

Response ID ANON-X5E1-AR5D-F

Submitted to **Due diligence on forest risk commodities**

Submitted on **2020-10-05 09:44:02**

About you

1 What is your name?

Name:

[REDACTED]

2 What is your email address?

Email:

[REDACTED]

3 What country are you based in?

Country:

United Kingdom

4 Would you like your response to be treated as confidential?

No

If you selected 'Yes' please provide your reason::

5 Are you responding:

On behalf of an organisation

About your organisation

1 What type of organisation are you responding on behalf of?

Large business (250 or more employees)

2 Please provide your organisation's name.

Insert organisation name:

Cargill

About your business

1 Which sector best describes your business?

Agriculture, forestry and fishing

2 Where is your business headquartered?

Overseas

3 If your business is headquartered in the UK, please tell us where.

Where in UK:

Not applicable

4 If your business is headquartered overseas, please tell us in which country.

Country:

United States

5 How many people does your business employ in the UK?

Over 1000

6 How many people does your business employ globally?

Over 1000

7 What is your business' annual turnover in the UK?

Over 1 billion GBP

8 What is your business' annual turnover globally? (assuming 1 USD = 0.7837 GBP)

50 billion up to 100 billion GBP

9 Which of the following forest risk commodities do you use in production or trade in the UK? Please tick all that apply.

cocoa, palm oil, soya

10 Please list any other forest risk commodities you use in production or trade in the UK.

Other forest risk commodities used in production or trade in UK:

n/a

11 Do you currently have a system in place to ensure that any of the following forest risk commodities have been produced legally? Please tick all that apply.

cocoa, palm oil, soya

12 Please list any other forest risk commodities where you have a system in place to ensure they have been produced legally.

Other forest risk commodities you have a system in place to ensure they have been produced legally:

n/a

13 If you have a system in place to ensure that any forest risk commodity has been produced legally, please describe it.

Description of systems you have in place to ensure forest risk commodities have been produced legally:

<https://www.cargill.com/sustainability/priorities/land-use>

<https://www.cargill.com/doc/1432136544508/cargill-policy-on-south-american-soy.pdf>

<https://www.cargill.com/sustainability/palm-oil/palm-policy-committment>

<https://www.cargill.com/2018/cargill-outlines-plan-to-end-cocoa-deforestation>

<https://www.cargill.com/story/cargill-in-the-amazon-and-our-commitment-to-ending-deforestation>

14 Please use this box to share any further information about the systems you use to better understand how forest risk commodities in your supply chains are produced.

Please provide any further information about the systems you use to understand how forest risk commodities in your supply chain are produced:

Soy:

<https://www.cargill.com/doc/1432155385605/south-american-soy-action-plan-dec-2019.pdf>

<https://www.cargill.com/doc/1432166466608/soy-progress-mid-year-report-2020-en.pdf>

Palm:

<https://www.cargill.com/doc/1432164654170/cargill-2019-palm-report.pdf>

Cocoa:

<https://www.cargill.com/sustainability/cocoa/cocoa-sustainability-progress-report>

About the proposal

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

Yes

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?

Don't know

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

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

Yes

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

Don't know

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

Other

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

Other:

Within an interconnected set of measures, we see a role for due diligence for companies, including a requirement to assess, and on a risk-based basis, prevent or mitigate significant environmental and human rights risks in their supply chains and operations, including reporting on progress. As such, obligations should be applicable to stakeholders/companies across the supply chain, in a way that is commensurate with the size of the organization, their impact, and their ability to influence change. It is important to ensure a level playing field in the market. Further, the OECD guidance on Responsible Business Conduct calls on all businesses to work to prevent and address negative impacts connected to their operations and value chains, with a due diligence system focused on risk rather than only the size of the enterprise.

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)]?

Extent to which there are opportunities to align the proposal set out in this consultation with businesses' reporting under existing frameworks:

Obligations for prioritized risk prevention and mitigation should be supported by a robust monitoring and reporting framework, which should be harmonised and standardised, including assurance and verification. Cargill views the Accountability Framework initiative (AFI) definition of monitoring, reporting and verification as important context for its supply chain.

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

Please provide any further information or comments in relation to this consultation:

Cargill is a family owned company that is more than 150 years old. Our purpose is to nourish the world in a safe, responsible and sustainable way. We connect farmers with markets, customers with ingredients, and people and animals with the food they need to thrive. We combine our experience with new technologies and insights to serve as a trusted partner for food, agriculture, financial and industrial customers in more than 125 countries.

Cargill moves a variety of raw materials around the world, from places of surplus to places of deficit. The company processes many of them – rapeseeds, sunflower seeds, or soybeans into oil and meal, cocoa beans into cocoa butter, powder and paste - and then sells the subsequent ingredients to many food and feed manufacturers of branded foods, as well as into food service.

In the UK our products and services include poultry processing into value-added products, primary cocoa processing, industrial chocolate manufacture, production and sales of glucose syrups, starches and starch derivatives, oilseed milling and vegetable oil refining, animal feed, grains and oilseeds trading, cotton trading, financial services and risk management. We employ over 1200 people in 20 locations. Cargill also has an agriculture joint venture with Allied Grain (part of ABF), under the name Frontier Agriculture and a fresh poultry joint venture with Faccenda Investments, under the name Avara Foods.

Cargill is firmly committed to transforming our agricultural supply chains to be deforestation- and conversion- free through prioritized supply chain policies and time-bound action plans. For more information please see Cargill forest policy and our efforts to combat deforestation.

The private sector has an important role to play in finding solutions to the world's most pressing challenges and achieving the Sustainable Development Goals— from addressing climate change, to protecting natural resources and improving food security. Cargill is committed to applying its global knowledge and experience to help meet economic, environmental and social challenges. We are working with farmers, governments, industry groups, customers and consumers to make the future of food more sustainable.

Cargill comments on potential UK actions to combat deforestation & forest degradation

Tackling deforestation is complex, and we must ensure we meet the needs for all stakeholders - including farmers, sourcing communities and consumers - enabling forest protection within sustainable and inclusive development.

Cargill welcomes the UK efforts on combating deforestation and is interested in participating constructively in this discussion.

Expansion of agriculture can be a driver of deforestation. At the same time, the development and social well-being of local communities is also linked to the sustainable use and development of agriculture-based resources.

While the UK's attention and commitment to intervention is a positive step, the complexity of the challenge warrants careful consideration as to the most appropriate, "smart mix" of tools that would contribute to solving the root causes of the challenge at hand. For that, engagement and dialogue with origin, producing countries, where this challenge and the need for capacity building is most acute, is of the essence. Moreover, the UK needs moreover to ensure that there is a consistent and harmonized approach in addressing the challenge at international level in the

framework of global commitments on biodiversity and climate change.

General remarks

Lasting solutions to tackling deforestation require long-term cooperation and joint efforts between governments and public administration in producer countries and in destination markets. With the involvement and active support of authorities of both producer and destination countries, private sector initiatives reach more comprehensive and lasting results and benefit from a multiplier effect, achieving better visibility and gaining momentum.

In order to enable this collaboration, a new approach to collective action placing food, land use and nature-based solutions at the centre of efforts is needed. This includes building long-term multilateral partnerships for collective action between producer and consumer governments, business and the finance sector, as well as developing shared roadmaps for key agricultural and forestry commodities in priority landscapes.

"Smart mix" of measures

Overall, UK action should build on and reinforce existing initiatives as well as governments' and private sector actions in producer countries. More specifically we would like to emphasize:

Partnerships with producing countries and alignment in collective global action

Enhancing existing process and developing new structures for engagement between producing and consuming countries to develop sustainable commodity supply chains and landscapes, while ensuring economic prosperity and fair and equitable rewards for all is key. For that, continuous dialogue with a reset and shared narrative at government to government level, both in bilateral and multilateral groups needs to be further encouraged. This includes the development of shared roadmaps for key agricultural and forestry commodities in priority landscapes at multi-stakeholder level. For instance, the Cocoa Forest Initiative (CFI) signed in 2017 by the governments of Côte d'Ivoire and Ghana and the world's leading cocoa and chocolate companies, is an encouraging example of public-private partnership and positive interaction between governments, companies and civil society defining core commitments, verifiable actions, and timebound targets required for a deforestation-free supply chain that is forest and people positive. Within this framework of international collaboration, supporting and enabling producing countries to further strengthen land use planning, governance, land tenure and other underlying factors, will be essential.

- Trade in sustainable commodities through international trade and investment agreements that reward sustainably produced agricultural and forestry products, for example through Voluntary Partnership Agreements (VPAs) and other jurisdictional approaches, should also be further explored.

What Role for Mandatory Due Diligence?

- Mandatory due diligence and disclosures could play a role as long as it is seen within and as part of an interconnected set of measures.

- Within an interconnected set of measures, we see a role for due diligence for companies, including a requirement to assess, and on a risk-based basis, prevent or mitigate significant environmental and human rights risks in their supply chains and operations, including reporting on progress. As such, obligations should be applicable to stakeholders/companies across the supply chain, in a way that is commensurate with the size of the organization, their impact, and their ability to influence change. It is important to ensure a level playing field in the market. Further, the OECD guidance on Responsible Business Conduct calls on all businesses to work to prevent and address negative impacts connected to their operations and value chains, with a due diligence system focused on risk rather than only the size of the enterprise.

- Moreover, in the absence of a system that includes all businesses, the additional effort that large-sized companies would need to undertake on awareness building would require resources that could otherwise be used to promote sustainable agricultural practices and remediation where needed.

- At the same time, for it to be meaningful, any UK due diligence system must include a clear strategy for collaboration between producing and consuming countries to create an enabling environment in origin countries. This includes the creation of a framework that allows for continuous improvement while considering the high level of complexity and the high number of intermediaries in forest risk commodity supply chains.

- To ensure effectiveness, any due diligence requirements should respect the following principles:

- o Take guidance from the OECD-FAO Guidance for Responsible Agricultural Supply Chains

- o Use meaningful, contemporary and common harmonised datasets at UK and international level to ensure shared interpretation of risks across a range of social and environmental criteria by companies, civil society and governments

- o Account for specificities in the different supply chains and have built in flexibility in order to be able to prioritize. For instance, according to Forest Trends, almost half (49%) of total tropical deforestation between 2000 and 2012 was due to illegal conversion for commercial agriculture. Accordingly, while Cargill is committed to transforming our agricultural supply chains to be deforestation free (legal and illegal), we agree that illegality in agricultural land conversion should be one of the initial priorities to be tackled in a stepwise approach to truly sustainable supply chains.

- o A due diligence obligation should establish a framework of set environmental risks and set human rights risks, which companies then tackle in order of salience / or on a risk-based basis across a company's operations and supply chains, drawing on sector specific guidance (where appropriate), recognizing that frequently, environmental impacts are driven by local socio-economic development challenges. It should cover priority raw materials and their derived products to avoid encouraging further leakage, on a risk-based basis, across a company's operations and supply chains, drawing on sector specific guidance.

- o Evaluation of the size of the sector in the forest risk countries, and the size of production that is compliant with EU standards as compared to EU demand. This will help anticipate and mitigate unintended consequences that might exacerbate market bifurcation, and therefore lessen UK influence to end deforestation.

- o Obligations for prioritized risk prevention and mitigation should be supported by a robust monitoring and reporting framework, which should be harmonised and standardised, including assurance and verification. Cargill views the Accountability Framework initiative (AFi) definition of monitoring, reporting and verification as important context for its supply chain.

- Due diligence should be used as a tool to drive timebound and meaningful continuous improvement- through engagement in higher risk supply chains and origins, in full understanding and adaptation to the local context and situation, in order to credit countries with strong forest conservation regulation while at the same time incentivize others to increase protection. It is unworkable to assume all challenges can be overcome immediately. This will enable companies to build resilient supply chains and supportive communities and where possible, avoid simply moving supply to lower risk chains and origins without contributing to solutions.

- Due diligence can enhance accountability but alone will be limited in generating sustainability outcomes desired (forest protection for instance). The nature of commodities includes products changing hands and being co-mingled at multiple points through the supply chain to the extent that traceability to origin by downstream operators is significantly challenging. There is a risk due diligence will not sufficiently overcome this, without harming supply chain resilience and efficiency, with associated cost impacts. To achieve the outcomes desired, like-minded organizations need to work together on these objectives and collectively drive change.

- Additionally, at all times care must be taken to operate within international competition and anti-trust laws and regulations when engaging in collective behaviour designed for and needed to achieve the desired outcomes.
- Legislation should also acknowledge the shared responsibility that lies with the origin states. Today, the existing legislation is not consistently enforced by local authorities, creating additional challenges for companies. Local enforcement of existing legislation in origin countries is critical to creating positive change on the ground.

Other considerations

- Emerging approaches to 'green finance' require substantial upscaling and if competitive (and many are not currently) they can be a good mechanism for addressing the social and environmental context of forests and land rights. They are vital to create proper incentives for those impacted by forest policy and land use issues, especially where land expansion into high conservation land is legally permitted under local law.
- At the same time, development assistance to infrastructure projects, capacity and governance building, alongside with new innovative private and blended finance solutions need to be geared towards rewarding sustainable actions within supply chains, including greater alignment and scale of investment in order to affect change.
- The need to build consensus around definitions and standards of measurement recognised internationally: there is an urgent need for locally relevant definitions and metrics on deforestation, land conversion and forest conservation. Such geographic specific definitions should reflect latest data sources, the unique context of different biomes and their different socio-economic and environmental challenges. For example, we support the work of the Cerrado Working Group (GTC) as this group considers the specific and different context of this high conservation value biome (which is primarily savannah rather than forest) and what is feasible from an environmental, social and economic perspective.
 - o This should include governments possessing the ability to measure and assess the level of progress being made. The lowest rates of palm and soy driven deforestation and native vegetation conversion since 2000 occurred in the most recent years. This trend is frequently not recognized in current discourse.
 - o Not all agricultural commodities are the same. Drivers of deforestation and conversion must be understood from a carefully examined and objective fact base.
- Certification can be a valuable objective tool to build verifiably sustainable supply chains. Cargill pursues certification in a number of our supply chains, for example Proterra, Rainforest Alliance, RSPO, Cargill Triple S. Effective certification frameworks, whose value is recognized in the market, can provide an important demand signal to farmers, as well as, necessary training and technical assistance to local farmers with incentives for continued improvement. Additionally, participation of farmers provides a means to monitor and evaluate performance over time. However, certification, like any other individual measure in isolation, will not solve global deforestation in a timeline in line with what science is telling us, as evidenced in recent IPCC reports
 - o Governments recognizing certification is a means to increase market acceptance and allowing market forces to accelerate change.
 - o Certification programmes can help the move towards using market mechanisms to drive desired changes in the origin production. In order for that mechanism to function the marketplace has to financially recognize the certifications at a sufficient value and scale to drive desired changes.
- Moreover, potential certification requirements applied by individual demand markets should not be the exclusive means for proving compliance with no deforestation requirements. This would risk changing trade flows without having a meaningful impact on the source of the problem. In some cases, there is a risk that certification simply rewards producers who are already well resourced rather than those that need capacity building and technical assistance.
- Certification should be complemented with other supply chain strategies including and combining traceability, monitoring and landscape approaches, to the appropriate level of granularity to enable meaningful risk assessments and mitigation of impacts. For instance, under the Soft Commodities Forum (SCF) of the World Business Council for Sustainable Development (WBCSD), a group of six major global agribusinesses, including Cargill, have joined efforts to ensure traceability of soy to farm for their direct sourcing across 25 priority municipalities in the Cerrado biome in Brazil. Traceability to farm is considered a first and critical success factor to identify more precisely possible land-use challenges and engage producers in meaningful ways to promote sustainable soy production.
- While we recognize the timeline to implement the different components will necessarily vary, we encourage adequate consideration to be given to the sequencing of the 'smart mix'. For example, if mandatory due diligence were to be introduced early on, it will be vital to align (social, economic and environmental) outcomes in longer term trade, partnership and development assistance agreements between the UK and producer countries, and with any due diligence criteria placed on the private sector.

Overall, policies that recognize global trade flows and are geared at improving livelihoods for farmers of all sizes should be promoted. Farmer and rural prosperity is key for a safe, secure and affordable food supply. For any action to endure in preventing deforestation, it must include actions that address the local social and economic issues, with specific consideration to the inclusion of smallholders.

It is also imperative to enable forest protection, within sustainable and inclusive development. Solutions for forest protection must also promote farmers' economic livelihoods, smallholder and community wellbeing, indigenous peoples and community rights, and global food security needs.

In conclusion, forests and farming can and must coexist in order to sustain the health of people and the planet and Cargill is working in partnership with our suppliers, customers, NGOs and governments to innovate and scale real solutions in this sector.

Annex

As one of the world's largest buyers of agricultural commodities, our purpose is to be the global leader in nourishing the world in a safe, responsible and sustainable way. We believe forests and farming must coexist and both are crucial to life on the planet. Forests provide food, water, fuel, medicine and livelihoods to billions of people, while providing vital habitat, regulating the climate and storing carbon for the wider environment. Agriculture is essential to the livelihoods of billions of people and to food security for all. Cargill sits in a unique position between growers and consumers. We commit to using our position in the value chain to: take practical measures to help protect forests and native vegetation, mitigate agriculture as a driver of deforestation, provide farmers with access to markets, and promote rural economic development.

We commit to transform our agricultural supply chains to be deforestation- and conversion-free by 2030, through prioritized supply chain policies and time-bound action plans. Our Forest Policy applies to all Cargill operating entities, all agricultural supply chains, including direct and indirect sourcing, processing, and

physical trading.

Palm Oil

Our Approach

We have come a long way in the five years since we introduced our Policy on Sustainable Palm Oil in 2014. Within our supply chain and more broadly across the industry, we have taken steps to reduce deforestation and clearance of peat and address human rights issues related to palm oil production.

We are focused on six priority areas:

- Traceability: Traceability to plantations by 2020 in high-priority landscapes
- Grievances: Report on all grievances in our supply chain transparently and publicly
- Supplier engagement: Direct and indirect suppliers compliant with NDPE policy
- Landscape projects: Common environmental, land and labor issues addressed through relevant landscape programs and case studies
- Smallholders: Smallholders included in supply chain and their livelihoods improved
- Cargill plantations: Cargill-owned mills/plantations (and smallholders supplying to them) compliant with NDPE policy

Our Progress

This is complex work, and we are proud of the progress we have made. We continue to work toward our goal of providing traceability to plantations by the end of 2020 in high-risk landscapes, implementing a targeted, risk-calibrated approach. We have achieved 93% traceability to mills and 48% to plantations, providing good visibility into our supply chain.

Cocoa

Our Approach

Protect Our Planet is our strategic action plan to eliminate deforestation from the cocoa supply chain. It outlines concrete actions to achieve 100 percent cocoa bean traceability, to expand programs to grow more cocoa on less land, and to support farmers to effectively include agroforestry and conservation practices on their farms.

Our Progress

We significantly scaled the number of farmers reached with GPS mapping, from 41 percent in 2017-2018 to 72 percent in 2018-2019. Using these maps we developed a methodology to assess deforestation risks in our supply chain, drawing on best practices from WRI's Palm Risk Assessment. We also distributed significantly more multipurpose shade trees and promoted cocoa-agroforestry to help farmers improve their livelihoods while halting further deforestation for cocoa cultivation.

Soy

Our Approach

Every day, we are working to make progress with our partners, including farmers, customers, nongovernmental organizations (NGOs), government agencies and industry forums. Close collaboration with each of these groups is at the heart of our Policy on Sustainable Soy – South America Origins and South American Soy Action Plan.

Our Progress

Understand supply chain risks

For the first time, we calculated the estimated share of our soy in Brazil grown on land that is deforestation- and conversion-free (using 2008 as a reference point). We completed point location mapping for 100% of our Brazilian soy farm suppliers.

Engage supplier partners

We expanded our direct engagement with farmers in Brazil, including the launch of a new partnership with the largest farmer association in the state of Bahia, the Associação de Agricultores e Irrigantes da Bahia (AIBA). We continued to grow our Triple S (Sustainably Sourced and Supplied) certification program in Brazil and Paraguay, providing a larger market for soybeans grown through verified sustainable methods.

Deploy action levers

We are actively developing solutions to protect forests across South America through our \$30 million fund. We extended our work with World Resources Institute (WRI) to support the scale-up of restoration productive projects in the Brazilian Cerrado and Amazon, Paraguay and northern Argentina.

Monitor, verify and report

We published details of our strengthened grievance process for people or organizations to call out when they see something they feel is not right in our operations or supply chains.

Due Diligence on Forest Risk Commodities Consultation

Nestlé response

5th October 2020

Section A: About you

Question 1: What is your name?

[REDACTED]

Question 2: What is your email address?

[REDACTED]

Question 3: What country are you based in?

United Kingdom

Question 4: Would you like your response to be treated as confidential?

- Yes
- No

Question 5: Are you responding:

- On behalf of an organisation
- As an individual

Section B: About your organisation

Question 1: What type of organisation are you responding on behalf of?

- A government body
- Non-governmental organisation
- Small or micro business (Less than 50 employees)
- Medium business (50 – 249 employees)
- **Large business (250 or more employees)**
- Industry association
- Responding on behalf of another type of organisation

Question 2: Please provide your organisation's name.

Nestlé

Section C: About your business

Question 1: Which sector best describes your business?

- Agriculture, forestry and fishing
- Mining, quarrying and utilities
- **Manufacturing**
- Construction
- Wholesale and retail; repair of motor vehicles
- Transport and storage (inc. postal)
- Accommodation and food services
- Information and communication
- Finance and insurance
- Property
- Professional, scientific and technical
- Business administration and support services

- Public administration and defence
- Education
- Health
- Arts, entertainment, recreation and other services

Question 2: Where is your business headquartered?

- In the UK
- **Overseas**

Question 3: If your business is headquartered in the UK, please tell us where.

- **Not applicable**
- Scotland
- Northern Ireland
- Wales
- North East
- North West
- Yorkshire and the Humber
- West Midlands
- East Midlands
- South West
- South East
- East of England
- Greater London

Question 4: If your business is headquartered overseas, please tell us in which country.

Switzerland

Question 5: How many people does your business employ in the UK?

- None
- 1 to 49
- 50 – 249
- 250 – 499
- 500 – 1000
- **Over 1000**

Question 6: How many people does your business employ globally?

- 1 to 49
- 50 – 249
- 250 – 499
- 500 – 1000
- **Over 1000**

Question 7: What is your business' annual turnover in the UK?

- 0 up to 10.2 million GBP
- 10.2 million up to 36 million GBP
- 36 million up to 100 million GBP
- 100 million up to 500 million GBP
- 500 million up to 1 billion GBP
- **1 billion and above GBP**

Question 8: What is your business' annual turnover globally? (assuming 1 USD = 0.7837 GBP)

- 0 up to 100 million GBP
- 100 million up to 500 million GBP
- 500 million up to 1 billion GBP
- 1 billion up to 10 billion GBP
- 10 billion to 50 billion GBP
- **50 billion to 100 billion GBP**
- Over 100 billion GBP

Question 9: Which of the following forest risk commodities do you use in production or trade in the UK? Please tick all that apply.

- Beef
- Cocoa
- Palm oil
- Soya

Question 10: Please list any other forest risk commodities you use in production or trade in the UK.

- Sugar
- Paper/pulp

Question 11: Do you currently have a system in place to ensure that any of the following forest risk commodities have been produced legally? Please tick all that apply.

- Beef
- Cocoa
- Palm oil
- Soya

Question 12: Please list any other forest risk commodities where you have a system in place to ensure they have been produced legally.

- Sugar
- Paper/pulp

Question 13: If you have a system in place to ensure that any forest risk commodity has been produced legally, please describe it.

Nestlé is opposed to deforestation and the destruction of natural habitats around the world, and in 2010 we committed to deforestation-free supply chains. Further information about how we operationalise this commitment can be found in our [Responsible Sourcing Standard](#).

Our definition of “zero deforestation” includes a commitment to:

1. Not expanding or producing on:
 - Areas converted from High Carbon Stock (HCS) forests and habitat such as peatland, wetlands, savannahs after December 2015, as defined in the High Carbon Stock Approach Toolkit
 - Peatlands of any depth, except where farming practices protect peat
 - IUCN protected areas categories I-IV, UNESCO World Heritage Sites and wetlands on the Ramsar List.
2. Identifying, protecting and avoiding producing on High Conservation Values (HCV) lands in and around the producer territory after 31st December 2015, as defined in the High Carbon Stock Approach Toolkit.

3. Having a forest management plan in place in the case of agricultural production of pulp and paper.

Within the scope of this policy are palm oil, pulp and paper, soya, meat and sugar, and as of March 2020 85% of Nestlé's purchases of these forest-risk commodities were verified as deforestation-free. By the end of this year we anticipate that over 90% of our commodities will be confirmed deforestation-free, and we are working with both smallholder farmers and large suppliers to be close to 100% by the end of 2022.

It is important to highlight that our approach goes beyond legality. We use internationally agreed definitions, such as the one agreed by the HCS Toolkit and utilise the following tools to assess forest related risk within the company:

- Responsible Sourcing (RS) Programme: this covers our 15 most important raw materials, including pulp and paper, palm oil, soy, cattle, cocoa and coffee. Based on our volume and spend break-down we identify countries and Tier 1 suppliers to prioritise. Supplier questionnaires are sent out annually to refresh our traceability information and a review of priority suppliers is then made based on traceability/country risk and business importance, together with our implementation partners. We combine our annual supply chain mapping exercise with tools outlined below to assess deforestation risks and inform our no deforestation strategy.
- Any major/significant issues detected in the operational RS program can be escalated to be included in corporate functional assessments e.g. Procurement and/or the relevant Market Enterprise Risk Management (ERM) – these are carried by each our markets and include siting and land use risks. If the risk has the potential to be impactful at a Group level, this would then be escalated to the annual Group ERM assessment e.g. deforestation under Climate Change threat.
- A materiality analysis is carried out by external advisors every 2 years and includes engagement with third party stakeholders to understand the expectations they have of Nestlé in terms of managing the risks and opportunities.

The 1-3 year time frame reflects our operational focus, addressing the time period over which our operational and business plans exist so the assessment directly links to the actions.

We recognise that achieving 100% deforestation-free supply chains requires a combination of tools. As such we apply a holistic “toolkit approach” to address deforestation risks within our supply chains, utilising a range of measures including Supply Chain Mapping, Certification, Satellite Monitoring, On-the-ground Verification and Collaboration tailored to each commodity's supply chain. Industry-wide, multi-stakeholder initiatives such as the Consumer Goods Forum and RSPO also play a vital role in ensuring collective action amongst all actors.

During our recent meeting with DEFRA officials we were asked about traceability in our supply chains. As highlighted above, we have identified [15 raw materials](#) that present higher risk of environmental and/or social issues. For those, we have set [KPIs](#) and [definitions](#) of responsibly sourced (including a definition of 'verified deforestation-free' for the 5 commodities part of our no-deforestation commitment). We work closely with our direct suppliers and partners to conduct a [mapping of our upstream supply chains](#) and carry out farm assessments in our upstream supply chain with partner organizations, which is expanded upon further for each commodity below.

We have a [public commitment](#) for 2020 for 80% of the spend and volume of our priority upstream categories to be traceable and 70% to be responsibly sourced. In 2019, 76% of our priority upstream categories were traceable and 70% responsibly sourced.

When verifying the commodities in scope (palm oil, pulp & paper, soya, meat and sugar) as [deforestation-free](#), we trace back to forests/farms/plantations through the use of technologies (e.g. SupplyShift, Achilles) or partnerships with NGOs.

Further information about our approach to specific commodities is outlined below and a summary of our progress as of March 2020 can be found [here](#).

Palm Oil

Our ambition is to ensure that all of the palm oil we purchase is fully traceable back to responsibly managed plantations and smallholders that comply with our Responsible Sourcing Standards. As of March 2020, 70% of the total palm oil we purchased was verified as deforestation free and we will continue to work with our suppliers to be close to 100% by 2022.

We work closely with our suppliers and other partners, including partnering with Earthworm Foundation to map our palm oil supply chain to help our suppliers meet the requirements of our Responsible Sourcing Standard. Since 2018 we have used Starling, a satellite monitoring system developed by Earthworm and Airbus, to monitor 100% of our global palm oil supply chain for real-time deforestation risks and perform field intervention strategies to drive changes. We are currently piloting this tool in our pulp and paper supply chains and will extend this to soya at a later stage.

Alongside this we are delivering technical assistance programmes for forest conservation planning with suppliers and smallholder farmers. We are also implementing the “Rurality” initiative with Earthworm Foundation, which works directly with palm oil smallholders to improve their environmental performance and build resilient livelihoods.

We also hold RSPO certification and have submitted a time-bound plan to achieve 100% RSPO-certified sustainable palm oil by 2023. The RSPO Principles and Criteria are already part of our Responsible Sourcing Standard, and by continuing to play an active role within the RSPO we are helping to drive positive change across the whole palm oil sector. More information can be found in our [palm oil transparency dashboard](#).

Soya

Our objective is to solely source soya from land that has not been converted from forest or other HCV areas to other use, and continue to work with our partner, Proforest, to improve traceability and support the maintenance and management of these regions in Brazil, Argentina and Paraguay. As of March 2020, 76% of the direct soya we buy has been verified as deforestation free.

In partnership with Proforest we have developed an approach merging geographical risk analyses with the design of a scorecard for suppliers. This aims to provide us with key comparable information and allows us to understand what and where the gaps may be in suppliers meeting our sustainability commitments, enabling us to work with them to develop and implement action plans. From 2020 onwards we will report on suppliers’ performance.

We are also working with the Consumer Goods Forum and the Soya Buyer Coalition, a transparency-focused organisation working to tackle deforestation risk and are signatories of the Statement of Support for the Cerrado Manifesto. This is building investor support to halt deforestation and incentivise sustainable land management.

Cocoa

In 2017 we signed the Cocoa & Forests initiative (CFI) alongside other chocolate and cocoa companies and the governments of Ghana and Cote d’Ivoire. This developed a joint public-private Framework for Action to address deforestation and forest degradation and secure sustainable livelihoods for farmers in these two regions.

Our action plan includes action in forest protection and restoration, sustainable production and livelihoods and social and community engagement. As part of this initiative, we have mapped over 75% of the 120,000 cocoa farmers we source from in Ghana and Cote d'Ivoire and have distributed 560,000 native forest and fruit trees and over 800 efficient and less polluting cookstoves to reduce pressure on forests and help improve family health.

Since 2015 we have been using 100% certified sustainably sourced cocoa in the UK and at present 44% of our cocoa globally is verified as responsibly sourced. Our ambition is to reach 100% certified sustainable cocoa in our global supply chain by 2025, building on work currently underway through the [Nestlé Cocoa Plan](#).

Sugar

We source sugar from a number of countries around the world and are committed to ensuring that this is sourced from mills where the operations, as well as the farms and plantations that supply them, comply with local laws and regulations. As of March 2020, 85% of our sugar was verified as deforestation free.

By working with our suppliers and implementing partners including Proforest we have mapped our sugar supply chain back to mills and are actively working to address any issues identified in our supply chain. We are developing and sharing tools to enable smallholder farmers to avoid deforestation and the loss of natural vegetation and finding ways to help them manage water consumption. In conjunction with this we work with a network of local delivery partners in specific countries who can bring additional knowledge to the process.

Pulp and Paper

As of March 2020, 93% of the total pulp and paper we purchase was verified as deforestation free. In partnership with Earthworm Foundation, we map and assess our paper and board supply chains across high-priority supplier countries and use SupplyShift, a cloud-based platform to help us collect and analyse data to map our supply chain. This technology is still being trialled to explore how it can assist us in getting the data needed to guide and drive our supplier engagement and purchasing decisions to meet responsible sourcing commitments.

As outlined above, we have extended Starling satellite monitoring to our pulp and paper supply chain to help determine where forest loss is resulting in deforestation and degradation of HCV forests. This technology was trialled in four locations in 2019 and we will continue to monitor forest cover change in these locations in 2020.

Certification, such as Forest Stewardship Council (FSC) and Programme for Endorsement of Forest Certification (PEFC), is another important tool to demonstrate compliance.

Question 14: Please use this box to share any further information about the systems you use to better understand how forest risk commodities in your supply chains are produced.

As a responsible company we are committed to respecting human rights and the environment, both in our own operations and in our supply chain. As part of our longstanding commitment to have a positive impact on society we have voluntarily integrated human rights and environmental due diligence processes into our policies and procedures throughout our value chain. In 2013 we became the first major multi-national company to report publicly on our human rights impact in a number of the countries in which we operate.

Human rights monitoring takes various forms across our supply chain. For example, for palm oil sourcing we launched a global [Action Plan](#) in April 2018 in response to a human rights impact

assessment of our supply chain. This sets out the targets, activities and interventions we will focus on with our partners and others across industry to address forced labour issues.

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

In principle we welcome the introduction of measures to make the sourcing of forest risk commodities more sustainable and strongly support the Government's ambition in this area. As outlined above, we have a global commitment to eliminate deforestation from our supply chains and expect 90% of our key agricultural commodities to be certified deforestation free by the end of 2020. We will continue to work with suppliers to be as close to 100% deforestation-free by 2020, recognising that clear action, commitment and collaboration is needed from all actors to eliminate deforestation.

At a global level we support appropriate legislation to provide further incentives for companies to address their potential impacts on both human rights and the environment and to create a level playing field. Incorporating human rights elements is a vital measure for mandatory environmental due diligence regulation and this is one key aspect that we feel should be brought out more overtly in the proposals.

While we support the aims behind this policy, we have some reservations about whether this approach is the best way to enact these changes and have expanded upon this further below.

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

During the consultation process we held a meeting with DEFRA officials who emphasised the strengths of focusing on legality, particularly in encouraging a longer-term approach to tackling deforestation and putting a common approach to all commodities and countries in place.

While we agree with the principles behind introducing legislation, focusing on legality is not enough to effectively tackle due diligence as we believe a wider systemic approach is needed.

We would also welcome clarification around how future laws would be captured, monitored and enforced within the scope of the legislation. It is important to highlight that there are likely to be instances where national legislation falls short of companies' responsible sourcing practices and the laws of an individual country are not enough to prevent deforestation. Any due diligence requirement should set out where these fall short and where national and international standards do not align and recognise the efforts of companies that follow higher standards.

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

As highlighted throughout this consultation we support the call for companies to have mandatory due diligence systems in place to assess deforestation risks in their supply chains and help eliminate them.

Any mandatory due diligence, as defined in the UNGPs, should be an ongoing process. As a global company we also support alignment with due diligence processes introduced by other jurisdictions, such as the EU, where possible to drive ease of compliance across our business operations. We also support the inclusion of all business actors to ensure the benefit of any regulation is felt across all actors and to avoid “forum shopping”.

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

- Yes
- No
- Don't know

Reporting is one key element of effective due diligence as transparency is central to building trust and ensuring accountability. We currently report publicly on our system of due diligence and would support extending this requirement to all actors as well as including a comparison measure to ensure progress is being made against the aim of deforestation free supply chains.

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

We recognise that there is a balance to be struck in introducing sanctions against businesses. It is vital that any measures introduced are proportionate as we recognise that disproportionate measures risk dissuading companies from being fully transparent, which is key in encouraging responsible business practice, or diverting resource away from compliance into litigation. Sanctions should be used to shape and encourage better compliance rather than as a blunt measure, and we would support a mechanism to incentivise and encourage good actions within the supply chain. As the regulations progress, we welcome clarity on where any revenue from fines will be directed and where in the supply chain they will be applied.

We also request further detail on the scope of the proposed enforcement body. We strongly believe that this should be adequately resourced and equipped to provide guidance and help to develop due diligence as part of an ongoing process.

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.

While we appreciate the point raised around administrative burden versus impact of these measures, we strongly believe that targeting only a small number of large businesses is not enough to make a difference. In order to fully level the playing field, it is important that all actors – which includes both businesses and public procurement – are captured within the scope of this legislation. By focusing only on larger businesses there is a significant risk that smaller players could source illegally deforested products, limiting the effectiveness of these measures. It is important that all actors are captured within the system in some way.

From our conversation with DEFRA officials we understand that research is currently being conducted into what thresholds will be set for volumes of commodities sourced to capture businesses within scope of the legislation, and that a decision has not yet been made on whether different thresholds will be put in place for different commodities. We support the proposal outlined in the IDH letter, which we are signatories of, for thresholds to be based on the volume of material sourced rather than the size of the company.

When proposals have been finalised we would encourage further consultation on this point, and for there to be a mechanism introduced to ensure these are reviewed regularly.

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)]?

Where possible we would encourage DEFRA to align reporting with existing obligations to minimise the impact of dedicating additional resources to compliance on companies.

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

While supportive of the aims of this regulation, we are aware that there may be unintended consequences of excluding smallholders from scope. Our monitoring indicates that forest loss is increasingly linked to small-scale deforestation – since January 2016, 57% of total forest loss in palm oil producing countries has been caused by clearance events of less than five hectares at a time. By shifting focus for compliance onto only the biggest actors we are conscious that this may mean an opportunity is missed to truly tackle deforestation at the local level.

However, we also recognise that a range of measures are needed at all levels to ensure an enabling environment and to encourage greater transparency and are beyond what can be achieved by a single company. We aim to drive transformative change by calling for more traceability and transparency, more support for smallholder farmers’ inclusion and resilience and increased collective action on the ground, including public-private partnership.

We appreciate that this is an ongoing process and would welcome further opportunities to engage with DEFRA and feed into further details of this policy as it develops.

Defra Consultation on Due Diligence on Forest Risk Commodities: Unilever response

Unilever consultation responses

Section A: About you

Question 1:

What is your name?

[REDACTED]

Question 2:

What is your email address?

[REDACTED]

Question 3:

What country are you based in?

United Kingdom

Question 4:

Would you like your response to be treated as confidential?

- No

Question 5:

Are you responding:

- On behalf of an organisation

Section B: About your organisation [Please note this section only applies if responding on behalf of an organisation]

Question 1:

What type of organisation are you responding on behalf of?

- Large business (250 or more employees)

Question 2:

Please provide your organisation's name.

Unilever Plc

Section C:

About your business [Please note this section is for business respondents only]

Question 1:

Which sector best describes your business?

- Manufacturing

Question 2:

Defra Consultation on Due Diligence on Forest Risk Commodities: Unilever response

Where is your business headquartered?

- In the UK

Question 3:

If your business is headquartered in the UK, please tell us where.

- Greater London

Question 4:

If your business is headquartered overseas, please tell us in which country.

Question 5:

How many people does your business employ in the UK?

- Over 1000

Question 6:

How many people does your business employ globally?

- Over 1000

Question 7:

What is your business' annual turnover in the UK?

- 1 billion and above GBP

Question 8:

What is your business' annual turnover globally?

- 10 billion to 50 billion GBP

Question 9:

Which of the following forest risk commodities do you use in production or trade in the UK? Please tick all that apply.

- cocoa
- palm oil
- soya

Question 10:

Please list any other forest risk commodities you use in production or trade in the UK.

Paper & board

Tea

Question 11:

Do you currently have a system in place to ensure that any of the following forest risk commodities have been produced legally?

Defra Consultation on Due Diligence on Forest Risk Commodities: Unilever response

Please tick all that apply.

- cocoa
- palm oil
- soya

Question 12:

Please list any other forest risk commodities where you have a system in place to ensure they have been produced legally.

Paper & board

Tea

Question 13:

If you have a system in place to ensure that any forest risk commodity has been produced legally, please describe it.

Unilever requires all our suppliers to comply with both the law of the relevant country, and with our Responsible Sourcing Policy. Our RSP sets out what all our suppliers must adhere to in order to do business with us. Our contracts with our suppliers require their agreement to comply with the Mandatory Requirements of the RSP and to commit to verify compliance and to rectify any non-compliances.

Our RSP programme builds on the agreements made by our suppliers in our sourcing contracts through gaining a more detailed commitment, conducting due diligence and monitoring compliance. We segment suppliers based on a risk assessment using externally available indices. Suppliers in the highest risk segment are required to undergo an independent third-party audit. We supplement our compliance programme with independent human rights impact assessments, on-going internal and external capacity building, and collaborative initiatives.

We buy materials in accordance with our commodity-specific policies including our Sustainable Palm Oil Sourcing Policy and our Sustainable Paper & Board Packaging Policy. We also use recognised independently verified standards equivalent to, or exceeding, the Unilever Sustainable Agriculture Code e.g. FSC, RSPO, RTRS and Rainforest Alliance. These standards also contain requirements for our suppliers to comply with local laws and regulations. By virtue of this, volumes in compliance with these certification standards are produced by farmers assessed and found to be compliance with forest regulations and any other mandatory standards. Given that legality is a minimum criteria and part of certification schemes, we leverage the auditing and verification of harvest and chain of custody to ensure that certified materials reaching Unilever are compliant with forest regulations. Future Unilever commodity policy will align further with the Accountability Framework Initiative. It is important to recognise and address both legal and illegal deforestation.

Going forward we are investing in new digital capabilities to greatly enhance the traceability of materials that we buy and that are in forest sensitive landscapes. We believe this is a critical future enabler to strengthen our supply chains beyond certification.

For commodities including palm, we administrate a grievance process that examines and takes action upon all credible allegations brought to our attention. Where we cannot establish to our satisfaction that a direct or indirect supplier is complaint with our policies, or is on a time-bound

Defra Consultation on Due Diligence on Forest Risk Commodities: Unilever response

pathway to compliance, we can exclude that supplier from our supply chain (and have done so on a number of occasions).

We have legal and regulatory specialists who monitor and review our practices to ensure we remain aware of, and in line with, all relevant legal obligations. Despite our efforts, we recognise that complex supply chains still have challenges around verifying legality, particularly for small farmers who are not always able to prove their legal right to the land they are farming.

Question 14: Please use this box to share any further information about the systems you use to better understand how forest risk commodities in your supply chains are produced.

Unilever's Sustainable Living Plan (USLP) describes how we address forest-related issues, with our key means of mitigation being through our Sustainable Agriculture Code (SAC) & SAC Scheme Rules. The SAC was developed to give us, our farmers and suppliers, a set of standards to drive improvements across our supply chain. In 2017, the SAC was updated to emphasise five key areas: no deforestation, human rights (FPIC), legal compliance, migrant labour and grievance processes for workers.

Our suppliers must comply with Unilever's Responsible Sourcing Policy (RSP) to do business with us. We seek to buy materials in accordance with recognized independently verified standards equivalent/exceeding our existing Sustainable Agriculture Code e.g. FSC, RSPO, RTRS, Rainforest Alliance. We leverage the auditing and verification of harvest and chain of custody by independent third parties, to give us confidence and assurance that certified materials reaching Unilever are traceable back to sustainable sources by way of an unbroken series of linkages of commercial documents and contracts between supply chain participants.

Traceability tools

To achieve a deforestation-free supply chain by 2023, we have committed to increase traceability and transparency by using emerging digital technologies – such as satellite monitoring, geolocation tracking and blockchain – accelerating smallholder inclusion and changing our approach to derivatives sourcing. We are building a digital ecosystem with a number of technology partners to help us monitor our supply chain even more closely. We are actively developing and deploying technologies that have the potential to disrupt and transform supply chain traceability and transparency. We are working with major tech firms and innovative start-ups to build new approaches to monitoring and traceability, extending from downstream operations to plantation or crop source.

We are working with partners to find new ways of gathering and interpreting data. Visibility of the supply chain through to the smallest supplier will radically improve our knowledge of what is happening on the ground. We can then monitor land use, manage risks and direct investment into sustainability activities. Satellite and radar technology is already being deployed to give us early warning of deforestation.

Tracing products back to their areas of origin is essential to ensuring the sustainability that we want and that consumers are increasingly requesting. The nature of modern supply chains, which, as well as being highly efficient, are extremely global in reach and multi-layered in scope, making traceability a complex and costly challenge. Hence, we want to focus our efforts where we can have the highest impact. Our predominant focus is on those materials where we have 'line of sight to farming area', as we call it, and greatest buying power. This is where we feel we can most influence producers to adopt sustainable practices.

Defra Consultation on Due Diligence on Forest Risk Commodities: Unilever response

Transparency

Another area where our work will continue is the promotion of chain-of-custody transparency in our critical supply chains. Back in 2014, we began asking our palm oil suppliers to provide GPS coordinates for the mills from which they source. This gave us visibility on over 1,800 mills – around two-thirds of the total number of mills at the time. We are now moving beyond this step to drive more traceability and transparency through the supply chain.

Across all our key category areas, we will continue to push for more producers to achieve sustainability certification and drive impacts. Equally, we also want to find innovative ways to carry on increasing supply chain transparency, especially for the most complex raw materials. We have started with publishing our supplier lists for tea, soybean oil and paper and board. We want greater assurances that the impacts we want to see, such as no deforestation, regenerative practices and improved yields for smallholder, are being driven forward.

Section D:

About the proposal

Question 1:

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

- Yes

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

We agree, but with some important caveats:

- Legality is a minimum threshold for tackling deforestation – it would not bring about the transformation at scale that we urgently need because of insufficient, inappropriate or poorly enforced laws, as well as a lack of data and transparency. Nor would a focus on legality enable companies like Unilever to meet voluntary commitments that we have already set, either individually or through collaboration (e.g. the CGF Forest Positive Coalition). Please see our response to question 9 for more detail.
- The exact nature of the offence should be carefully thought through in the secondary legislation so as to avoid unforeseen impacts. Strict liability on companies for identifying illegality in their supply chains sits uncomfortably with local data sources (e.g. maps, local land registry records) that are often incomplete or unreliable, in particular for small farms and smallholder farmers. If a company under such a liability was unable to secure positive and reliable verification of legality, there is a risk that the company would be compelled to remove vulnerable small farmers at scale from their supply chain, exacerbating hardship and poverty and potentially driving further deforestation as a result. Please see our response to question 9 for more detail.

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?

Defra Consultation on Due Diligence on Forest Risk Commodities: Unilever response

- Yes

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

- Yes

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

We agree, because the due diligence obligation should help to level the playing field and businesses that invest time and resources in implementing high quality due diligence systems should not be undercut by those that have not made the necessary changes.

However, the workability of levying fines depends on exactly how the nature of the offence is defined and how this operates in practice, as explained in our answer to question 2. Whilst there may well be an important role for fines as sanctions, we also believe that businesses conducting good due diligence and acting swiftly to tackle problems should be recognised in a positive way e.g. a name and praise approach for those companies performing highly in this area. We are keen to work with the Government on secondary legislation to ensure that the right balance is achieved that can result in meaningful change.

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?

- Other

Question 7:

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

We disagree that employee number and turnover are appropriate criteria to select the businesses to which the legislation should apply. Most larger businesses that are significantly exposed to forest risk commodities already have commitments to sustainability, specifically to no deforestation supply chains that go beyond the minimum requirements of local laws and so just targeting them will not result in the change that the Government is seeking. Moreover, the application of the law to larger companies only risks shifting the importation of illegal products to smaller companies.

We instead encourage the Government to follow a risk-based approach. The commodities or products a company places on the UK market is of much higher importance when considering to which companies the legislation should apply. One option could be to use a volume-based metric rather than a turnover or headcount metric to ensure that smaller businesses using relatively large volumes of forest-risk commodities are also in scope. Also, all distributors (to or within the UK) and re-sellers (to or within the UK) of these forest commodities and derived ingredients, and products made using any of them, should be included, so as to reduce the need for smaller manufacturers to be required to report.

Defra Consultation on Due Diligence on Forest Risk Commodities: Unilever response

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)]?

We encourage the Government to use existing frameworks (e.g. the Accountability Framework Initiative, the UN Guiding Principles on Business and Human Rights) as a starting point.

Lessons can be learned from reporting frameworks such as the Taskforce on Climate-Related Financial Disclosures and CDP Forests, bearing in mind their specific aims which will not necessarily align with the objective of this legislation, and from existing due diligence legislature such as the French Duty of Vigilance, the Modern Slavery Act and the EU Timber Regulation.

Question 9:

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

We would like to submit the following comments to be taken into account as part of the Government's consultation. We would be happy to meet with Defra to go into some of these issues in more detail.

Overall, Unilever is highly supportive of the Government's ambitions to protect forests by introducing due diligence obligations on businesses that use forest-risk commodities. We have previously expressed our support for the concept of mandatory due diligence.¹ We recognise that we have a significant role to play in halting and reversing deforestation and habitat loss, but our experience of implementing our own commitments over the last decade has taught us that government action is needed to level the playing field and enshrine high environmental and social standards in law.

However, we think that the specific proposals as currently set out will fall short of achieving the Government's objectives and meaningful change, and may potentially have unforeseen negative consequences for small farmers in particular. We set out these concerns below.

1. Deforestation or all conversion of natural ecosystems

As set out in a letter from a number of UK manufacturing and retail signatories including Unilever, we believe the Government should broaden the scope of the proposed legislation from conversion of natural forests only (deforestation) to the conversion of all natural ecosystems such as grasslands, savanna, wetlands and peatland, which are crucial for biodiversity and carbon sequestration. This would align with the Accountability Framework Initiative and the recommendations of the Global Resource Initiative, as well as major producers and users of key commodities.

2. Legal or illegal deforestation/conversion

We also believe that restricting the scope to tackling illegal deforestation will significantly limit the impact of the proposals. Many larger businesses, including Unilever, already have commitments to sustainability and zero deforestation and conversion supply chains that go significantly beyond no

¹ For example: <https://www.business-humanrights.org/en/latest-news/support-for-eu-framework-on-mandatory-human-rights-and-environmental-due-diligence/> and <https://www.voicenetwork.eu/2019/12/cocoa-companies-call-for-human-rights-and-environmental-due-diligence-requirements/>

Defra Consultation on Due Diligence on Forest Risk Commodities: Unilever response

illegal deforestation. This means they cover the Cerrado region of Brazil, for example, where most deforestation is legal according to Brazil's Forest Code. These businesses are looking to governments to level the playing field and support them in achieving their commitments.

But undertaking due diligence based on legality only may prove very difficult. It may be complex to define what legality means and how to verify it accurately. In high deforestation and conversion areas, there may be land conflict with limited effective governance to prevent it or bring about resolution. Existing laws and policies may also be under pressure, contested or unenforced, or changed completely when political priorities shift. Companies trying to uphold a more stringent definition of legality in these situations would be at risk of accusations of interfering in national laws.

We strongly believe the Government should take a more comprehensive and holistic approach to due diligence, aligned to the Accountability Framework Initiative, that recognises the importance of companies not just respecting but going beyond national laws so that they can be confident their commodity supply chains are not driving deforestation or conversion, and are respecting the rights of workers, indigenous people and local communities.

3. Impacts of legality-only approach on small farmers

We are also concerned that an unintended consequence of the focus on cutting illegality out of forest risk supply chains will be a harmful impact on smallholder farmers, cooperatives and small farms.

These farmers are often located on land where legality cannot be verified due to the absence of local records or land titles. Currently, Unilever and other reputable FMCGs engage in education and support programmes that seek to reduce potential or suspected farming on cleared land, often linked to long-term programmes for crop certification which result in increases in profits for the farmer. However, as it is currently framed, the legislation would require us to conduct due diligence down to farm level and then remove from our supply chain all crops coming from smallholder farmers, cooperatives and small farms located on land that we could not verify as legally converted, potentially going back a significant period of time.

This would not only harm their livelihoods, and aggravate poverty and food insecurity, but it could also further harm forests. The most marginal and vulnerable farmers and farms are often located next to forest areas and so they may respond to being cut out of supply chains with high environmental standards by expanding into nearby forest and selling their crops, probably for lower prices, into less well-regulated supply chains. They would also be less likely to take part in programmes that improve crop production and environmental and social standards because they would see no short term commercial incentive to do so, again with the outcome that they would instead take part in environmentally-damaging practices that are still legal in some countries (e.g. burning in Indonesia) and sell crops into less well-regulated supply chains.

If the Government decides to proceed with a legality approach, we believe that such unintended consequences could be avoided by, in developing markets, setting a minimum crop source size, for example 100 hectares.

4. Inclusion of human rights, labour rights and other social issues

Focussing purely on deforestation and excluding human rights and other social issues risks ignoring important issues such as poverty which is a major underlying driver of deforestation in some countries. By taking a narrow approach in contrast to the EU's more comprehensive approach, it also risks creating additional burdens on businesses that are in-scope for both sets of legislation. Most

Defra Consultation on Due Diligence on Forest Risk Commodities: Unilever response

importantly, it does not support businesses who are committed not just to tackling deforestation in their supply chains but also human rights abuses, whilst driving positive social impacts for small farmers and communities.

5. Nature of the offence

It is currently not clear to us how the prohibition element (i.e. making it illegal for in-scope businesses to use forest risk commodities produced in accordance with relevant laws) and the due diligence obligation/duty of the proposed legislation would interact in practice. Will 'relevant legislation' in each country be defined by the UK Government, or will it be down to business to judge this as part of the due diligence process?

Our recommendation is that the offence should be defined as usage in products manufactured, imported into or sold in the UK where either: (i) that diligence is not performed to a reasonable standard using all publicly available data, including Google Earth and (where permitted locally) drone mapping data and (subject to local privacy and trade secret law limitations) published, or (ii) the company knowingly buys forest commodities even where that due diligence shows that the crops were illegally grown.

This approach would allow for the reality in some countries of an absence of reliable maps and/or land conversion records, and to account for the fact that some of the most vulnerable and marginal smallholder farmers do not have, and may never have access to, reliable records or land titles. It would also enable the continuation of remediation programmes supporting replanting and restoration programs to continue effectively i.e. without the withdrawal of commercial support.

We also recommend that the response to illegality, if and when it is found in supply chains, is given more consideration. Instantly cutting suppliers out of global supply chains may have unintended consequences, such as pushing their commodities towards leakage markets and ceasing their involvement in programmes for replanting on or restoring historically but illegally cleared land. Following the discovery of non-compliance with our policy (which could be legal or illegal), the supplier in question has a realistic window of time during which to demonstrate that it has put in place changes in its operations so as to now be operating in compliance. Instantly compelling companies to drop suppliers on first discovery of an illegality risks resulting in a two-tier system which does not provide a clear pathway towards, or incentives for, improvement.

6. Businesses in scope

The legislation should cover (subject to a de minimis) all importers and distributors of ingredients, intermediate ingredients and finished products, including derived ingredients produced in chemicals plants and refineries (deriving in part or whole from forest risk commodities) into the UK, so as to avoid a two-tier pricing market for 'clean' and 'unverified' materials and products that include forest-risk materials. The key challenge here is that a number of smaller UK businesses may choose to buy ingredients, or even finished products, from a small number of large onshore or offshore importers and distributors.

To be effective, the new prohibition would need to include contract manufacturing, in the UK and overseas, in the definition of "*used in the manufacture (including contract manufacture) of goods imported by any business into the UK*", or else some UK businesses could move their UK manufacturing operations offshore to avoid the impact of this law, even for goods ultimately sold in the UK. This approach would have the added benefit of causing many offshore manufacturers to

Defra Consultation on Due Diligence on Forest Risk Commodities: Unilever response

move to the new and improved standards, since even grey import goods could then be caught within the scope of the new law.

Please also see our response to question 7.

7. Commodities in scope

We note that the types of commodities in scope are currently described as “*forest risk commodities [which] include those embedded within products*”. Whilst the consultation questions mention palm oil, soya, cocoa, rubber, beef and leather, it would be helpful to have more clarity. We suggest a roll-out in phases of the legislation across key commodities, targeting those that pose the greatest and most immediate risk to pristine forests e.g. palm oil, soy and cattle.

For the law to be more effective, this definition should refer to ingredients and intermediate ingredients used in the manufacture of products that use such commodities as a direct or indirect ingredient, including derived ingredients produced in chemicals plants and refineries.

8. Due diligence as part of a smart mix of measures

We would like to see due diligence form one plank of a strong package of smart measures, as set out in the GRI Taskforce’s recommendations. This should also include, for example, government funding and support for improved governance via bilateral or multilateral agreements, and international collaboration to support producer countries towards a transition to sustainable production and to restore native vegetation where possible.