

Addressing the UK's deforestation footprint

Global Canopy's response to the DEFRA consultation on due diligence requirements for forest risk commodities

Respondees:

Helen Bellfield, Helen Burley, Sarah Rogerson, Emma Gollub

Summary

We welcome the government's initiative in proposing due diligence legislation to address the UK's overseas footprint from forest-risk commodities, which results in the loss of ecosystem services and biodiversity on which we all rely, as well as associated greenhouse gas emissions, but believe it must go further to minimise the UK's impact overseas.

We urge the government to:

- Recognise legal deforestation as a problem,
 - Accept responsibility for deforestation linked to imports, not delegate responsibility to producer countries,
 - Level the playing field for companies seeking to achieve zero deforestation - 81% of the biggest UK companies in forest-risk supply chains already have targets to remove all deforestation from their supply chains.,
 - Recognise the practical challenges of identifying illegality
- Include human rights,
- Extend beyond large companies,
- Include the finance sector.

Introduction

While a number of companies have been proactive in seeking to address exposure to deforestation in their own supply chains through voluntary commitments, assessments of their progress have concluded that there is little evidence that they are effective ([Forest 500, 2020](#); [Lambin et al., 2018](#); [zu Ermgassen et al., 2020](#)). Most recently, the Consumer Goods Forum recognised that its high profile zero deforestation resolution, made on behalf of its members in 2010, had not been delivered, launching a new theory of change. In the meantime, another decade of deforestation has taken place.

We believe that only legislation provides the necessary framework to bring about lasting change at scale and within the timeframes required to halt the dangerous destruction of nature. In proposing mandatory due diligence, the UK is sending a clear signal to multinational businesses and the international community about the role the UK intends to take in raising standards globally.

Because of the uniquely powerful opportunity a legislative framework provides for a crucial step-change in how global commodities are produced, we urge the government to further strengthen the requirements for due diligence in the following ways.

1. Recognise legal deforestation as a problem

Limiting mandatory due diligence only to illegal deforestation will not prevent the loss of these natural ecosystems. Nor will it achieve the stated aim of the UK government's Global Resource Initiative (GRI) taskforce of ensuring that the UK's global commodity supply chain footprint on land, natural resources and ecosystems is sustainable, avoids deforestation and other environmental degradation, and supports jobs, livelihoods and investment in resilient and sustainable food systems; or the stated aim of this consultation of "protecting precious forest environments [...] central to tackling climate change, ensuring that people have secure livelihoods, and protecting the natural systems on which we all rely for the food we eat, the water we drink and the air we breathe."

1.1 Accept, not delegate responsibility

Limiting the scope of the legislation to illegal deforestation relies on producer countries to enact national laws and apply enforcement mechanisms to protect and preserve forests. In many tropical countries, including Brazil, Paraguay and Indonesia, forests and natural ecosystems such as the Cerrado biome are being cleared legally to make way for cattle pasture, soy and palm oil plantations. A recent [IUCN review](#) of Forest Laws in Argentina, Paraguay and Brazil concluded that complying with zero illegal deforestation in these countries would mean that 7

million hectares in the Paraguayan Chaco, 10.5 million ha in Argentina and 88 million ha in Brazil could still be legally deforested.

Furthermore, existing laws designed to protect forests in these countries have come under repeated threat. For example in 2020 Indonesia removed the requirement for timber exporters to have verified legal licenses, and there have been repeated efforts to weaken Brazil's Forest Code, which would enable more forest to be legally cleared.

We would caution that, if mandatory due diligence were only to apply to illegal deforestation, it could result in the deliberate weakening of regulations by producer countries, such as changes to the Forest Code in Brazil, to ensure that rising levels of deforestation did not become a barrier to compliance with UK procurement requirements.

Furthermore, the proposal would require UK businesses to interpret the legality of activities in third countries, often in cases where legality is disputed or unclear. Legal compliance is an issue in some countries, with one [study](#) estimating that 95% of deforestation in Brazil in 2019 was illegal. But this information is seldom easily available, and in some cases does not exist, making it hard for companies to be able to assess whether deforestation is legal or not.

It is normal for UK law to define the standard that UK businesses must attain, irrespective of where they are operating and what the local legal position is, such as with modern slavery due diligence or anti-money laundering laws.

1.2 Level the playing field

UK companies [are asking](#) for a level playing field, with all companies required to reach the same standard. This proposal falls short as it is less ambitious, lowering the benchmark on existing efforts.

For example, our latest [Forest 500](#) assessment found that of the 127 assessed companies that operate in the UK (selected for their size in forest-risk supply chains), 81% have made a commitment to protect forests in at least one of their supply chains. These companies currently do not benefit from a level playing field, with competitors operating to a lower standard.

Many of these companies are active in the UK roundtables on sustainable soya and palm oil, which are supported by the government, and which commit to “protect against conversion of forests and valuable native vegetation”.

Many of the major UK commodity users involved recognise the [Accountability Framework Initiative definition of deforestation-free](#) as including all forms of land conversion as well as environmental and social justice. Indeed, the AFI definition has already been adopted as the target position of leading UK companies and is also recommended by the GRI.

To ensure higher standards are maintained, mandatory due diligence must extend to the AFI definition of deforestation-free, otherwise it will fail in its objective to level the playing field for all businesses placing products on the UK market. Indeed without this, there is a risk that the proposed due diligence legislation could ultimately lead to companies weakening their existing commitments, as there would be little incentive to go beyond the requirements of the law.

1.3 Recognise the practical challenges of identifying illegality

It is unclear how limiting due diligence to illegality is in fact helpful in managing the reporting requirements for compliance. For businesses carrying out risk assessments on their supply chain, the likely first step is to identify their linkages to geographic areas of production, followed by a closer analysis of whether deforestation is actively taking place. Only once this has been established could a UK business attempt to confirm whether any clearance has happened in accordance with the producing country's national laws. It would seem logical that reporting on illegality represents an *additional step* for businesses to take compared with stronger due diligence aligned with the AFI and GRI recommendations on all land conversion.

Additionally, at present, the lack of available data makes it largely impossible to identify illegal deforestation, meaning the proposed due diligence focusing only on illegal deforestation cannot currently be implemented due to significant gaps in data for transparency. For example, a recent study by Trase [into illegal deforestation on soy farms in the state of Mato Grosso in Brazil](#) could not be extended to other states due to significant data gaps on deforestation licenses. Any UK company having to assess legality would also have to be familiar with complicated legal frameworks that differ for each country or regions within countries, and which change over time. This is not a reasonable ask.

The risk is that UK companies can only ensure compliance with UK mandatory due diligence by opting to buy from markets recognised as free from deforestation risk, for example the USA. This approach can lead to higher levels of environmental and social damage as responsible businesses leave sensitive areas and others move in.

We recommend the government adopts a risk-based approach to due diligence, rather than a preventative measure. This would require businesses to identify and assess deforestation risks in their supply chains, put in place proportionate actions to mitigate these risks, and monitor and report on risks in their supply chains. Such an approach enables a more ambitious goal of deforestation-free supply chains and encourages business to engage and work with suppliers to address risks.

[Data from Trase](#) for the UK suggests that, in 2018, the majority of exposure to deforestation risk in UK soy imports from Brazil (70%) was found in just 10 municipalities, with three exporting traders exposed to 98% of this total risk. Soy deforestation risk estimates an import country's exposure to the risk that a commodity it is sourcing is directly associated with recent deforestation in the area where it was produced. A risk-based approach would mean that

companies needed to only focus on those areas of high risk, making it more manageable to identify and address problems.

Figure 1, below, illustrates that such risk concentration is common across commodity landscapes. Deforestation risk associated with forest risk commodity exports is highly concentrated in a handful of frontier production regions.



Figure 1: Deforestation risk associated with exports is highly concentrated in a handful of frontier production regions. Each circle denotes a sub-national production region. The size of the circle denotes export volume; position on the figure and colour indicates commodity-linked deforestation risk (right, darker = higher risk). Source: [Trase Yearbook 2020](#).

2. Include human rights

The absence of human rights in this due diligence proposal is a serious omission. Human rights violations are inextricably linked to land use changes for commodity production, driven by global markets, and the GRI recommendations clearly state that they should be included in mandatory due diligence. Even within the limited scope of due diligence focused only on illegal activities,

we are surprised not to see the inclusion of breaches of land-use based human rights - such as respect for customary rights, free prior and informed consent (FPIC) - as well as respect for the rights of indigenous peoples, local communities and worker rights.

The latest Forest 500 annual assessment shows that companies need support in giving greater attention to these issues. Fifty percent of the most influential 350 companies in forest-risk supply chains had no policy to protect workers' rights in their supply chains, and 74% of the 350 companies had no policy to ensure FPIC was respected.

3. Extend beyond large companies

The consultation states that *Larger businesses are more likely to have the influence to send a positive signal to producers, and so are in scope of this proposal.*

It's unclear how smaller companies are exempt. For example, would a large retailer undertaking due diligence be able to exclude smaller suppliers from the process? Or does it mean that small companies are exempt from carrying out their own due diligence on their supply chains, regardless of the size of their own suppliers? Either way, as complex supply chains are made up of businesses of all sizes, it is also not clear how this distinction helps reduce the reporting burden on brands and retailers who will have to carry out an additional step to assess the eligibility of their suppliers.

However, as outlined above, Forest 500 data shows that the majority of these larger businesses already have more ambitious commitments (81% have policies) that go beyond legality. If due diligence is only applied to large businesses, it will not address their call to level the playing field or support implementation by requiring suppliers to also comply.

Furthermore, company size as defined by turnover or employee numbers is not necessarily a good indicator of risk exposure from forest risk commodity imports. HMRC data on commodity importers (based on turnover in the absence of volume data) indicates a large number of small companies import forest risk commodities into the UK on a regular basis.

It would be more meaningful to assess risk exposure in forest-risk commodity imports by looking at the quantity of commodities imported. The legislation would need to define a risk threshold for each of the relevant commodities. Even such a mass based threshold may be insufficient as the quantity may not correlate with deforestation risk (see Figure 2 below for an example regarding Brazilian soy from Trase data on exports).

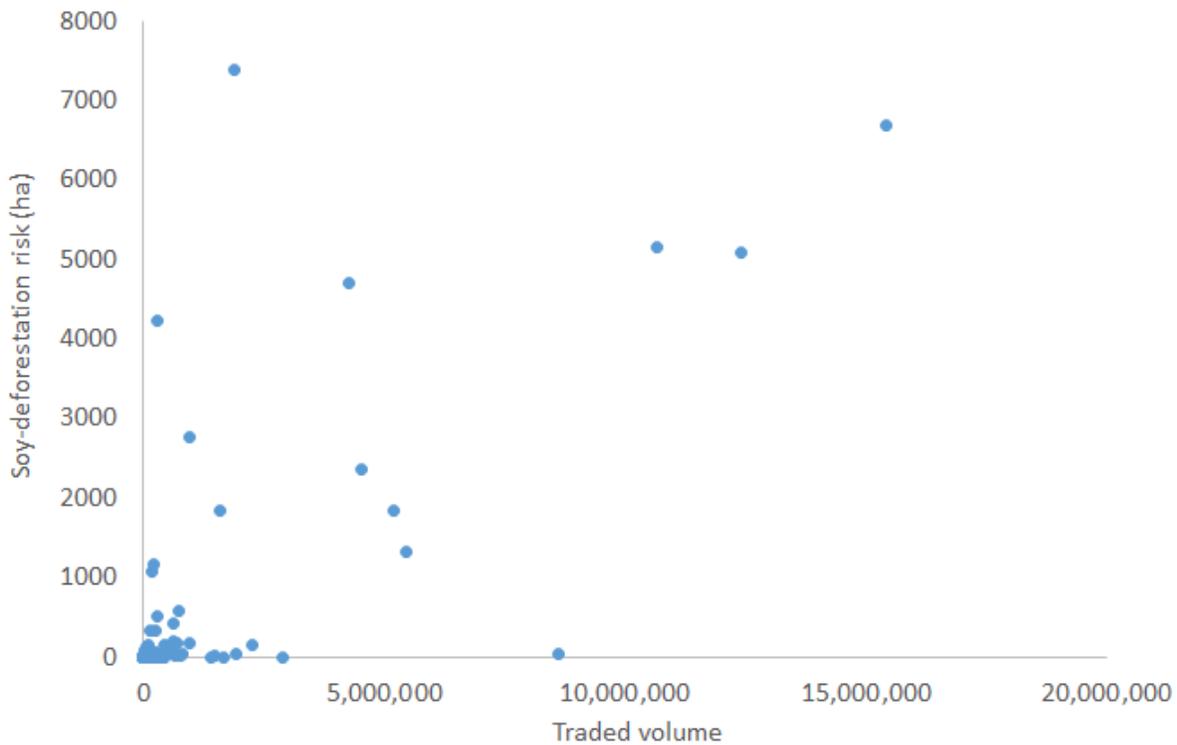


Figure 2: Soy deforestation risk for Brazilian soy plotted against volume of soy traded. Each dot in the figure represents a single exporting trader. Source: Trase 2020.

4. Include the finance sector

The government is also asked to consider including the finance sector within the scope of this proposal, as recommended by the GRI taskforce. The Forest 500 identifies the 150 financial institutions with the most significant equity holdings, bonds and loans in the 350 most influential companies in forest risk supply chains globally. It shows that 106 of these 150 financial institutions operate in the UK, highlighting the potential for the UK to influence the actions and financing decisions of the most influential banks and investors in global commodity supply chains. Omitting the finance sector therefore represents a missed opportunity.

Of these 106 financial institutions, 41 already have policies to protect forests for at least one commodity. Of these, 26 have a forest policy for all commodities, but only 14 of the financial institutions with policies reported on how the policy was being implemented. The financial sector is lagging behind on both setting and implementing deforestation policies. Mandatory due diligence would require financial institutions to assess their lending and investment portfolios for exposure to deforestation risks, to mitigate any such risks and report on risks and actions.

5. Align with existing reporting frameworks (e.g. TCFD)

The Task Force on Climate-related Financial Disclosure (TCFD) does provide a framework through which to understand and report on nature-related risk. These include scope 3 emissions from deforestation, transition risks from market and policy shift to deforestation free products and related laws and incentives in the context of NDCs, and physical risks to commodity supply chains, for example the impact of drought on production and trade.

However, TCFD does not include a focus on other risks related to forest loss including biodiversity, water security and human rights. To capture these risks, and divert finance away from exacerbating them, will require a far wider approach than simply the carbon lens of the TCFD.

Furthermore, the TCFD is focused on the finance sector rather than companies. The proposal set out in this consultation should align and enable the finance sector to meet TCFD reporting requirements, but should not neglect the risks associated with deforestation other than climate-related.

About Global Canopy

Global Canopy targets the market forces destroying nature, focusing in particular on the world's tropical forests, which are being cleared to make way for commodities such as soy, beef and palm oil.

We work with partners around the world to mobilise the data needed to make trade and finance more transparent and accountable and we advocate for governments and financial regulators to change the rules of the game.

Our open data platforms enable companies and investors to identify their impacts on the natural world and to take action accordingly. By assessing the performance of the key market players, we enable campaigning organisations and the media to hold to account those that are failing to act. Our most relevant projects to this consultation are the Forest 500 and Trase.

Global Canopy's projects include:

- [Forest 500](#) - Each year the Forest 500 project benchmarks the most influential companies and financial institutions in forest-risk commodity supply chains. These companies are ranked in terms of their commitments to ending deforestation in their supply chains and their progress on implementing those policies.
- [Trase](#) - Using publicly available data to map the links between consumer countries via trading companies to the places of production in unprecedented detail, Trase can show

how commodity exports are linked to agricultural conditions – including specific environmental and social risks – in the places where they are produced, allowing companies, governments and others to understand the risks and identify opportunities for more sustainable production. Through our partnership with The Stockholm Environment Institute (SEI), the Trase team has participated in the UK's [Global Resource Initiative](#), including supporting inputs into the 'monitoring and reporting' recommendations of the GRI'.

- [Task Force on Nature-related Financial Disclosures](#) – a recently-launched working group catalysed through our partnership with UNDP, UNEP FI and WWF is working to bring together a Task Force on Nature-Related Financial Disclosures. Its members, including the UK government which is a founding signatory, have committed to increasing the understanding of dependencies and impacts that different business sectors of the economy have on nature's ecosystem services.
- [ENCORE](#) (Exploring Natural Capital Opportunities, Risks and Exposure) is a tool to help users better understand and visualise the impact of environmental change on the economy. By focusing on the goods and services that nature provides to enable economic production, it guides users in understanding how businesses across all sectors of the economy depend and impact on nature, and how these dependencies and impacts might represent a business risk.