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WWF Environment Bill Report Stage briefing – due diligence and deforestation

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WWF is a core member of Greener UK and Wildlife and Countryside Link. This briefing is intended to supplement the joint Greener UK/ Link Environment Bill briefings, which can be found here <https://greeneruk.org/briefings/environment-bill>

SUMMARY

- **The Report Stage debate for the Environment Bill will be held in the next few weeks.**
- **WWF welcomes this Bill and encourages all MPs to attend** as an illustration of the political will across the House to protect and restore nature at home and abroad.
- **MPs should use Report Stage to address the need for a more comprehensive due diligence obligation and a statutory deforestation target.**
- **Mass deforestation and land conversion exacerbate climate change and are leading drivers of wildlife extinction** due to habitat loss, among other impacts.
- **Economic activity in the UK, driven by the business sector, is a significant contributor to the destruction of nature around the world.** Between 2016 and 2018, an area equivalent to 88% of the total UK land area was required to supply the UK's demand for just seven agricultural and forest commodities.
- **WWF welcomes the Bill as vital to set nature on the path to recovery.** However, when considered as a whole, the Bill does not achieve what has been promised: gold standard legislation, showing global leadership for responding to the environmental crisis both at home and abroad with a world-leading watchdog.
- **While the inclusion of a due diligence obligation is welcome, WWF is concerned that the due diligence elements of the Bill as they stand do not go far enough to protect the world's forests and other ecosystems.**
- **The mandatory due diligence obligation included in the Environment Bill should apply to all unsustainable forest risk commodities, not just those which are driving illegal deforestation or conversion.** Parliament should also consider the strengthening of the current review mechanism to enable the whole UK economy, not only commodity supply chains, to become deforestation- and conversion-free by 2030.

- **WWF also proposes the inclusion of a statutory deforestation target**, by which companies must ensure their supply chains are deforestation- and conversion-free by no later than **2023**.

THE PROBLEM

Nature is in freefall and we are losing vital forests and other critical natural ecosystems at an alarming rate. Official Brazilian figures published in November 2020 showed a 9.5% increase in year-on-year deforestation in the Amazon. An area of the Brazilian Amazon half the size of Wales has been lost in just one year, the highest deforestation figure since 2008.¹

Forests like the Amazon are vital to maintaining the Earth's natural carbon and water cycles, so addressing deforestation is essential to addressing the climate emergency. But we have now reached a tipping point: thanks to deforestation, forest degradation and climate change, parts of the Amazon forest are emitting more CO₂ than they are sequestering, reducing their capacity to fight climate change.

As a large consumer of forest risk commodities and host of UNFCCC Conference of the Parties 26 (COP 26), the UK has a vital role to play in reducing deforestation and land conversion. To supply the annual UK demand for just seven commodities a land area of 88% the size of the UK - a total of 21.3 million hectares - is required.² To give just one example, soya used to feed chickens sold in the UK has recently been linked with deforested land in Brazil.³ Meanwhile, about 28% of the UK's overseas land footprint (nearly 6 million hectares) is in countries at high or very high risk of deforestation or land conversion, with weak governance and poor labour standards.⁴ At the same time, about 1.6 billion people depend directly on forests to secure their livelihoods.⁵ The food and everyday products we buy could be destroying habitats for endangered wildlife and impacting livelihoods overseas. Ahead of COP 26, it is essential the UK leverages its influential position to show international leadership on this issue.

Voluntary commitments to end deforestation and land conversion have not worked. A decade ago, through the Consumer Goods Forum (CGF), companies from around the world committed to remove deforestation from their supply chains by 2020. Despite many voluntary commitments such as the CGF, research has shown that by 2019 none of the 500 most influential companies were on track to meet their commitments. The UK Government signed the New York Declaration on Forests (2014) and then the Amsterdam Declaration (2015) and has since been working to support producer countries to improve sustainability and remove deforestation from global supply chains. Despite these efforts, there has been little success in implementing deforestation-free supply chains commitments on the ground. It is time to recognise the need to go beyond purely voluntary solutions.

¹ <https://www.theguardian.com/environment/2020/dec/01/amazon-deforestation-surges-to-12-year-high-under-bolsonaro>

² https://www.wwf.org.uk/sites/default/files/2020-07/RiskierBusinessSummaryReport_July2020_revised.pdf

³ <https://www.thebureauinvestigates.com/stories/2020-11-25/british-chicken-driving-deforestation-in-brazil>

⁴ https://www.wwf.org.uk/sites/default/files/2020-07/RiskierBusinessSummaryReport_July2020_revised.pdf

⁵ <https://www.iucn.org/resources/issues-briefs/deforestation-and-forest-degradation>

THE GOVERNMENT’S DUE DILIGENCE PROPOSALS

To address these problems, the UK government has tabled amendments to the Environment Bill to impose a due diligence obligation on businesses operating in the UK in relation to “forest risk commodities”. These amendments were debated during the House of Commons Environment Bill Committee Stage and have now been included in the Bill. The objective of the legislation is to ensure that the forest risk commodities which businesses operating in the UK use in the course of trade are produced in compliance with the local laws in the country of production.

Secondary legislation, which will follow after COP 26 in November 2021, will be used to confirm the details, including the commodities to which the duty will apply to, the steps that will have to be taken by way of due diligence, the date that the duty will come into force, and details of the regulatory oversight and enforcement.

The Government’s work to address this issue is welcome. However, MPs must question the major flaw in the Government’s proposed due diligence law, which is that it is based on producer country legality. This means companies operating in the UK could only import commodities which had been produced in compliance with laws in the specific producer country.

There is a clear public demand for a more comprehensive approach. More than 63,000 people responded to the Government’s due diligence consultation in the summer, one of the biggest responses DEFRA has ever received to a consultation. Of those providing detailed qualitative views, more than 90% said the Government’s proposals should go further.⁶ MPs should ask why the Government’s proposals do not fully address their concerns.

While the proposed law is a crucial first step, it is not sufficient. Definitions of ‘forest’ vary by country creating discrepancies, confusion and a burden on companies. Significant amounts of deforestation and land conversion is actually undertaken legally, but that does not prevent it from being highly damaging to biodiversity and climate or people. Additionally, local laws preventing deforestation are often weak and/or poorly enforced and are subject to change or weakening.

If considered in isolation, the due diligence legislation currently falls short of the Government’s intended objective of creating ‘world-leading’ environmental legislation ahead of hosting COP 26, and to support the building of a fairer, greener, more resilient future. MPs need to ask why it does not go far enough for the UK to uphold its existing commitments under the Amsterdam Declarations Partnership, the New York Declaration on Forests, the Sustainable Development Goals, or the Government’s own 25 Year Environment Plan.

STRENGTHENING DUE DILIGENCE IN THE BILL

We must ensure this due diligence obligation, and the package of measures to respond to the recommendations of the Government’s own Global Resource Initiative taskforce on sustainable commodities, delivers for some of the most precious regions on earth. Having consulted with colleagues across the world there are concerns, especially from Brazil, that without sufficient safeguards the legality-only approach to due

6

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/933985/due-diligence-forest-risk-commodities-government-response.pdf

diligence could incentivise deregulation in many of the most important countries supplying agriculture and forest products to the UK.

A due diligence framework based on compliance with producer country legislation by itself will not be sufficient to achieve deforestation- and conversion-free commodity supply chains. In order for a prohibition approach to be fit for purpose, it must include further legal safeguards to avoid reliance on in-country enforcement of local forest laws.

Our colleagues in WWF Brazil have identified a number of concerns about the legality-only approach. The Forest Code in Brazil imposes a basic duty to retain 80% of land in the Amazon as a reserve and to convert 20%. Even if the Code were widely enforced, which it is not, NGOs calculate that the Code permits up to 88 million hectares of forest to be destroyed with potentially very significant impacts on both nature and climate.⁷ Meanwhile, a recent amnesty for violations of the Brazilian Forest Code effectively removed legal protection from an area of approximately 41 million hectares- almost twice the size of the UK.⁸ A study prepared by the Climate Policy Initiative in September 2020 mapped 56 bills in the National Congress of Brazil that modify, for the worse, the Forest Code.⁹

In addition to not taking account of an expansion of what counts as legal activity in producer countries, the legality criteria in the current Environment Bill run the risk of creating a race to the bottom by expanding commodity production in places where legal protection is lower, to the detriment of regions with more responsible policies. The legality criteria also do not provide a common ground for exporting countries, given that different countries and regions have very different standards and levels of protection.

To strengthen the due diligence obligation in the Bill, as a minimum, Parliament should also make a number of technical amendments to the legislation:

- Application of the legislation to all of the forest risk commodities set out in the WWF and RSPB's *Riskier Business* report¹⁰, not just a sub-set of these.
- Establishment of an independent body to enforce due diligence law, including the use of criminal penalties for serious offences, alongside the proposed financial penalties.
- Ensuring human rights is included in scope of due diligence legislation to ensure there are no human rights violations in the supply chains of products placed on the UK market.
- Ensure that secondary legislation is passed which ensures that companies cannot rely on certification alone to comply with the due diligence legislation.

7

<https://science.sciencemag.org/content/344/6182/363#:~:text=Brazil's%20controversial%20new%20Forest%20Code,new%20mechanisms%20for%20forest%20conservation>

8

https://www.socioambiental.org/sites/blog.socioambiental.org/files/nsa/arquivos/codigo_florestal_i_maflorea.pdf

⁹ <https://www.climatepolicyinitiative.org/wp-content/uploads/2020/09/NT-projetos-de-lei-ameacam-codigo-florestal.pdf>

¹⁰ <https://www.wwf.org.uk/riskybusiness>

ESTABLISHING A STATUTORY DEFORESTATION TARGET

Alongside strengthening the Government's due diligence amendment, MPs should propose that the Government amends the Environment Bill to require the Secretary of State to set a legally-binding deforestation and conversion target.

Such a target would end deforestation and conversion in UK supply chains for key products, applying within two years of implementation of the Environment Bill. A 2023 target date, two years after Royal Assent of the Environment Bill, provides a good period of time for business and the Government to implement the target. The target should be set and met incrementally, with a first target of eradicating deforestation and conversion in UK supply chains for at least 3 commodities by 2023 and the remainder by 2025. It must also require the elimination of human rights abuses associated with the production and transportation of the commodities.

A target of this kind would bolster the current package and allow the Government to take a critical step towards its ambition to be a world leader on achieving deforestation- and conversion-free supply chains. It would send a strong market signal that the Government was determined to remove deforestation and land conversion from UK supply chains within a reasonable period of time.

A legally binding target to end deforestation and conversion as soon as practicable is one of the recommendations of the Global Resource Initiative, which makes the case that, since not all businesses have begun to commit and implement sustainable supply chains, a legally-binding target for the UK would provide the necessary signal for a shift in behaviour across the entire industry.

The Government's 2040 target for an end to the sale of new petrol and diesel cars and vans, and proposals to bring this forward to 2030,¹¹ has shown how setting targets can cause industry to act and provide a clear model to drive action internationally. The recent adoption of net zero targets by China, Japan and South Korea has also shown how the UK can be a world leader on enshrining targets in legislation as part of a strategy to fight climate change. The Government's ultimate ambition must be to remove deforestation from all sectors. At Report Stage, MPs have a chance to question whether that is still the Government's ambition, and if not, why not.

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Download Briefings at: <https://www.wwf.org.uk/parliamentary-briefings>

¹¹ <https://www.gov.uk/government/news/government-takes-historic-step-towards-net-zero-with-end-of-sale-of-new-petrol-and-diesel-cars-by-2030>