

Response to DEFRA public consultation on 'Due diligence on forest-risk commodities'

Section D: About the proposal

Question 1: Should the Government introduce legislation designed to make forest risk commodities more sustainable?

- Yes
- No
- Don't know

Question 2: Should it be illegal for businesses to use forest risk commodities in the UK that have not been produced in accordance with relevant laws?

- Yes
- No
- Don't know

Question 3: Should businesses in the UK be obliged to have a system of due diligence in place to ensure that the forest risk commodities they use have been produced in accordance with relevant laws?

- Yes
- No
- Don't know

Question 4: Should businesses be required to report publicly on their system of due diligence?

- Yes
- No
- Don't know

Question 5: Should the Government be able to levy fines against businesses that use forest risk commodities not produced in accordance with relevant laws?

- Yes

- No
- Don't know

Question 6: Should the legislation apply to larger businesses, over an employee number and turnover threshold, that use forest risk commodities in production or trade?

- Yes
- No

• **Other**

Question 7: If you responded 'Other' to Question 6, please expand.

The proposal should apply to all businesses of all sizes. Under the [OECD Guidelines on Multinational Enterprises](#), the UK is required to ensure that all businesses are addressing their environmental and human rights risks. This is important in order to create a business culture that sees no business as exempt from acting to reduce environmental and human rights harms. This approach also avoids complex loopholes and streamlines compliance and enforcement. Consistent with the OECD approach, the law should apply to all businesses in the supply chain. Guidance should then be provided to regulators to focus their enforcement efforts on businesses that have the highest level of risk, exposure or contribution to forest destruction and related harms. This would avoid placing undue burden on smaller businesses.

Question 8: Large businesses have existing obligations to report on climate and environment issues including in relation to net zero. To what extent are there opportunities to align the proposal set out in this consultation with businesses' reporting under existing international frameworks [e.g. the recommendations of the Taskforce on Climate- Related Financial Disclosures (TCFD)]?

There is a gap in current climate and finance initiatives, including the TCFD and the proposed Taskforce on Nature-Related Financial Disclosures. These initiatives rely on a business reporting on its net carbon emissions from its planned activities. The challenge with forest-risk commodities is that many of the businesses linked to deforestation already have zero deforestation commitments. Their exposure to deforestation often isn't planned, but arises from a failure to undertake adequate due diligence to identify, mitigate and prevent the risk of deforestation in their supply chains or financing. They are therefore not captured by TCFD reporting. Only by legislating to require rigorous due diligence will companies be required to take action to tackle their deforestation risks.

Question 9: Do you have any further information or comments you would like us to be aware of?

The UK should introduce a law to end the UK's complicity in the destruction of the world's remaining forests. Such a law would show global leadership in tackling imported deforestation and should be put in place to ensure that the UK does not enable, encourage,

incentivise or financially reward forest destruction and deforestation, or related abuses against forest defenders. This is critical to build reliable supply chains and a resilient economy, to ensure that the UK is accountable to supporting our global climate and biodiversity and to reduce exposure to pandemic risks that are strongly connected to biodiversity loss.

a) Adopt a deforestation-free standard: The law should state what practices the UK sees as harmful and will no longer be complicit in

To end the UK's complicity in the destruction of the world's forests, the law should clearly outline what practices the UK views as harmful and will not be supporting. This is the approach that the UK has taken to issues such as [bribery and corruption](#), [wildlife protection](#) and [wildlife trafficking](#) where it has clearly defined and outlined what harmful practices UK businesses will not encourage or engage in – irrespective of what local rules allow.

The current proposal would still allow UK businesses to be complicit in forest destruction – if this is defined as legal in the place where harms occur. Even then, the proposal only looks to a limited set of forest-related local laws and doesn't include other important laws such as indigenous land tenure.

The UK government should heed the lessons learned from industry itself. Over the last decade or more, industry standards and accountability mechanisms have focused on stopping deforestation as a whole, rather than only that defined as illegal under local laws. The UK has also committed to this approach under the [New York Declaration on Forests](#) and the [Amsterdam Declaration Partnership](#).

A law that commits the UK to adopting deforestation-free supply chains and finance is also easier for communities and business to understand and uphold. It could draw from the internationally recognised [Accountability Framework](#) initiative or government could form a science-based panel to define specific commodity-based standards.

b) Write requirements for Free, Prior and Informed Consent into the law

Forest destruction – whether legal or illegal in the place where it occurs – often relies on ignoring or intimidating those who would raise the alarm. Indigenous peoples and local communities are on the frontline of fighting to protect the forests they have safeguarded for generations and they are often silenced by threats, violence, or even murder.

The UN, leading scientists, industry standards, company policies and affected communities themselves have emphasized the need for a prevention-focused approach to avoid harms in the first place – specifically, the importance of businesses requiring Free, Prior and Informed Consent (FPIC) from indigenous peoples and local communities.

If indigenous peoples and forest communities are aware of, and consent to activities happening in their area and have a meaningful say in how they proceed, the likelihood of deforestation and violence is much lower. It also ensures that businesses moving out of deforestation do not encroach onto existing communities' land.

The UK government should include requirements for FPIC in the law – drawing on how it is articulated in international law. This would recognise that FPIC is a key mechanism for preventing deforestation and included in industry guidance and standards, and cases filed under the Roundtable on Sustainable Palm Oil, the OECD Guidelines on Multinational Enterprises and the World Bank accountability mechanism.

c) Finance should not be let off the hook

A key recommendation of the UK Government Taskforce, the [Global Resource Initiative](#), was that a due diligence obligation on deforestation should cover finance. Global Witness's [investigation](#) into the financing behind six of the worst agribusiness companies involved in the destruction of climate-critical forests, found the UK to be the single largest provider of international finance between 2013-2019.

To end UK complicity in imported deforestation, it's imperative that UK businesses, including finance, all follow the same set of rules. The law will lack efficacy if companies are hearing one set of priorities from UK government, but the firms that determine their share price and cost of finance are not required to do due diligence on their deforestation risks and exposure. Similarly, the UK efforts to lead the world on green finance will be undermined if its banks are simultaneously making headlines for financing linked to forest destruction.

d) Penalties should be sufficient to deter harmful practices

To shift the UK complicity in the business models behind deforestation, penalties should be sufficiently strong to deter poor practices. They should also include options for communities harmed by deforestation to seek redress. Penalties should include not just fines, but also criminal charges and civil liability. The law should also assign specific accountability to individual company officers – which has been shown to be an effective approach to corporate responsibility.

e) The law should incorporate forest-related human rights compliance

Deforestation often goes hand in hand with human rights abuses. Beyond the specific issue of FPIC as raised above, the law should include repercussions for businesses whose forest-risk commodity supply chains or financing are connected to severe human rights harms. It should also include zero tolerance for threats or intimidation against forest defenders.

f) To show leadership, and have impact, the law needs to take effect by 2023

Already, hundreds of global businesses have failed to meet their voluntary commitments to end their contribution to deforestation by 2020. The threats to forests are immediate, urgent and all too often, irreversible. The law will be ineffective if it delays accountability for businesses.