

Response to Consultation on “Due diligence on forest risk commodities”

With reference to the UK Government’s proposal which can be accessed here: https://consult.defra.gov.uk/eu/due-diligence-on-forest-risk-commodities/supporting_documents/duediligenceconsultationdocument.pdf

Prepared by Dr Chris West on behalf of the Stockholm Environment Institute

Contact: chris.west@york.ac.uk

The Stockholm Environment Institute (SEI) is an international non-profit research and policy organization that tackles environment and development challenges. Headquartered in Sweden, the institute has centres in Estonia, Thailand, Kenya, UK, US, and Colombia. We connect science and decision-making to develop solutions for a sustainable future for all. Stakeholder involvement is at the heart of our efforts to build capacity, strengthen institutions and equip partners for long-term change. Our knowledge and findings are accessible: as our own open access material, in leading academic journals, and repackaged for effective decision support.

A background to the contributors to this response, and a disclosure of their interests can be found in Annex A.

We have structured our response to the consultation by first addressing the central question on whether the government should introduce legislation to improve the sustainability of trade in forest risk commodities (yes, but the current proposal falls significantly short of what is needed) and then focus in more detail on the substance of our recommendations regarding the questions of illegality/legality and company size; including looking at the implications of current limitations on the efficacy of the proposed legislation. Additional comments are then provided in an end section with supporting materials in the Annex.

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

In response to this question (Q1) from the proposal consultation document, **yes**. We strongly support the introduction of legislation to make forest risk commodities more sustainable, particularly in light of the fact that voluntary commitments have largely failed in this regard. A summary of our reasons for this support, and other comments related to the introduction of due diligence legislation, can be found in the ‘Support for a legislative agenda, and other comments’ section below.

The current proposal, which focuses on illegality, provides a key first step towards a ‘minimum standard’ for the UK. **However, in its current form, the proposal does not constitute a minimum**

standard itself and contrary to expectations will not provide a level playing field for business in the UK. It is also unlikely to lead to a pronounced reduction in the UK's overseas deforestation impacts.

To meet these goals, the scope of the legislative proposal should be extended. We suggest the scope is extended in two main ways: through a phased extension to cover smaller companies, and by expanding the scope to require assessment and disclosure of both illegal and legal deforestation risk. On this last point, we envisage a compliance approach with three tiers: (i) on assessment/disclosure, (ii) on removal of illegal deforestation in supply chains, and (iii) on measuring progress against a plan to address all deforestation risk (see below).

This law could be introduced in a phased manner, applying to larger companies immediately, before extension to small and medium sized (SME) companies after a grace-period to allow them to prepare and take advantage of the learning and tools developed in the first phase of implementation of the legislation. The three tiers we propose are as follows:

1. A mandatory requirement on all companies (with eventually no threshold applied for size) to assess and *disclose* illegal¹ and legal deforestation risk, with penalties (fines and other civil sanctions) applied for non-compliance. Disclosure should include detail of sub-national sourcing patterns, to improve the accuracy of deforestation risk assessments.
2. A mandatory requirement for all companies to remove illegal deforestation linked to their supply chains, with penalties (fines and other civil sanctions) applied for inaction.
3. A mandatory requirement for companies utilising a significant volume of forest risk material² to produce, and disclose progress against, a plan for addressing all deforestation activity or risk identified in their supply chains (with plans supported by measures such as a sustainable import guarantee scheme and the transfer of tools and guidance across sectors, as recommended by the UK Global Resource Initiative (GRI)). More stringent expectations would apply to those companies who are first placing forest risk material on the UK market, rather than those downstream in the supply chain.

If the proposed legislation is not extended to include the above considerations, then it is **highly likely that a significant proportion of deforestation risk linked to the UK supply chain will not be addressed**, and gaps in the coverage of the legislation may be exploited. Furthermore, without a requirement within the due diligence process for companies to consider legal deforestation risk, there will be minimal-to-no incentive for those companies who are not already active on this issue to take positive steps towards sustainable supply or engagement with producers in landscapes of concern.

More detail on the reasoning behind our recommendation, and these conclusions, can be found in the next sections of this document which can be broadly divided into two areas: **the focus of the proposed legislation on illegality**, and the **proposal for thresholds applying to large businesses**.

Annex A provides information about the projects and researchers working on deforestation risk, and includes a disclosure of interests. Annex B is the proforma response to the consultation questions. Annex C provides an analysis of the size of UK soy importers, giving an insight into the deforestation risk of larger and smaller companies. Annex D describes our methods for calculating re-export corrected sources for imported soy. Annex E describes our methods for calculating consumption-based estimates of UK dependency on selected agricultural commodities.

¹ Illegality here could align with the definition already used in the proposal by the UK Government, but note our comments on the scope and limitations of this definition in the 'Illegal Deforestation' section below.

² Analysis would need to be conducted to assess thresholds for significant volumes, which likely vary by commodity.

Illegal deforestation

This section contains details which relate to the following questions from the consultation document, and should be used alongside our responses to those questions (see Annex B): Q2 - Should it be illegal for businesses to use forest risk commodities in the UK that have not been produced in accordance with relevant laws?; Q3 - 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?; Q4 - Should businesses be required to report publicly on their system of due diligence?

The proposed legislation would require companies to put robust measures in place that ensure the sourcing of materials takes place in compliance with local laws of production; namely for those agricultural commodities whose expansion threatens legally protected areas. This includes the welcome inclusion of laws that protect natural forests and other natural ecosystems from being converted to agriculture; protection that extends beyond natural forests is important in responding to climate-related and conservation concerns.

Scope and coverage

Summary of concerns related to scope and coverage of illegality:

- 1) Legality versus sustainability.** Legality does not equate to sustainability. Many ecologically sensitive regions of the world, including areas such as the Amazon, Cerrado or Chaco biomes, either lack sufficient legal environmental protections, or have experienced significant dismantling of those legislations, or weakened enforcement of those legislations that are in place. Despite a welcome recognition that this legislation would relate to conversion of all natural ecosystems, sustainability is assuredly **not** guaranteed with such proposals, even with 100% compliance.
- 2) Scope of sustainability considerations.** The definitions laid out in the proposal do not consider issues around environmental and social justice, yet these are an important part of the principles of sustainability as laid out, for example, by the Accountability Framework Initiative. Clarifications as to what measures the UK Government is proposing to address the broader sustainable development concerns that relate to forest risk commodities are needed.
- 3) Commodity coverage.** If the laws are only applied to agricultural conversion, this excludes coverage of forest-products such as timber, pulp and paper products, despite these being mentioned in the proposal as important forest risk commodities. Additional clarity is therefore needed on the extent to which forest products will be considered in the primary legislation put forward. The current proposal also excludes products of mining, which is an important contribution to deforestation and land use change.

Example of Brazil

In Brazil, illegal deforestation has [soared recently](#) and [analysis from Trase](#) suggests that in the state of Mato Grosso (which includes Amazon, Cerrado and Pantanal biomes) this might account for 97% of total deforestation between 2012 and 2017. The same analysis, however, highlights that deforestation also takes place legally in this region, and has increased in recent years - and critically, if the licensing process is made easier, a significant amount of forest and other native vegetation can be cleared legally (up to 20% of private properties in the Amazon biome and 65% in the Cerrado biome). The UK has a legal commitment to “bring all greenhouse gas emissions to net zero by 2050”,

and [recent estimates](#) suggest that deforestation-driven greenhouse gas emissions embodied in UK consumption total 25 million tonnes per year. As the UK continues to reduce its territorial emissions, emissions embodied in overseas deforestation will become an increasingly relevant component of the UK's carbon footprint. Action to reduce both legal and illegal components of this footprint at an early stage will significantly reduce the rate of transition that is needed as the UK approaches its 2050 deadline.

Assessing illegality

A lack of data and transparency means that it is notoriously difficult to assess what deforestation is legal and what is illegal. For example, the [analysis Trase conducted](#) on illegality across Mato Grosso is currently not repeatable in other states in Brazil, due to a lack of appropriate publicly available data.

And it is currently not possible to accurately assess the extent of illegal deforestation in the majority of countries with high levels of deforestation across the tropics.

By nature, a risk assessment which identifies illegality will also identify legal deforestation. The exact requirements on companies for undertaking risk assessments in their supply chains are not apparent in the proposal, but a requirement for companies to robustly assess illegality will necessarily require the identification of geographic and supply chain linkages as a first step, before assessing whether or not deforestation is occurring. Only then could the legality of this activity be assessed. Given that businesses need to undertake this type of stepwise activity in order to comply with due diligence on the basis of illegality, an additional requirement to - at minimum - report on *any* deforestation activity would not impose significant further costs to businesses, even if the legislation places lower requirements on companies to respond to legal activity.

The benefit of disclosure of *all forms* of deforestation cannot be overemphasised; new data, in relatively standardised formats, could have a potentially transformative effect on our understanding of locations and drivers of habitat loss and would support the monitoring of the UK's total deforestation risk exposure (legal and illegal) overall. In turn, this would support engagement with suppliers, the identification and assessment of solutions to improve production sustainability, and - if necessary - the substitution of products, to improve the sustainability of the UK's supply mix. Improved disclosure would support the targeting of responses on specific areas of high risk; we know already that deforestation is typically focused on a small number of 'hotspots', and is linked to a handful of actors. [Data from Trase](#) for UK imports of soy, for example, suggests that in 2018, ten municipalities contributed over 70% of the UK's total soy deforestation risk in Brazil, with three exporting traders linked to 98% of this risk. Figure 1, below, illustrates that this phenomenon is common across commodity landscapes; deforestation risk associated with exports is highly concentrated in a handful of production regions.



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

Limitations of compliance with legality in changing UK-based practice

Clearly, compliance with local legislation is imperative, and enforcement of this requirement in UK law is welcome. However, there are limitations associated with a focus only on illegality, which will restrict the ability of legislation to significantly change existing practices in the UK supply chain.

In theory, *responsible* companies buying from deforestation hotspots will already be sourcing from companies who comply with local laws, as this is an important component of any 'licence' for companies to operate in regions of production. Of course, it is possible that suppliers may be non-compliant due to a lack of enforcement of local laws, and so legislated due-diligence would put the onus on UK-based companies to assess compliance levels, thereby incentivizing greater legality in the production base. But, it is unlikely that supply chain actors themselves - even larger companies - would have the resources to effectively enforce compliance, or indeed know whether they are enforcing compliance, with the law across their entire supply chain. In such cases, it is unclear in the proposal what would be expected of companies (the term 'proportionate action' is ambiguous in this regard), but the details of this would likely be fundamental to the success of the proposed legislation.

Furthermore, for many companies, exposure to reputational pressure from consumers and NGOs already extends beyond the issue of 'illegality'. As a result, most major companies with public 'visibility' in the supply chain have already made commitments, and are engaged in activities which relate to both legal and illegal deforestation risk.

The proposal states that “Businesses would of course be free to adopt higher standards, where they are available, to achieve more sustainable outcomes”, but this provides little incentive for slow-moving companies (e.g. those less exposed to consumer pressure) to go beyond basic legal compliance. This contrasts with the ambition set out within the proposal that “legislation offers a tool to help us ensure that businesses operating sustainably are not undercut by others”. Legislation that covers all companies, to ‘level the playing field’, would promote a shared contribution to the investments that leading companies are already deploying to tackle deforestation risk. Without a levelling of this type, these investments are expected to remain ‘niche’ and are highly unlikely to offer a step-change in the exposure of the UK supply chain to deforestation risk as a whole (and thus progress towards the UK’s target to become deforestation free).

Partnership building and landscape-scale impact

The consultation document states: “The degree to which forests are protected in national laws varies between countries. It is also true that international and company standards for commodities vary. Focusing our legislation on ensuring that commodities have been produced in full compliance with local laws sends a message to other governments that we want to support their efforts to ensure the sustainable use of their natural resources, reinforcing a spirit of partnership. It will also provide a clear operating principle for businesses”. It is true - and important to acknowledge - that legal (and voluntary) standards are highly variable across commodities and geographic contexts, but the logic that by focusing on local laws alone ‘sends a message’ in the direction of strengthening these laws, requires a firmer evidence base.

For example, what arrangements would the UK Government put in place to prevent countries from weakening standards to achieve a competitive advantage over others (a dynamic that is evident in many places)? And what would prevent companies from switching sourcing to countries (or biomes) with lower regulatory standards (which would have the effect of ‘punishing’ those countries with relatively higher standards)? Stark discrepancies in commodity driven deforestation already exist between countries (e.g. Brazil versus Paraguay) or biomes within countries (e.g. Cerrado versus Amazon) due, in part, to differences in the strength of legislation. If deforestation risk is higher in those countries or biomes with lower standards, such shifts may ultimately increase deforestation rates linked to UK supply chains. Furthermore, they would undermine the ability of the UK to act positively in places of risk, in order to generate landscape-level improvements in production and ensure that the UK has a net-positive impact and doesn’t just act to clean its own supply chain. Supply chain behaviour of this type would undermine the intent of the proposed legislation.

Furthermore, it is not clear why - as implied in the proposal - legislation that goes beyond illegality, and exceeds compliance with local laws, would not reinforce “a spirit of partnership”. If the overall objective is to ensure “sustainable use of natural resources”, and laws are variable to the extent that in many regions they do not achieve sustainable use (as evidenced by [continued high rates of tree cover loss](#), for example), then a clearer message would be sent - and incentives for partnership not be stronger - if there were additional requirements for due diligence and disclosure for companies in the UK.

The veracity of the argument that the existing proposal would send a message to other governments that the UK wishes to support them in their sustainability efforts, is further complicated by the fact that it is not clear from the proposal what would qualify as a ‘relevant law’ (with reference to the statement “in compliance with laws relating to the protection of forests from being converted in to agricultural land. It is these laws that will be in scope in determining whether a commodity has been produced legally.”). Definitions on what cut-off dates for prior deforestation activities apply, [what qualifies as forest](#) or other forms of native vegetation, what industries are subject to the laws, whether

reforestation activity mitigates forest loss, whether local peoples and economies are protected, and so on, are all critical considerations to the “*sustainable use of natural resources*” and may (or may not) be considered in ‘relevant laws’. The issue of actual compliance with ‘relevant law’ is agnostic of these details, but the outcome of the legislation is critically entwined with such detail.

The evidence behind the assertion that the legislation “*prevents discrimination against producers following the law and encourages better practices, while not damaging livelihoods.*” is similarly unclear. As mentioned above, the legislation - as articulated - would not necessitate activity which extends beyond legal compliance. Whilst there may be additional scrutiny placed on companies as a result of, for example, media attention that surrounds the introduction of legislation, it is probable that this would not drastically incentivise activities beyond those which are already taking place voluntarily in supply chains; particularly as those most ‘visible’ to consumers are already subject to scrutiny. Encouragement of better practice could, however, be made more likely if the proposal was to be extended to require companies to report on any additional activities they were undertaking to strengthen supplier compliance with the law and/or improve production practices. If this evidence were also placed in the public domain for scrutiny, this would facilitate knowledge exchange and lower the entry costs for wider engagement, by providing examples for others to follow.

The proposal infers that application of due diligence legislation that extends beyond illegality may have a damaging effect on livelihoods. However, this depends primarily on the *implementation* of the due diligence legislation and not the scope itself. For example, if - as we outline in our recommendations above - companies were mandated to produce plans for addressing any legal deforestation activity or risk identified in their supply chains (and were sufficiently supported via, for example, the suite of measures included in the GRI recommendations report), this would have the benefit of incentivising landscape-level change in production practices, and may well have a net-positive effect on livelihoods; particularly in the longer term when the resilience of future production - and thus future livelihoods - is considered.

It is also unclear what evidence base there is for the assertion: “*This approach is designed to reinforce the existing efforts of producer countries to enforce their laws, so contributing to the sustainability of all the produce they grow, not just that exported to the UK. This avoids the displacement of unsustainable produce on to other markets*”. It is far from clear that the introduction of legislation on illegality would have this effect, and certainly this would not be possible to ascertain without a greater understanding of the broader government-led mechanisms that surround the legislation to encourage such ‘reinforcement’. Legal standards are heavily influenced by global and [local politics](#) and economics, and there is no guarantee that exports to the UK would be sufficiently important to influence these. For example, the current Brazilian Government has actively engaged in revoking ecosystem protections and changing legal environmental frameworks to permit further conversion.

Fundamental to any due diligence legislation (whether covering legal or illegal activity) is the development of robust monitoring, reporting and verification (MRV) systems, to ensure that there is compliance with standards, and to monitor changes in sourcing patterns that link the UK to risk areas. Such MRV systems need to be robustly applied, and resourced, both within the UK and in locations of production. And they require active review so that changes in policy and practice in production landscapes can be captured and responded to within risk assessments.

Business size

This section contains details which relate to Q6 from the consultation document, and should be used alongside our response to this question (see Annex B): Q6 - Should the legislation apply to larger

businesses, over an employee number and turnover threshold, that use forest risk commodities in production or trade?

Application of this legislation based on size or turnover is unlikely to 'level the playing field' and - whilst the intention is no-doubt to protect smaller businesses from the financial burden of due diligence - this protection will likely only apply to some (see below for details of why). The UK GRI recommended that obligations put on companies should be commensurate with *size, impact* and the *ability to influence change*, and it is useful to unpack what this might mean for the development of a robust due diligence requirement:

- Firstly, *size* is likely an important consideration for the expectations that should be set for companies, but this does not mean that a single threshold has to apply. Smaller companies could be included with the provision of additional support (for instance tools and data; including those resourced or provided by larger companies), or with longer time-frames for implementation, or lower penalties for non-compliance.
- If/where thresholds are used, basing these on the extent to which they depend on forest risk commodities on materials (i.e the mass materials used) is a much better (but still imperfect; see below) determinant of overall *impact*.
- Finally, it is important to acknowledge that the *ability to influence change* may be determined by position in the supply chain, and thus it may be prudent to apply more stringent expectations on those companies who are first placing forest risk material on the UK market, rather than those downstream.

The fact that the current proposal is only at the primary legislation stage means it may be possible to phase in additional due diligence requirements at a later stage. However, decisions taken now regarding thresholds are likely to be important in dictating the form of any future legislation and signalling a longer-term legislative agenda to the market.

The proposal states the legislation would apply to "*larger businesses over a turnover and employee number threshold*" and "*small businesses would not be in scope*". We have conducted (see Annex C) a quick analysis (using publicly available information) of what this might mean for UK businesses that import forest risk commodities, using soy as an example (although it would be feasible to repeat for other product groups). 165 companies are listed in the HMRC Importers Details [database](#) as having imported soy, or soy-linked products, in 2019. 61 of these qualify as small and medium sized enterprises (SMEs). Seventeen of these SMEs imported soy-linked material in at least six separate months in 2019, indicating its importance in their supply chains. This is clearly a restricted example, but it illustrates that a significant number of smaller businesses may be *directly* importing material for which only larger companies would be required to conduct due diligence. Unfortunately, there is no way of ascertaining what mass of material these companies are importing as company-links to trade statistics are not publicly available via HMRC (or elsewhere). It should be pointed out that more transparency in the disclosure of information on volumes imported by UK companies would drastically improve such assessment.

It is expected that still more small companies are importing forest risk materials that cannot be identified in trade data classifications, because they are processed into non-specified forms. And more still will be importing products that do not directly include forest risk materials, but are dependent upon them (such as animal products, in the case of soy used for animal feed). A conclusion can therefore be reached that **a size- or financially-based threshold is likely to miss a significant proportion of importers of forest risk commodities.**

Impact on the theory of change of the proposal

We can consider the above findings against the theory of change for the UK legislative proposal:

First, on the intent to provide a floor – a minimum standard – that businesses would have to meet: Under the proposal, this floor only applies to parts of the supply chain, specifically larger companies. This means that - in contrast to the statement in the proposal - there is a potential for smaller companies to ‘undercut’ larger companies by virtue of not having the same responsibilities.

Second, a [prior attempt to assess supply chain deforestation risk](#) in the UK suggests that many larger companies would actually need to engage with smaller companies to effectively conduct risk assessment. Many larger companies will - at least in part - rely on smaller companies (both direct importers, and companies using ‘embedded material’) to fulfil parts of their supply chains. This means that - in the process of undertaking due diligence - many smaller companies (but likely not all) will be ‘picked up’ in the supply chains of larger companies. Given commercial sensitivities about disclosure of supplier details, it is improbable that data on the risk exposure of these smaller companies would be made public via this process. Consequently, some smaller companies (e.g. those that supply multiple clients) are likely to be approached on multiple occasions. This has the potential to increase the relative burden *on a selection* of smaller companies. In contrast, if due diligence were to apply to all companies regardless of size then, for their UK suppliers at least, larger companies could assess their supplier risk by relying on the legislated disclosure of information. This would avoid duplication of effort and would also avoid placing a higher load on small companies supplying larger ones; thus more effectively ‘levelling the playing field’.

Third, the proposal argues that smaller companies’ “*action in the supply chain would be less likely to have an impact*”. However, given the focus on illegality within the proposal, the primary ‘impact’ of interest is that of ensuring no illegal material enters UK supply. In this regard, any illegal material entering the UK supply chain that is linked to smaller companies is just as valid as that entering via the supply chains of larger ones. Even if the intention of the legislation was really just to capture ‘most’ of the illegal material entering the UK, a business-size-based threshold may still be insufficient as the size of company or mass of material being handled may not correlate well with deforestation risk (see Figure 2 below for an example regarding Brazilian soy).

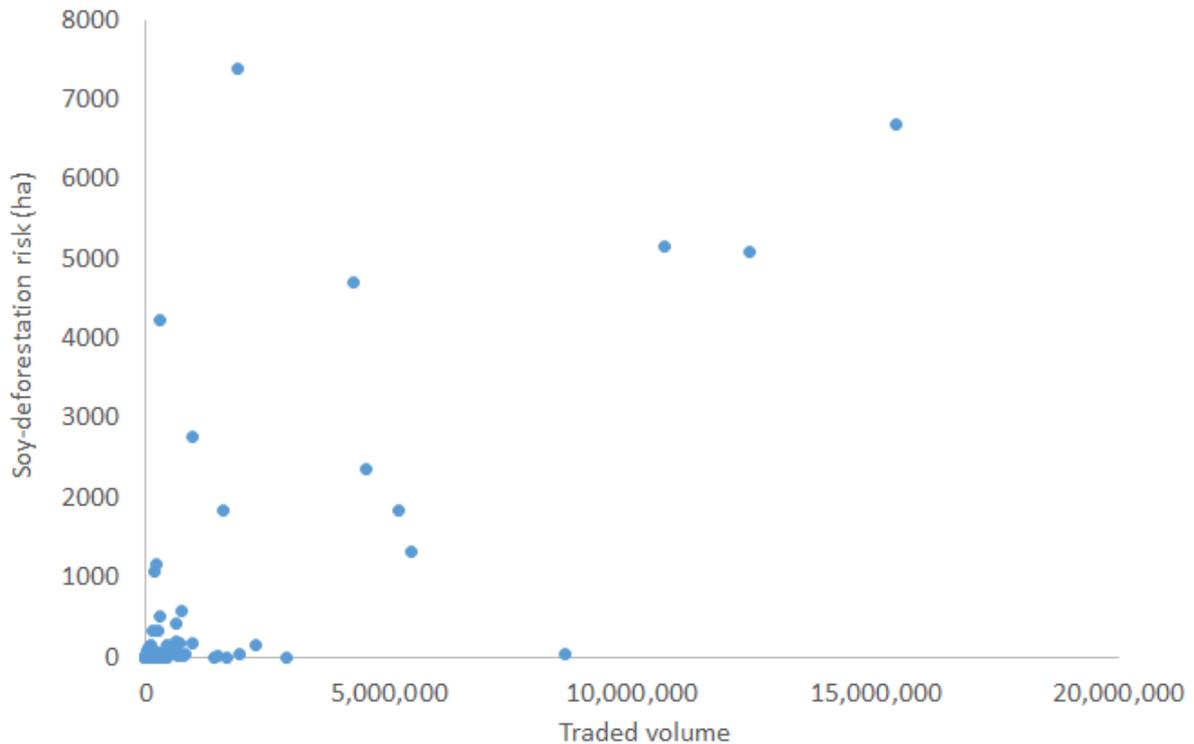


Figure 2: Soy deforestation risk for Brazilian soy plotted against volume of soy traded. Each dot in the figure represents a single exporting trader. Source: Trase 2020.

Support for a legislative agenda, and other comments

We welcome the UK Government’s recognition of the impact that UK economic activity and trade has on international sustainable development, and particularly the potential exposure of UK supply chains to international deforestation, land conversion and biodiversity loss. Leadership in these areas at national government - and intergovernmental - scales is imperative if the declines in tropical forests, sensitive global habitats and species, and associated rises in greenhouse gas emissions are to be avoided.

The UK Government’s proposal to introduce due diligence legislation is particularly welcomed given the widespread recognition that voluntary commitments by the private sector have largely failed to meaningfully address global declines in forests and biodiversity. Companies demonstrating leadership on sustainability issues and deforestation (such as those who signed up to the Consumer Goods Forum’s pledges in 2010; or those engaged in UK commodity roundtables) have only recently developed robust policies and practice to tackle deforestation risk in their own supply chains. And this is against a backdrop of growing international demand for forest risk commodities which is putting increasing pressure on sensitive environments. Strong regulatory measures are urgently needed, and are being increasingly called for by the private sector, to level the playing field and ensure that unsustainable commodity production and trade is uncompetitive.

We also welcome the fact that the legislation includes forest risk commodities which are ‘embedded’ in other commodities and not, for example, just those primary or part-processed commodities which are directly imported into the UK. As an example of the importance of the consideration of the indirect and embedded routes via which material may enter - and be consumed in - the UK economy, our analysis (see Annex D) suggests that UK imports of Brazilian soy - one of the primary forest risk commodities that this legislation would cover - might be around 60% higher when accounting for re-

export³ of material (primarily via the Netherlands). When considering Brazilian soy from an embedded consumption perspective (see Annex E), dependency could be more than double that of direct imports. The UK's total consumption-based soy footprint, which estimates the consumption of soy in all goods and services consumed in the UK, is estimated for 2014 at over 4 million tonnes, an increase of 33% since 2004. The bulk of this originates from Brazil, the USA and Argentina.

We recognize that the proposal for the introduction of legislation by the UK Government is a substantial step, and believe it demonstrates international leadership; putting the UK alongside other countries/regions such as [France](#) and the [European Union](#) who have introduced, or are proposing, a similar regulatory response to accelerate progress on these issues. We also recognise that there are significant challenges facing UK industry at the present time (e.g. Covid-19 and the UK's departure from the European Union) which are important considerations in the development of legislative policy linked to the UK's supply chain. Furthermore, policy that is sensitive to the rights and preferences of producing nations is critical to successful governance of 'intractable' challenges such as the role of trade in sustainable development.

However, despite these policy challenges, the urgency with which the international community needs to act on biodiversity declines, deforestation and greenhouse gas emissions induced by land-use change cannot be overstated. Indeed, this urgency is clearly reflected in international commitments made by the UK Government, including most recently through the 2020 UN Biodiversity Summit Leaders' Pledge for Nature, to reverse biodiversity loss by 2030 for sustainable development.

Our engagement with the private, third and public sector, and academic knowledge of these issues, suggests that the rapid introduction of legislation, both in the UK and internationally, is particularly required to drive forward the zero-deforestation agenda. The UK's proposal to require companies to undertake due diligence on their supply chains could - with the improvements we recommend - provide an opportunity to 'level the playing field' and support enhanced private sector activity on deforestation, and could be a catalyst for a broader international response. We strongly believe that the importance of leadership and setting the tone for international engagement on these issues cannot be underestimated.

We look forward to proposals on several other important aspects where the UK Government can provide leadership, which we understand will be forthcoming as part of the Government's response to the wider recommendations of the UK GRI, which include:

- Coverage of financial institutions via similar regulatory arrangements, which we would support as a critical sector to include under due diligence requirements;
- The development of an effective monitoring, reporting and verification (MRV) system to measure progress against the UK's objectives and impacts, including more detail of what information companies might be expected to publicly disclose as part of due diligence activity to support this framework.

The wide range of other mechanisms noted in the GRI recommendations report to support action by supply chain actors will also be critical in conjunction with any legislative framework that is adopted. We also look forward to the publication of the full impact assessment by the UK Government, noting that a [similar assessment](#) by the European Parliamentary Research Service concluded that the introduction of due diligence legislation would come at low cost.

³ Re-export corrections account for the fact that the origin of material imported into the UK may be different to the point of last dispatch.

Annex

A. Background and disclosure of interests

This response includes contributions from:

Dr Chris West, Senior Research Fellow, Stockholm Environment Institute York, University of York
Dr Jonathan Green, Research Fellow, Stockholm Environment Institute York, University of York
Dr Simon Croft, Research Fellow, Stockholm Environment Institute York, University of York
Dr Amy Molotoks, Research Associate, Stockholm Environment Institute York, University of York
Paulina Flores Martinez, PhD Student, Stockholm Environment Institute York, University of York
Emilie Stokeld, PhD Student, Stockholm Environment Institute York, University of York
Dr Toby Gardner, Senior Research Fellow, Stockholm Environment Institute, Headquarters
Dr Vivian Ribeiro, Data Scientist, Stockholm Environment Institute, Headquarters
Dr Mairon G. Bastos Lima, Chalmers University of Technology, Sweden
Professor Patrick Meyfroidt, Catholic University of Louvain, Belgium

Most of the contributors listed above work on a number of projects within roles at SEI, including the Trase initiative (www.trase.earth), the Global Challenges Research Fund (GCRF) Trade, Development and the Environment (TRADE) Hub (www.tradehub.earth) and the UK Global Food Security (GFS) IKnowFood project (www.iknowfood.org). Patrick Meyfroidt is a collaborator of the Trase initiative and is based at the Catholic University of Louvain. Mairon Bastos Lima is a collaborator of the Trase initiative and is based at Chalmers University of Technology, Sweden.

As part of our work, over the past several years, SEI has actively engaged with UK and European-based organisations and activities seeking to respond to global deforestation and biodiversity loss. This includes the UK/EU's role in these impacts via consumption and international trade. SEI's activities include:

- Engagement in the UK's Global Resource Initiative (GRI), including supporting inputs into the 'monitoring and reporting' [recommendations of the GRI](#);
- Engagement with, and provision of data to, the UK Roundtable on Sustainable Soya, and [associated reports](#);
- Discussion with, and support of, the UK's Joint Nature Conservation Committee on the development of a consumption-based indicator for the UK's overseas environmental impacts linked to the 25 Year Environment Plan;
- Discussion with teams within Defra and BEIS on the role of the Trase initiative and data in supporting monitoring of agri-commodity-linked deforestation and supply chain risk;
- Support for the French Ministry of Environment data platform for embedded deforestation, the Belgian Government on the development of their deforestation-linked imports strategy, and support to the European Parliamentary Research Service on their value-added assessments of EU proposals on due diligence;
- Extensive academic research on quantifying the spatial and temporal linkages between commodity production, trade and consumption, including development of environmental impact and risk metrics (linked to land use change, biodiversity and climate), and research into the governance mechanisms which interact with sustainability commitments acting within, or on, these supply chains.

B. Our responses to questions asked in the consultation document

Question 1: Should the Government introduce legislation	Yes
---	-----

designed to make forest risk commodities more sustainable?	
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
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
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
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.	Please refer to the content of this document for details underpinning our 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)]?	<p>Given the focus of the proposal on illegality and compliance with local 'relevant laws', rather than coverage of 'sustainability' as a whole, we are not aware of any existing frameworks that are directly suited (or particularly relevant) as alignment opportunities.</p> <p>However, there are considerable opportunities for alignment of UK activity more broadly. Adoption of our recommendations to enforce reporting against <u>all forms</u> of deforestation risk, and the introduction of mandatory action plans for larger businesses, would benefit from an assessment of how these recommendations align with existing or emerging frameworks such as the Accountability Framework Initiative, TCFD, Global Reporting Initiative, Science-Based Targets Network and others.</p>
Question 9: Do you have any further information or comments you would like us to be aware of?	Please refer to the content of this document.

C. Details of analysis of the size of UK soy importers

The HMRC [provides data](#) containing the names of companies importing material, per month and by commodity code. We extracted the details for companies listed as importing soy-based (or soy-linked) products in 2019; specifically with HS codes: 12011000 *Soya bean seed, for sowing*, 12019000 *Soya beans, whether or not broken (excl. seed for sowing)*, 12081000 *Soya bean flour and meal*, 15071090 *Crude soya-bean oil, whether or not degummed (excl. for technical or industrial uses)*, 15162096 *Groundnut, cotton-seed, soya-bean or sunflower-seed oil and their fractions (excl. those of subheading 15162095); other oils and their fractions containing < 50% by weight of free fatty acids, in immediate packings with a net content of > 1 kg or otherwise prepared (excl. palm kernel, illipe, coconut "copra", rapeseed or copaiba oils, and oils of subheading 15162095)*, 21031000 *Soya sauce*, 22029911 *Soya-based beverages with a protein content of $\geq 2,8$ % by weight, not containing alcohol, milk, milk products or fats derived therefrom*, 22029915 *Soya-based beverages with a protein content of < 2,8% by weight and beverages based on nuts of Chapter 8, cereals of Chapter 10 or seeds of Chapter 12, not containing alcohol, milk, milk products or fats derived therefrom*.

We cross-referenced company names against company listings provided by [UK Companies House](#) to obtain company numbers, which were then used to search the [DueDil](#) Company Information platform for details of turnover, net profit and employee numbers. These details were then used to assess company size and turnover. 165 companies are listed in the HMRC Importers Details as having imported soy, or soy-linked products. 106 of these companies employ less than 250 employees, and 61 of these appear to currently have net assets of less than £12.5m ⁴ and/or turnover of less than £25m ⁵ and thus would qualify as small-and-medium sized enterprises.

D. Re-export corrected sources for imported soy

Direct exports to the UK, shown in Table B1, are based on UN COMTRADE data for the year 2016, in tonnes, comprising exports from reporting countries to the UK of soybeans, soy oil and soy cake. Re-exports (also shown in Table B1) are calculated utilising techniques as described within [Croft et al. \(2018\)](#) and [Kastner et al. \(2011\)](#) to 'correct' global bilateral flows to account for re-exports, i.e. re-assigning to point of origin of the commodity. Re-export data is based on the same UN COMTRADE data as reported exports, which is used in conjunction with data from FAO on in-country production of soybean and processing of soybean to oil and cake, to constrain country supply and reassign origin.

These re-export techniques entail balancing what is reported as coming into and out of each country, and construct exports as a proportional mix of imports and domestic production. Likewise, processed goods are linked back to the origin of the primary product, based on the proportional makeup of domestic supply (production + imports - exports) of respective countries; the assumption being that processing within a country is equally likely to use the primary product sourced from any country (or produced domestically), and estimated use is weighted by the relative quantity obtained from all available sources.

⁴ Gross assets were not available directly from DueDil and therefore we use net assets of less than £12.5m to identify SMEs.

⁵ Turnover was only available for a partial selection of companies, based on data from DueDil. £25m threshold used to identify SMEs.

Table B1: Direct and re-export corrected soy imports into the UK. 2016 data, covering soybean, soy oil and soy cake trades, all in soybean equivalents. Units = tonnes.

Exporter \ UK imports	Direct	Re-export corrected
Argentina	967,729	989,201
Brazil	515,063	840,902
Bolivia	-	412
Paraguay	309,626	332,856
USA	248,269	433,378
France	5,377	4,126
Germany	7,052	179
Netherlands	510,459	-
China	47,591	6,727
RoW	81,555	84,941
TOTAL	2,692,721	2,692,721

E. Consumption-based estimates of UK dependency on selected agricultural commodities

The following tables show a time-series of volumes (tonnes) of commodities, demonstrating two different perspectives of UK supply: exports to the UK of primary commodities and total UK consumption estimates. Exports are from UN FAOSTAT and highlight direct dependency on commodities sourced from abroad, being exported to the UK in primary form. Consumption estimates are from SEI's [IOTA model](#) and highlight the disparity between production and trade of primary commodities and the reliance on commodities in processed and embedded forms to meet demand. The IOTA model has recently been updated to offer greater temporal coverage, as well as increased sectoral and geographic resolution. Note, there are no direct imports of seed cotton as it is not traded in its primary form.

Table C1: UK imports (for years 2004, 2007, 2011, 2014) of primary commodities as reported within UN FAOSTAT. Units = tonnes.

UK Imports	Maize	Soybeans	Seed cotton	Coffee, green	Cocoa, beans
2004	1,376,235	686,520	-	93,582	45,977
2007	1,335,669	709,963	-	96,447	109,518
2011	753,228	777,650	-	98,130	21,340
2014	1,520,398	629,896	-	112,809	65,300

Table C2: Estimates of UK consumption (for years 2004, 2007, 2011, 2014) of primary commodities from the SEI IOTA model. This captures direct, indirect and embedded flows of goods that are consumed within the UK. Units = tonnes.

UK Consumption	Maize	Soybeans	Seed cotton	Coffee, green	Cocoa, beans
2004	5,866,091	3,009,812	1,847,479	192,867	167,716
2007	6,138,958	3,361,903	1,937,992	200,444	165,741
2011	6,366,372	3,693,833	2,197,600	211,575	150,796
2014	8,235,991	4,002,287	2,100,115	223,812	148,262

Table C3: Breakdown of UK sourcing of soy (to origin of soybean production; for years 2004, 2007, 2011, 2014) for embedded consumption as shown in Table C2. Units = tonnes.

Country of origin	2004	2007	2011	2014
Argentina	396,063	579,523	597,247	690,448
Bolivia	6,966	7,042	7,825	12,594
Brazil	1,703,451	1,929,176	2,089,312	1,873,764
China	83,738	62,278	69,572	58,372
France	5,474	3,163	4,602	8,529
Germany	-	32	96	579
Netherlands	-	-	-	-
Paraguay	62,606	76,507	115,516	124,713
USA	621,301	510,911	509,843	866,222
RoW	130,212	193,271	299,820	367,066
TOTAL	3,009,811	3,361,903	3,693,833	4,002,287