



AHA county geolocation should ensure compliance with EUDR requirements and objectives for U.S. hardwoods

This paper summarizes the American Hardwood Export Council's ("AHEC") position that American Hardwood Assured ("AHA") county location should be considered to ensure compliance with the objectives and requirements of Regulation (EU) 2023/1115 ("EU Deforestation Regulation" or "EUDR")¹ for U.S. hardwoods exports to the EU.²

The EUDR's legal text implies that geolocation data should be provided for all individual harvest sites at property-level. However, following two years of technical and consultative work starting in 2023, AHEC concluded that providing property-level geolocation data for each plot of land from which U.S. hardwoods may be derived with each consignment is technically impossible due to several structural realities of the U.S. hardwood industry.³ Additionally, requiring the provision of property-level data for hardwood products faces other challenges specific to the U.S. territory, such as privacy concerns due to the availability of nationwide cadastral databases.

Faced with these concerns, through the American Hardwood Assured ("AHA") Platform developed by AHEC with the financial support of the U.S. Department of Agriculture, U.S. hardwood exporters are providing geolocation data at a county-level with each consignment. AHEC submits that this approach should permit U.S. hardwood exports to be considered to comply with the EUDR and fully achieve the EUDR's deforestation risk mitigation objectives. Any risk of illegal harvest and deforestation in the U.S., a designated low-risk country under the EUDR and acknowledged by the European Commission (EC) to pose "negligible risk to global deforestation"⁴, can be objectively demonstrated at a county-level. Counties represent appropriate assessment units with homogeneous risk levels, are responsible for

¹ <https://eur-lex.europa.eu/eli/reg/2023/1115/oj/eng>

² The paper is based on advice and recommendations provided between July and September 2025 by AHEC's external counsel, [Cleary Gottlieb Steen & Hamilton LLP \(CGSH\)](#). AHA operators and their customers should be aware that this paper, while stating there are reasonable legal arguments in the context of EU law for provision of county geolocations instead of geolocations each within a single real-estate property for U.S. hardwood consignments, provides no guarantee that EU regulators will accept this interpretation of EU law or that the recipients of consignments supported by AHA Statements will not be subject to legal sanction for failure to provide geolocation data in accordance with the requirements of EUDR.

³ Due to the naturally diverse composition of US hardwood forests and fragmentation of ownership across 9.4 million family forests in hardwood-producing regions with average holdings of just 9 hectares, a single harvest produces only a very small volume of each hardwood species, size, and grade. As a result, US hardwood exporters need to rely on extensive aggregation across numerous harvest locations to create viable export consignments, resulting in a single shipment potentially containing material from thousands or tens of thousands of individual properties.

⁴ Commission, Joint Statement on a US-EU framework on an agreement on reciprocal, fair and balanced trade, 21 August 2025, available at https://policy.trade.ec.europa.eu/news/joint-statement-united-states-european-union-framework-agreement-reciprocal-fair-and-balanced-trade-2025-08-21_en.

land-use planning, and provide a manageable framework (1,589 counties supply U.S. hardwood sawlogs versus 9.4 million individual properties).

Overall conclusion

There are reasonable legal arguments in the context of EU law for departing from an interpretation of the notion of “plot of land” laid down in Article 2(27) EUDR as one based on a “single real-estate property” for U.S. hardwood consignments. Textual⁵, teleological⁶, contextual⁷ and historical⁸ interpretation support a county-level interpretation of “plot of land” for U.S. hardwood consignments.

The AHA county-level interpretation of the EUDR’s geolocation requirement for U.S. hardwoods avoids conflict with certain supra-legislative sources of EU law. These include the general principles of proportionality⁹, the freedom to conduct a business¹⁰, and the fundamental right to the protection of personal data¹¹, as well as international trade law agreements binding upon the EU¹². It also preserves the effectiveness of the EUDR’s geolocation data requirements and ensures fulfilment of EUDR objectives in the context of U.S. hardwoods.

For U.S. hardwoods, counties best fulfil EUDR requirement that a “plot of land” allow evaluation of aggregate level of risk

The legality of a county-level approach to geolocation data provision depends on the interpretation of the concept of “*plot of land*” which, under Article 2(27) EUDR, 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.”

The definition of Article 2(27) EUDR must be read in light of the fact that public ownership is prevalent in global forestry realities. The EUDR’s reference to “*land within a single real estate property*” is not relevant to at least 73% of global forest area which is either publicly

⁵ EU Courts are bound by the text of an EU law provision when such provision is sufficiently clear and precise. However, they may reject a literal interpretation in favor of another which is more compatible with the objectives of the legislation when a provision has a clear meaning but its literal construction would lead to ambiguous, contradictory, or nonsensical results.

⁶ Teleological interpretation focuses on the purpose and objectives of the legislation in question and plays a central role in the European Court of Justices interpretation of EU law provisions.

⁷ Contextual interpretation considers a provision’s relationship to other parts of the same legal text and to EU law more generally

⁸ Historical interpretation holds that a provision should be interpreted in the light of its history, taking account of the different stages which led to its adoption. Historical interpretation plays a limited role when compared with other methods of interpretation, but its role is far from marginal and is tending to increase.

⁹ Under the principle of proportionality, EU acts must not exceed the limits of what is appropriate and necessary to attain the legitimate objectives pursued by the legislation in question. Where there is a choice between several appropriate measures, recourse must be had to the least onerous, and the disadvantages caused must not be disproportionate to the aims pursued.

¹⁰ The freedom to conduct a business is considered a fundamental right under EU law. EU case law considers that a regulation may be regarded as an obstacle to this freedom and the EU Courts have deemed certain legislative acts as unlawful after finding that they disproportionately restricted this fundamental right.

¹¹ The EU recognizes the protection of personal data as a fundamental right in both the Charter of Fundamental Rights of the European Union and the Treaty on the Functioning of the European Union.

¹² Particularly Article 2.2 of the WTO Agreement on Technical Barriers to Trade which requires that technical regulations that create obstacles to international trade “shall not be more trade-restrictive than necessary to fulfil a legitimate objective.”

owned or designated as indigenous forest¹³. Accordingly, the subsidiary definition of the notion of plot of land laid down in Article 2(27) EUDR is relevant where a property-level definition is inapplicable or impracticable, as is the case for U.S. hardwoods.

In the U.S. hardwood sector, a county best fulfils the definition of “*land 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*”.

According to U.S. forest inventory data, there are 1,589 counties in the U.S. where hardwood sawlogs are harvested, each with an average area of 183,000 hectares and harvesting 56,500 m³ of hardwood sawlogs per year¹⁴. These figures are comparable to those of typical state forest areas or industrial forest landholdings in both the U.S. and other countries. Counties represent the frontline of elected governance and function as key administrative units within states throughout the U.S. with significant responsibilities for land management and resource planning. They therefore provide an appropriate unit for assessment of deforestation risk and development of action plans to mitigate this risk where necessary.

County-level geolocation for U.S. hardwoods aligns with the EU proportionality principle and right to conduct a business

To preserve the validity of the EUDR, Article 2(27) EUDR must be interpreted in a way that complies with the general principle of proportionality and the fundamental right to conduct business. County-level geolocation for U.S. hardwood consignments provides sufficient information to assess deforestation risk and achieve the objectives of the EUDR.

A property-level approach in the context of U.S. hardwoods would impose a disproportionate burden in relation to the objective pursued. The burden would be so severe as to effectively exclude legitimate, deforestation-free US hardwood from the EU market despite the U.S. being classified as a low-risk country, even as the EC is acknowledging that US trade in EUDR regulated commodities is negligible risk, and despite the existence of a satellite-based analysis of U.S. hardwood forest undertaken as part of the AHA program, which confirms that the risk related to the U.S. hardwood sector is negligible.

While property-level geolocation data may be deemed disproportionate and an unlawful restriction of U.S. hardwood exporters’ (or their EU clients’) freedom to conduct a business, the AHA county-level geolocation data imposes no such restriction while still achieving the objectives of the EUDR.

County-level approach ensures the effectiveness of EUDR in the context of U.S. hardwoods

Interpretation of EU legal provisions by the European Court of Justice regularly emphasizes “teleological” aspects that focus on the objectives of the legislation in question. EU Courts often choose an interpretation that secures the effectiveness of a law. Furthermore, something in the law that is at first sight included (such as a requirement for property level

¹³ The FAO Forest Resource Assessment shows that of 4059 million hectares of forest worldwide in 2020, only 857 million hectares (21%) is in private ownership, while 2835 million hectares (70%) is in public ownership, and the remaining 367 million hectares (9%) is in “other/unknown” ownership. Much of the latter is believed to be indigenous land or in various forms of community ownership. The statement that 73% of global forest is “either publicly owned or designated as indigenous forest” is therefore likely to underestimate the proportion not in a form of ownership that may be categorized as “real estate property.” This fundamental reality remains unaddressed in the Commission’s FAQs, which simply provide that “the absence of a land registry or formal title should not prevent the designation of land that is de facto used as a plot of land.” FAQs, 1.6.

¹⁴ AHEC analysis of USDA Forest Industry Analysis (FIA) database, latest state annual inventory 2020-2023 depending on state.

geolocations) may ultimately be judicially excluded because, in view of the purpose and aim of the legislation, it should not have been included in the first place.

The EUDR's overarching objective is to “[minimize] the Union's contribution to deforestation and forest degradation worldwide.” The EUDR's specific objective regarding geolocation data is to enable effective risk assessment. The EUDR definition of “plot of land” makes explicit that its purpose is to “allow an evaluation of the aggregate level of risk of deforestation and forest degradation.”

In the context of U.S. hardwood exports, the AHA county-level geolocations provide for effective risk assessment and fulfilment of EUDR objectives while property-level geolocations do not for several reasons:

- The extensive aggregation across numerous harvest locations to create viable export consignments results in each single shipment potentially containing material from thousands or tens of thousands of individual properties. It is technically impossible for exporters to accurately compile and manage all this data and, even if it were possible, reliable analysis of all these data points by EU operators for every individual U.S. hardwood consignment is also technically impossible.
- The resolution and accuracy of publicly accessible satellite data, and the algorithms that detect land-use change, are currently not sufficient for confident assessment and attribution of deforestation events at the level of non-industrial properties in the U.S. However, publicly accessible data and existing land-use change algorithms are more than adequate to accurately assess deforestation risk at a county level in the US, particularly to identify counties where deforestation events are extremely rare or non-existent.¹⁵
- In the U.S. hardwood sector, satellite analysis of deforestation events is greatly complicated by the time factor. Whereas for agricultural commodities the EUDR requires only that operators ensure that regulated commodities derive from sites deforested before 31 December 2020 (a past event), for forest products it requires that operators ensure that harvesting does not “*induce*” deforestation following harvest (a future event). However, it typically takes several years – sometimes up to a decade – before satellite data can confirm deforestation or whether harvesting has been followed by forest regrowth. Therefore, satellite data cannot be used at the time U.S. hardwoods products are placed on the EU market to check compliance at the specific site where harvesting occurred in the way envisaged by the EU. In the U.S. hardwood sector, satellite data is most effectively used to determine if there is a systemic risk of conversion within specific counties over a longer time horizon, and what are the drivers of deforestation where it occurs. From that, strategies and plans are developed to mitigate risk in the future.
- Insistence on a property-based geolocation effectively allows landscape-based approaches in the numerous countries, particularly in the tropics and boreal forest

¹⁵ A paper published in Nature on 18 July 2025 summarizes the current status in terms of resolution and level of public access to Earth Observation (“EO”) data for EUDR conformance (K. Berger, M. Herold, Z. Szantoi, *Earth observation as enabler for implementing the EU regulation on deforestation-free products* at <https://www.nature.com/articles/s44168-025-00276-9>). The paper highlights that existing monitoring systems using Landsat data (30m resolution) are “*limited in reliably detecting small-scale disturbances (e.g., selective logging or narrow clearings) that are visible only at higher resolutions.*” Monitoring is now improving with the introduction of Sentinel-2 data (at 10m resolution) which “*has proven its abilities in monitoring large-scale monoculture crops like oil palm and rubber.*” However, “*for monitoring small-scale or agroforestry systems like coffee and cocoa, optical very high-resolution (VHR) imagery with a pixel size <5 m offers better monitoring performance.*” AHEC’s technical work confirms that the small-scale low intensity harvest operations typical in the U.S. hardwood sector fall into the latter category and that even Sentinel-2 data combined with the best algorithms cannot yet accurately categorize land-use change in the U.S. hardwood forest at the level of individual properties. The current technological status dictates a county-based approach in the U.S. hardwood sector rather than a property-based approach. This paper effectively confirms this is the most appropriate approach under current technological conditions when it refers to the “*critical role*” of EO in identifying “*high-risk zones*” in the specific context of smallholders.

regions, where most forest land is owned by the state or large industry while denying it in those countries like the U.S. where a large proportion of forest land is owned by families and individuals. A property-level approach would therefore restrict imports of legal and deforestation-free hardwood products from the U.S. while placing less technical obstacles in the way of imports from countries where illegal logging and deforestation are more prevalent. This would ultimately lead to increased exposure of EU operators to higher risk commodities, running counter to the EUDR's objectives.

In short, the AHA county-level approach for U.S. hardwood consignments preserves the effectiveness of the EUDR's geolocation data requirements and ensures fulfilment of EUDR objectives where hardwood harvests are small and widely distributed in a landscape dominated by non-industrial private forest owners.

County-level approach preserves fundamental right to privacy of U.S. hardwood forest operators

The EU recognizes the protection of personal data as a fundamental right in both the Charter of Fundamental Rights of the European Union (CFR) and the Treaty on the Functioning of the European Union (TFEU). This right ensures that individuals have control over their personal information and that it is processed fairly and lawfully. The EU General Data Protection Regulation (GDPR) principle of data minimization requires that personal data be “adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed.”

U.S. geolocation data if delivered at property level can be readily linked to individual landowners' personal information through nationwide cadastral databases¹⁶. Given that deforestation risk can be effectively assessed at county-level, the prospect of this data being made available to EU operators comes into conflict with the principle of data minimization since it exceeds what is necessary in relation to EUDR. Furthermore, ensuring that individual hardwood forest owners retain control over their personal information by asking their consent raises practical challenges given the fragmentation of U.S. forest property.

The AHA county-level approach preserves the fundamental right to privacy enshrined in the CFR and TFEU and avoids the risk of non-compliance with the GDPR while maintaining the EUDR obligation to demonstrate a negligible risk of illegal harvest or deforestation for U.S. hardwood consignments.

County-level approach for U.S. hardwoods maintains EUDR compatibility with international trade law commitments

A property-level approach for U.S. hardwood would constitute an “unnecessary obstacle to international trade” under Article 2.2 of the WTO Agreement on Technical Barriers to Trade (“TBT Agreement”). The TBT Agreement requires that technical regulations that create obstacles to international trade “shall not be more trade-restrictive than necessary to fulfil a legitimate objective.”

While combating deforestation likely qualifies as a legitimate objective under the TBT Agreement, requiring property-level geolocation data – when county-level data can effectively serve the same purpose in low-risk jurisdictions – appears more trade-restrictive than necessary.

¹⁶ Examples of services offering very detailed data on the owners of individual real estate properties in the U.S. include “regrid”, “realestateapi”, “attom”, and “propstream”. This problem is specific to the U.S. as services providing equivalent access to property level data at national level are rare in other countries. A useful review of the level of public access to property records by the Global Investigative Journalism Network is available at <https://gijn.org/resource/land-ownership-records-so-useful-but-challenging-to-find>. This highlights that “[i]n the United States, land records are held in more than 3,100 jurisdictions and are public”, in contrast to many other countries where “privacy laws restrict access to the name of the landowner.”

Recognizing county geolocations also fulfils obligations with respect to U.S. hardwoods undertaken by the EU in the *Joint Statement on a US-EU framework on an agreement on reciprocal, fair and balanced trade*. The Joint Statement recognizes that “*production of the relevant commodities within the territory of the United States poses negligible risk to global deforestation*” and includes an explicit commitment by the EU “*to work to address the concerns of US producers and exporters regarding the EU Deforestation Regulation, with a view to avoiding undue impact on US-EU trade*”.

By providing county-level geolocation data supported by robust independent legality and deforestation-risk assessment, the AHA county-based approach ensures that the EUDR is compatible with EU international law commitments while more effectively meeting EUDR objectives than a property-based approach when sourcing U.S. hardwoods.

Recommendations

While AHA's provision of county geolocation is already legally justifiable under supra-legislative sources of EU law and is shown to maintain the effectiveness of EUDR in relation to U.S. hardwoods, AHEC and AHA recommend that the EC should clarify in its guidelines that a county-level approach is compliant with the EUDR in this context.

Furthermore, AHEC and AHA recommend that the Commission remove the phrase “*within a single real-estate property*” from the definition of the “plot of land” for which geolocation data is required and instead define this term as “*land 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*”. The Commission could propose this amendment as part of a next Omnibus simplification package or, at the latest, when EUDR is next subject to review, due by 30 June 2028.

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