HOW LEGISLATIVE ACTION TO TACKLE GLOBAL DEFORESTATION CAN HELP ADDRESS THE CLIMATE CRISIS AND BIODIVERSITY LOSS

Progress in Europe and lessons for China

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Soy plantation in Amazon rainforest in Brazil Photo credit: © Brazil Photos / LightRocket via Getty Images

This briefing aims to provide Chinese policy makers with practical recommendations to reduce its carbon emissions while achieving a successful green transition through action to tackle global deforestation. In particular, this briefing draws on recent policies and proposals under consideration in Europe to address global forest loss associated with agricultural commodities in global supply chains, an often-overlooked topic in China, which could help tackle climate change and biodiversity loss.

FORESTS' CRUCIAL ROLE IN TACKLING CLIMATE CHANGE AND BIODIVERSITY LOSS

Forests play a key role in regulating the global climate. They absorb emissions from the air, acting as a great storage system – or 'carbon sink' - for the greenhouse gases that contribute to global heating. Forests could provide up to one-third of the total Co2 reductions required to keep global warming below 2°C through to 2030.[1] Moreover, they act as nature's air conditioning unit, transpiring water, which forms clouds. When they are felled, regional temperatures rise - this leads to drying and forest fires as seen in Brazil and Indonesia.[2]

Deforestation, when a forest is permanently cleared and converted to other uses, has an immediate and serious climate impact. In 2018, Global Forest Watch estimated that tropical forest loss alone accounted for 8 percent of the world's annual carbon dioxide emissions, and if tropical deforestation were regarded as a country, it would be the third-biggest emitter globally[3] – ranking just below China and the U.S.

What drives deforestation? The Food and Agriculture Organization of the United Nations finds that agricultural expansion for the production of commodities (e.g. soy, beef, palm oil, coffee, cocoa) is responsible for almost 80% of all deforestation.[4] China currently is one of the world's largest consumers of most of these commodities.[5]

A recent study published in Nature, a leading scientific publication, estimates the total greenhouse gas emissions associated with Brazilian soy exports in 2010–2015 is the equivalent of 223.46 Mt CO_2.[6] As the largest buyer of this soy, China is responsible for the CO_2 equivalent of about 114.7 Mt. This is about twice more than all the emissions generated by aviation and shipping (57.1 Mt) in China in 2016.[7]

Forests also play a crucial role in maintaining the world's biodiversity – and the Covid-19 pandemic has shown us how interconnected humans are with nature: when forests are lost, many wildlife lose their habitat. This puts people at greater risk of physical interactions with wildlife, which makes it more likely for viruses like Covid-19 to jump from animals to people. Besides, biodiversity loss has big impacts on economic growth, as more than half of the world's GDP - some €40 trillion - depends on nature.[8]

LESSONS FOR CHINA

> Place forests front and centre in China's national climate and biodiversity strategy and policy. This should expand from protecting its own forest to protecting forests around the world.

> Undertake comprehensive research to understand and respond to China's global forest footprint associated with its consumption of products that drive deforestation around the world, as well its financing associated with global deforestation.

> As part of a global response, legislate to set

mandatory requirements for Chinese companies to ensure its products and investments are not detrimental to people and the environment around the world.

- Revise the laws governing the banking sector to guide China's banking sector to support its green ambition, and ensure its financing is not contributing to deforestation or social harm globally.

EU PROGRESS

At the end of 2019, the European Commission, the EU's executive branch, announced a European Green Deal, which is a set of policy initiatives with an overarching aim of making Europe climate neutral by 2050. The Green Deal,[9] announced months after the European election, is a core part of the new European Commission's policy blueprint and presents ambition for a growth model that is low carbon, resource-efficient and nature friendly.

The Green Deal sets out the EU's ambition in becoming a global leader in addressing the climate crisis. Such ambition is supported by detailed action plans across different sectors of the economy, wider than a sole focus on the obvious carbon-intense sectors such as the energy and construction sectors, for example. The EU has placed preserving ecosystems and biodiversity front and centre in its Green Deal: It stresses that biodiversity loss and the climate crisis are interdependent and they exacerbate each other.[10]

Forests are a key part of the EU's response to address both the climate crisis and biodiversity loss. More crucially, the EU's ambition is not limited to protect and restore its own forests; in the Green Deal, it has made commitments to take regulatory action or other measures to reduce its deforestation footprint globally.[11]

The EU undertook a comprehensive study of its global deforestation footprint[12]– measured by deforestation in other parts of the world caused by the importing and consumption of products such as soybeans, palm oil, coffee and cocoa. The agricultural expansion to produce these commodities drives 80% of forest conversion globally [13] therefore they are widely known as deforestation risk commodities.

The European Commission has since proposed five priorities for the EU to step up its actions in curbing deforestation, which include taking measures to reduce the EU's footprint and redirecting finance to support more sustainable land use.[14] In September, with new energy brought by the Green Deal, the European Parliament voted overwhelmingly in support of the Commission's proposal.[15] The EU has since embarked on a formal process of exploring a possible regulatory approach to reduce the EU's global deforestation footprint.

STEPS TO REDUCE FOREST FOOTPRINT

Since the European Commission has committed to assessing demand side measures associated with EU imports of deforestation risk commodities, it has launched a public consultation to gather opinions on possible routes forward.[16]

A coalition of civil society groups in the EU has called for legislation that requires all companies placing goods on the EU market to undertake due diligence in order to identify, prevent, and mitigate risks associated with deforestation, forest degradation, ecosystem conversion and human rights violations.[17] There were also additional calls to ensure such a legislation covers the financial institutions that finance companies associated with forest-risk commodities, following evidence that EU-based financial institutions were the biggest provider of international finance for six agribusiness companies linked to forest destruction in the climate critical forest of the Amazon, Congo Basin and Papua New Guinea.[18]

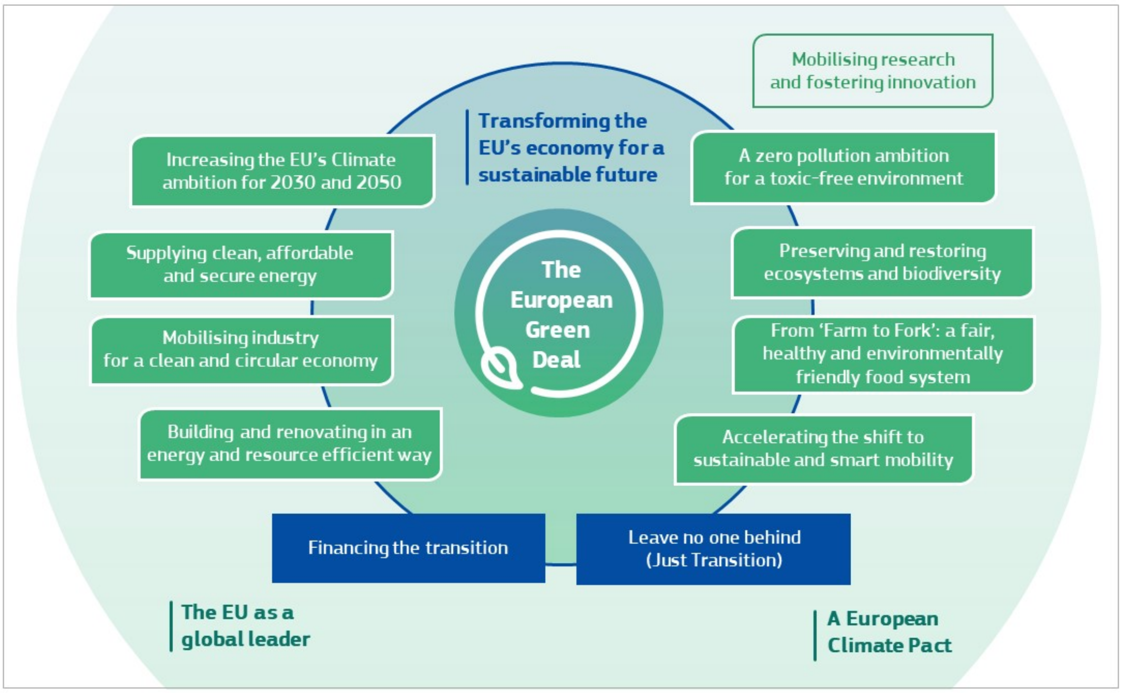
The European Parliament endorsed these calls in a non-binding vote in September[19] and adopted a landmark resolution on October 22nd that calls on the Commission to put forward rules to stop EU-driven global deforestation through mandatory due diligence for companies placing products on the EU market, and to apply the same rules to the financial sector too.[20]

The Commission is expected to launch a legislative proposal on 'minimising the risk of deforestation and forest degradation associated with products placed on the EU market' in the first half of 2021.

STEPS TOWARDS SUSTAINABLE FINANCE

The EU's Green Deal also has a strong emphasis on ensuring finance is supporting its sustainable transition.[21] The EU released a renewed sustainable finance strategy, aimed at guiding the private sector to support the transition towards sustainability.[22] Towards this end, the EU has already formulated and released a series of regulations that legally bind the financial sector to a more sustainable approach.

A regulation that came into force at the end of 2019 sets out sustainability-related disclosures in the financial services sector.[23] Under this law, from 2021 onwards, not only will European investors such as banks, pension funds and insurers, need to disclose the principal adverse impacts their investments have on people and planet, they will need to publish details of their "due diligence" policies to make sure they can systematically identify, prevent and mitigate and account for those adverse impacts. The EU is expected to take a phased approach on implementation, meaning that certain



The European Green Deal places preserving ecosystems and biodiversity front and centre. Photo credit: © the EU disclosures will be mandatory from 2021 and more prescriptive and detailed disclosures will be required later.

In 2020, the EU passed a few further regulations related to sustainable finance. One of them is the so-called “Taxonomy Regulation” which establishes the criteria for determining whether an economic activity or investment is environmentally sustainable.[24] Avoiding deforestation and forest degradation is included in such criteria. It also sets out minimum human and labour rights and standards safeguards that an undertaking has to observe and respect the principle of ‘do no significant harm’.

Finally, the European Commission has committed to proposing sustainable corporate governance legislation, which will include new rules mandating companies to carry out due diligence in order to ensure that all companies acting in the EU manage and mitigate sustainability-related matters in their own operations and value chains such as social and human rights, climate change, environment, governance issues, etc. This will include robust enforcement and mechanisms to hold companies liable for harms caused.[25]

UK PROGRESS

The UK is to host the next UN Climate Change Conference (CoP26) in late 2021[26] and momentum has been building towards this crucial global moment. In 2019, the UK became the first major economy to pass laws to bind the country to bring all greenhouse gas emissions to net zero by 2050.[27]

As the UK prepares to leave the European Union, the country announced a 25 year Environment Plan, which set out focus and actions it will to take to protect natural environment.[28] Similar to the EU, the UK’s top environmental blueprint spells out its global ambition as the plan dedicates a section on how it plans to protect and improve the global environment. A key part of this section, among other efforts, is for the UK to look at internationally traded agriculture commodities that drive deforestation and seek solutions to implement zero-deforestation supply chains.

A task force, the Global Resource Initiative (GRI), was formed in 2019 and its members included leading businesses such as legal services, agribusiness traders and major supermarkets, as well as research institutes and a range of civil society groups. The taskforce investigated how the supply chain of key commodities, such as palm oil, soya and beef can be fully sustainable.[29] In its final report published in March 2020,[30] it recommended an ‘urgent’ need for due diligence legislation for companies and similar requirements for finance. It also referenced the need to ensure forest communities, indigenous people and women were involved in any future UK initiatives to tackle deforestation.

Following the taskforce’s recommendations, the UK government launched a public consultation on its legislative proposal in October 2020.[31] In November, the government submitted a legislative amendment to the Environment Bill. The proposed legislation would make it illegal for businesses over a certain size to use, either in production or trade certain forest-risk commodities that have not been produced in compliance with relevant laws of the country in which they are grown. Businesses would be required to have a robust system of due diligence in place, and to report on it, to show that they have taken proportionate action to ensure their supply is legal or face fines and sanctions for non-compliance.[32]

So far the government has opted not to incorporate the recommendation[33] that the law should apply to all deforestation, not just deforestation that is illegal according to national laws, despite calls from the vast majority of respondents to their recent consultation.

FRENCH PROGRESS

France's pioneering Duty of Vigilance Law, adopted in March 2017, obliges French companies of a certain size to identify, mitigate and prevent human rights abuses and environmental harm throughout their supply chain and financing.[34] These companies are required to report annually on these risks, as well as on measures put in place to mitigate them. Under the Duty of Vigilance companies can be liable for contributing to severe human rights and environmental harms. In fact, an international coalition has started a first step of a legal procedure using this law against a French company Casino Group, for the supply chains of its products sold in Brazil allegedly contain recent evidence of deforestation and land grabbing practices.[35]

Crucially, major French banks such as BNP Paribas, Natixis and Crédit Agricole, are among the companies covered under the law.[36] It is expected that major French banks report on their measures to tackle any risks that their financing contributes to deforestation. Research shows France's financial sector provided nearly €2 billion between 2013 and 2019 to five of the six of the most harmful agribusiness companies directly or indirectly involved in deforestation in the world's largest tropical rainforests. This makes France the second largest EU contributor of funds to these companies.[37]

LESSONS FOR CHINA

Protecting precious forests is central to tackling climate change, ensuring that people have secure livelihoods, and protecting the biodiversity on which we all rely. Like other major economies in the world, China needs to place forests front and centre in its national climate and biodiversity strategy and policy. China already has rules in place to protect its own forests. It ought to increase efforts to conserve forests around the world.

In particular, as one of the world's largest consumer of many agricultural commodities that drive most deforestation globally, China needs to recognise its increasing demand for these commodities has real and significant impacts on its own and the world's forests. A report by the China Council for International Cooperation on Environment and Development reports that China is now the world's largest single country importer of soy and beef, as well as the world's second-largest importer of palm oil.[38] China needs to undertake comprehensive research to understand and respond to its global forest footprint associated with its consumption of forest risk commodities, such as soy, palm oil and beef. After all, reducing China's global forest footprint can make a direct contribution to its fight against the climate crisis, its efforts in reversing biodiversity loss - and it has been an overlooked aspect for far too long.

Along with policy commitments and research, China also needs to join the global trend by adopting a legislative approach to tackling its global deforestation footprint. Like the European countries outlined in this brief, China should look into adopting or amending legislation to set mandatory requirements for companies to identify and reduce risks that its operations, supply chains and investments are detrimental to the environment and people. Laws adopted in Europe often require companies to carry out due diligence as part of their risk management and any future Chinese laws should also consider this approach. Such law should ensure that supply chains linked to the Chinese markets must be sustainable, free from deforestation, forest degradation and conversion or degradation of natural ecosystems and comply with international standards and obligations on human rights, including the rights of Indigenous Peoples and local communities. Such laws should also set out liability for companies not to engage in or finance such supply chains and spell out disclosure requirements to ensure transparency.

Finally, such legislation should also ensure that it covers the financial sector. Research has shown that the banks and other investors are complicit in driving deforestation, environmental destruction and global warming through the funds they provide for these activities. Recent data also shows that Chinese financial institutions' support for producing commodities that are at high risk of driving deforestation has actually increased in recent years.[39] Any future laws in China need to make sure the banks and other financial institutions are not allowed to finance activities that are harmful to people and the environment.

China should also strengthen existing laws to ensure that its banking sector supports the country's climate and biodiversity efforts. The revision of China's laws on People's Bank of China (its central bank) and on commercial banks provides an important opportunity to ensure these financial institutions adequately addresses climate and biodiversity concerns.[40] We recommend that the two laws to clearly stipulate its banking sector's environmental liability, and set mandatory requirements to include carry out environmental and social risk assessment and disclosure.

A truck unloading animal feed made from Brazilian soybeans, at a port in China Photo credit: © AFP via Getty Images

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