

Department for the Environment, Food and Rural Affairs  
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Sent via online form

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## **Due Diligence on Forest Risk Commodities: Consultation response**

I am writing to respond to DEFRA's consultation on due diligence on forest risk commodities on behalf of ShareAction, a registered charity established to promote transparency and responsible investment practices by institutional investors. We are a member organisation and count amongst our members well-known NGOs and charitable foundations, as well as over 26,000 individual supporters.

- 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?**

Yes

- 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?**

Yes

- 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.**

Businesses of all sizes should be covered by the proposed legislation as all companies involved in forest-risk commodity supply chains are exposed to the risks of deforestation irrespective of their size. Moreover, excluding companies from the scope of the proposal may provide opportunities for forest risk commodities to enter UK supply chains causing 'leakage' and potentially undermining the intended purpose of the legislation. The proposal should apply to all companies of all sizes however the requirements should be commensurate with the quantity or scale of the company's commodity-related revenue or business.

**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)]?**

Minimising reporting burdens on businesses will be an essential part in the success of these proposals, and we therefore fully support alignment with existing international frameworks. However, many existing international frameworks and national disclosure requirements are not working as efficiently as they might be. Fundamentally, this is an issue of enforcement, and financial regulators including the FCA and FRC have historically disappointed in holding companies to account on their climate-change reporting. This has undermined the disclosure requirements set by Government and hindered progress in tackling climate change. Therefore, for DEFRA's proposals to be successful, it is crucial that companies are properly held to account. As a solution, we propose a central repository, to be held by either DEFRA or the new Environment Regulator, which would include all companies within scope of the new proposals. This would incentivise those companies in scope to make the proper disclosures, while supporting effective compliance monitoring.

**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:**

*Regarding Question 1:*

The proposed legislation should be fully aligned with the recommendations set out by the Global Resource Initiative taskforce (GRI). One of the taskforce's recommendations was the introduction of a mandatory due diligence obligation which would "require companies to analyse the presence of environmental and human rights risks and impacts within their supply chains, take action to prevent or mitigate those risks, and publicly report on actions taken and planned." The taskforce was clear in its 'case for action' that the UK must embark on a new approach towards agriculture and forest commodity supply chains. It recommended that "people must be at the heart of the transformation agenda, to support approaches that empower farmer and community voices, improve livelihoods, protect and respect human rights, gender and social equity and support the efforts of forest communities that have safeguarded these vital resources for generations." We urge the Government to implement this recommendation in full since that the evidence is quite clear that, human rights, gender and social equity issues are central to a transition to sustainable agricultural and forestry supply chains. The proposed legislation as it stands considers only part of the transition that is required. Without adequate consideration of the rights of local and indigenous communities – that is, the need for free, prior and informed consent - this law will not be as effective as intended. The taskforce recommends that a mandatory due diligence obligation should also apply to the financial sector. "The financial sector should also be covered by a similar mandatory due diligence obligation, requiring them to exercise due diligence in order to avoid their lending and investments funding deforestation." It is our view that financial institutions are as responsible for enabling environmental and human rights abuses as the companies they invest in or lend to. Our experience shows that few investors or banks have robust policies or due diligence processes in place to monitor their exposure or contribution to deforestation risks. Without a

commensurate obligation for financial institutions, there is a risk that companies will be faced with competing expectations from Government and their financiers.

*Regarding Questions 2 and 3:*

The Government should set a higher standard to ensure forest risk commodities are truly sustainable. This requires the legislation to look beyond compliance with local laws and beyond a focus on illegal deforestation alone. Local and relevant laws are often insufficient to protect forest systems from deforestation, whether legal or illegal. Indeed in some producer countries, local laws have provided an enabling environment for land owners to expand production into new frontier regions leading to an increase in both illegal and legal deforestation. Local laws therefore do not provide the safeguards necessary to protect forests and improve the sustainability of UK supply chains. In addition, requiring companies to navigate a wide variety of local and national laws risks adding an unnecessary level of confusion to legal compliance. The Government should aim to set a single and higher standard for deforestation free supply chains and as has already been set out by the Accountability Framework Initiative (AFI).

*Regarding Question 4:*

The Government should introduce a framework for reporting that is at a minimum, aligned with the corporate obligations under the United Nations Guiding Principles on Business and Human Rights (UNGPs) and the EU's proposed legislation on mandatory Human Rights and Environmental Due Diligence legislation and Deforestation and forest degradation – reducing the impact of products placed on the EU market.

*Regarding Question 5:*

Financial penalties are essential to ensure the legislation acts as a strong deterrent to businesses. Experience shows that corporate compliance with existing voluntary due diligence style regulation is weak. The effectiveness of any future legislation will depend on establishing penalties that are proportionate and dissuasive, alongside enforcement bodies that can effectively monitor and respond to non-compliance.

Yours sincerely,

Fergus Moffatt  
Head of UK Policy, ShareAction