you very much for your evidence. Setting out the context, I appreciate that the Committee finds itself in a unique position, given that we are discussing the delayed implementation rather than the deforestation regulation itself. Does the Department have a view on how the deforestation regulation may impact on the people of Northern Ireland, both consumers and business?

Mr O'Boyle: The regulation, as you rightly said, is not what we are here to discuss. We are here to give witness to the extension issue. The original regulation that you referred to is already there but has not been added to the Windsor framework. That process has to continue. The UK Government have to take that through with the EU as to what it will look like when it comes to fruition. We are not, as your colleague said, in that regulatory space at this point.

Mr Buckley: I found it interesting. Catherine gave a detailed context, as do some of the policy documents and memorandums that we have been reading. I am keen to know whether the Department has a view on the deforestation legislation. However, if you say that it does not wish to comment on that at this stage —

Mr O'Boyle: We are saying that we do not know how that is intended to work out. That is still to be established between the EU and the UK Government.

Mr Buckley: Has any work been done from the Department's perspective? Given that this is a delaying regulation, surely the Department has some view on the original.

Mr O'Boyle: No, because we have not yet been made aware of how it is intended to be applied.

Ms Fisher: The responsibility sits with the UK Government. Because it is a trade matter, the responsible Department is DEFRA. We are liaising with DEFRA and asking it questions. However, until the discussion between the EU and the UK concludes, we will not really know how it will apply.

Mr Buckley: I will finish on this point. There is no departmental assessment of how the original deforestation regulation would impact on businesses and consumers in Northern Ireland: am I right in saying that?

Mr O'Boyle: You are right, yes.

Mr Buckley: OK.

The Chairperson (Mr McGuigan): OK, members. Under paragraph 8(1) of schedule 6B to the 1998 Act — sorry, I should let you go before I go through that. Thank you very much.

Mr O'Boyle: Thank you.

Dr Aiken: Chair, just for clarification — maybe it is because it is a new year — we are looking to do something on the EUDR that has not been adopted as part of the Windsor framework yet. We are being asked to look at a process that will delay the implementation of something that we are not actually implemented in yet.

The Chairperson (Mr McGuigan): Yes.

The Committee Clerk: Chair, part of that would have been subject to a replacement act. The time frame for that has been and gone. That is there, but the article 13(4) elements will be subject to an applicability motion.

Dr Aiken: We have to have an applicability motion to bring it into the scope of the Windsor framework, but that has not been passed yet.

The Committee Clerk: For the new elements, yes.

Dr Aiken: The new elements. Everything to do with the EUDR — the delay to the implementation of which we are being asked to look at — is not even part of the Windsor framework yet.

The Committee Clerk: Yes, but the replacement act exists. If negotiations between the EU and the UK Government last well beyond a year — do you get what I am trying to say?

Dr Aiken: I am not trying to be difficult. The problem that I have is that we are being asked to look at a delaying piece and recognise the fact that legislation is likely to be delayed, but that legislation is not before us, because it is not part of the Windsor framework. How do we have the vires to do it?

The Committee Clerk: Parts of the EUDR are replacement legislation, which are already the law; they just have not been enacted or implemented.

Mr Buckley: Because it is being delayed by this.

The Committee Clerk: Yes, but —.

Dr Aiken: But that law has to come before the Assembly as part of an applicability motion first.

The Committee Clerk: No, that is for the new elements of it.

Mr Buckley: The first one does not.

Dr Aiken: The next bit — the EUDR itself — has to come through as an applicability motion.

The Committee Clerk: Not in its entirety. It is just the new elements of it.

The Chairperson (Mr McGuigan): Parts of it.

The Committee Clerk: The officials can correct me if I am wrong. The elements that were subject to the replacement act will come into force in line with the original legislation.

Dr Aiken: Which is already in place.

The Committee Clerk: Which is already in place. Am I right in saying that the implication is that, were this regulation not to come into effect here, we would be subject to earlier implementation dates: the original implementation dates?

Ms Fisher: On your point, if the regulation is not voted through and the EU/UK discussions conclude with agreement that the EUDR applies, we will not benefit from the delay. The EUDR does not apply yet, but, once it is agreed, it will apply here earlier than in other parts of the EU, if the discussions conclude before then.

Dr Aiken: Because it is part of an applicability motion, it has to come before the Assembly to be voted on, or else it will not —.

The Chairperson (Mr McGuigan): Only the new elements.

Dr Aiken: Yes.

Ms Fisher: Parts of the EUDR replace earlier EU legislation.

The Chairperson (Mr McGuigan): I know that it is slightly complicated, but our choice today is whether or not to delay this. Sorry, it is not our choice, but today we are voting on whether or not we have an inquiry on it. We are not stopping the EUDR; we are talking about applying the derogation that goes across the EU.

Mr O'Boyle: The one that allows it to be delayed.

The Chairperson (Mr McGuigan): Is everybody clear?

Dr Aiken: No.

The Chairperson (Mr McGuigan): I am clear about the role of the Committee, to be frank. The important thing is that people are clear about the role of the Committee.

Mr Buckley: Before we vote on whether to conduct an inquiry, I want to ask for clarity from the Committee secretariat. The potential inquiry, if voted for by the Committee, would be an inquiry into the delayed implementation. Would the inquiry give us the ability to examine and study the impact of the original deforestation regulation?

The Committee Clerk: No.

Mr Buckley: Thank you.

The Chairperson (Mr McGuigan): For the second time, thank you very much, officials.