



## Forest Stewardship Council®

### DEFRA CONSULTATION: IMPLEMENTING DUE DILIGENCE ON FOREST RISK COMMODITIES

The Department for Environment, Food and Rural Affairs (DEFRA) is the government department responsible for environmental protection, food production and standards, agriculture, fisheries and rural communities in the United Kingdom of Great Britain and Northern Ireland. This consultation seeks views on key areas ahead of secondary legislation on the implementation of due diligence to help tackle illegal deforestation in UK supply chains. Our response to selected questions is detailed below, along with general comments on the consultation.

#### Consultation Questions

Question 47. Should we set out in guidance how businesses may use existing certifications and standards to help meet the due diligence requirement? Please state your reasons.

- Yes

To be fully effective, certification schemes need to have robust deforestation criteria and indicators covering both environmental and social requirements. FSC UK thus encourages the UK government to set strict sustainability criteria as the basis to use schemes to help meet the due diligence requirement.

Question 48. Which of the following criteria should we set out in guidance to support the use of existing certification schemes and standards? Please tick all that apply and state your reasons.

- proof of legality • chain of custody • robustness • transparency • other (please specify)

We welcome the recognition of the role that credible, voluntary certification schemes can play within a Due Diligence System. To be fully effective, certification schemes need to have robust deforestation criteria and indicators covering both environmental and social requirements. On this, ISEAL is the global membership organisation for ambitious and transparent sustainability systems. ISEAL's [Credibility Principles](#) highlight the fundamental qualities which make standards robust and likely to achieve positive environmental and social impacts. FSC UK thus encourages the UK government to set strict sustainability criteria as the basis to use schemes to help meet the due diligence requirement. Strong requirements for certification schemes can include:

- Environmental requirements
  - Explicit mention of high conservation values (HCVs)
  - Preservation of peatlands
  - Fight against conversion of natural ecosystems
  - Respect of the legal status of land
- Social requirements
  - Protection of Indigenous Peoples' rights
  - Complying with local labour laws and the regulations and standards of the International Labour Organization (ILO)
- Credibility requirements and assurances
  - Multi-stakeholder platform with representation of civil society
  - Third party auditing
  - Dispute resolution systems

## **General Comment**

FSC UK welcomes the inclusion of a due diligence obligation in the Environment Bill, however, we are concerned that the current provisions set out in the Bill are too narrowly focused on legality to protect the world's forests and that they may result in violation of human rights in contexts where those rights are inadequately protected within existing legal frameworks.

The stated intent of the proposal for secondary legislation is to ensure that forest risk commodities are produced legally and sustainably. We believe that this is an important goal, and one which would help maintain the UK's leadership in realising the UN Sustainable Development Goals, as well as the commitment made by the UK and other political leaders participating in the United Nations Summit on Biodiversity in September 2020, to reverse biodiversity loss by 2030. (<https://www.leaderspledgefornature.org/>). The promotion of supply chain transparency, through requirements to identify product origin, represent a positive step in this direction. However, the focus 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. The document does not explain how sustainability or other legality issues, including biodiversity protection, human rights and social welfare will be addressed by the proposed legislation beyond the requirement to comply with laws relating the conversion of forests.

For this approach to promote sustainability, as defined by the internationally agreed UN Sustainable Development Goals, it requires that laws be in line with sustainability principles, including SDG 10 on reducing inequality within and among countries, and that legal systems develop and implement these laws in ways that are democratic, free of corruption and in line with principles of human rights and social justice. Yet laws and legal structures in many countries with high rates of deforestation favour high-capacity firms producing for export over local access to land and resources, and state capacity to prevent abuse of power in law implementation and enforcement is weak. At the same time, large rural populations lack land and resource rights, and both the rural and urban poor rely on informal markets for food, fibre and fuel. In this context emphasizing legality and law enforcement, in the absence of legal reforms, reinforces these existing inequalities and works counter to other key SDG goals. Equally, companies in the UK and exporting countries that are doing their best to work legally, protect human rights and biodiversity, and promote social welfare are facing higher costs for these efforts than those that ignore some or all of them. The proposed policy must also be accompanied by measures to assess and address its socio-economic and environmental impacts both internationally and in the UK.

Whatever requirements are imposed through a new policy need to be clearly communicated and guidance on how to comply provided in order to ensure that companies are aware of the legislation and the obligations placed upon them. Should these requirements apply to companies of varying size and type, they need to be tailored as appropriate to address their differing needs and capacities. Companies already working to address these issues through existing mechanisms, such as credible voluntary certification, should be rewarded by ensuring that compliance and reporting requirements for new legislative requirements and existing mechanisms are complementary.

The formulation of this regulation should follow the recommendations for due diligence regulations set by the Global Reporting Initiative, as experience shows that a narrow focus on legality has no guarantee of enhancing sustainability. Further, the entire suite of measures recommended by the Global Reporting Initiative should be adopted, because a sole focus on 'importer country' regulations without a broader suite of policy measures, investments, inducements and disincentives is unlikely to achieve the stated policy goal of making forest risk commodities more sustainable and legal.