

**Testimony of Alexander von Bismarck,  
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Before the U.S. House of Representatives Ways and Means Subcommittee on Trade**

***“Promoting Sustainable Environmental Practices Through Trade Policy”***

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**Introduction**

Mr. Chairman, Ranking Member, and members of the Ways and Means Subcommittee on Trade, thank you for inviting me to appear before the Subcommittee today for this hearing on “Promoting Sustainable Environmental Practices Through Trade Policy.”

I have investigated and studied global crime in natural resources for over 25 years. As an investigator and the Executive Director of the Environmental Investigation Agency, I have conducted international field investigations on every continent into criminal networks dealing in illegal wood, endangered species and harmful chemicals. Before joining EIA, I researched linkages between economics, ecology and human health with the Harvard School of Public Health and the New England Aquarium. I have a masters of science from the London School of Economics in Environment and Development and a BSc from Harvard University in Environmental Science and Public Policy. I am also proud to have served as a U.S. Marine.

The Environmental Investigation Agency, Inc. (EIA), a non-profit 501(c)(3) organization, has worked for over 35 years to investigate and expose environmental crimes, and advocate for tangible and effective solutions. EIA’s analyses of the trade in illegal timber, wildlife, and ozone-depleting substances have been globally recognized. Our investigations, starting in the late 1980s, played a leading role in instigating the international ban on ivory trade, and more recently, the timber annex to the U.S.-Peru Trade Promotion Agreement and the 2008 amendments to the U.S. Lacey Act. In 2018, EIA pinpointed the origin of the biggest unsolved environmental crime in recent history, exposing the source of about 10 billion tons in illegal global warming emissions.

EIA works with local partners around the globe to document the environmental, economic and social impacts of environmental crimes. Our experience has shown us unequivocally that the most destructive and challenging crimes to fight are those that are inextricably linked to international trade, whether it’s trade in endangered species, illegal logging, trade in forest-risk commodities driving illicit deforestation, illegal fishing or illegal emissions – and that any solution therefore requires action and cooperation from both producer and consumer nations involved in that trade. Crimes driven by local demand can, when there is political will, be solved locally, while international crime, driven by international trade, overwhelms the best local efforts to do so alone.

Today I shall focus my remarks particularly on the global deforestation crisis, and efforts that the United States can and must take to address its role in the destruction of forested ecosystems, while reinforcing local efforts to sustain them.

## The critical importance of Natural Forests

Over the past decade, the world has lost an area of forest the size of Virginia every year.<sup>1</sup> The global deforestation crisis is closely connected to some of the most pressing problems we face. Forest loss and degradation are among the biggest contributors to climate change and biodiversity loss and are a root cause of zoonotic disease spillover events such as those related to Ebola and coronaviruses.<sup>2</sup> Forests contribute to the livelihoods and food security of well over a billion people around the world,<sup>3</sup> and their loss is linked to land invasions and violence against Indigenous peoples, local communities, and environmental defenders<sup>4</sup> while feeding corruption and organized crime and undermining rule of law.<sup>5</sup>

In the tropics, the expansion of commercial agriculture, led by cattle and soy in South America and palm oil and pulp in Southeast Asia, drives 60% of deforestation.<sup>6</sup> More than two-thirds of this conversion for agriculture occurs illegally.<sup>7</sup> Yet commodities produced on illegally converted lands continue to find unwitting consumers and investors in the United States and other major markets. In addition, the production of commodities such as palm oil, cocoa, and beef is commonly linked to forced and child labor.<sup>8</sup>

## The role of international demand in driving deforestation

While some of the dynamics that drive forest loss must be resolved at a national level, deforestation worldwide is increasingly driven by the demand for commodities and forest products in international markets. In order to tackle deforestation effectively, consumer countries need to take action to reduce the demand for commodities (palm oil, cattle, soy, cocoa, pulp, rubber, etc.) produced through deforestation and send market signals that incentivize legal and forest-conserving production and trade.

I want to provide some concrete examples of this trade and the role of the U.S.

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<sup>1</sup> Roughly 42,000 square miles per year, based on annual deforestation estimates published by the UN Food and Agriculture Organization for 2010 – 2020. This does not include vast areas of clear-cut logging in boreal and temperate forests or selective logging in tropical rainforests.

<sup>2</sup> For recent analysis of the climate mitigation potential of tropical forests, see: Griscom et al. [National mitigation potential from natural climate solutions in the tropics](#). Phil. Trans. Of the Royal Society B: Biological Sciences (2020); for recent analysis on the role of forest and wildlife protection in preventing pandemics of zoonotic origin, see: Dobson et al. [Ecology and economics for pandemic prevention](#). Science (July 24, 2020); and Tollefson, Jeff. [Why deforestation and extinctions make pandemics more likely](#). Nature (August 7, 2020).

<sup>3</sup> Independent Evaluation Group of the World Bank Group, 2013. [Managing Forest Resources for Sustainable Development: An Evaluation of World Bank Group Experience](#).

<sup>4</sup> See [Human Rights Watch letter to the OECD](#), January 27, 2021, for an overview of the situation in Brazil.

<sup>5</sup> See, for example: Emanuele Ottolenghi, The Dispatch, March 19, 2021. [Good Climate Policy Should Fight Corruption and Organized Crime: They are key drivers of deforestation and environmental degradation](#).

<sup>6</sup> Forest Trends, May 18, 2021. [Illicit Harvest. Complicit Goods: The State of Illegal Deforestation for Agriculture](#).

<sup>7</sup> Forest Trends, op. cit.

<sup>8</sup> See, for example: Withhold Release Orders issued by U.S. Customs and Border Protection for palm oil and products containing palm oil made by two major Malaysian oil palm producers, [Sime Darby Plantation](#) and [EGV Holdings Berhad](#); U.S. Department of Labor, Bureau of International Labor Affairs [webpage on child labor in cocoa production](#); Repórter Brasil, January 2021. [Slave Labor in Brazil's Meat Industry](#), summarized by Reuters.

Beef imports to the US from Brazil are on the rise even as cattle ranching - much of it illegal - continues to be the largest driver of deforestation in the Amazon. The US has become the second largest importer of beef from Brazil, with slaughterhouses linked to illegal deforestation in the Amazon selling beef to Americans.<sup>9</sup> EIA will soon release evidence from our investigations showing how many US and global car manufacturers are at high risk of using leather from cattle raised on illegally deforested lands in the Brazilian Amazon.<sup>10</sup>

Nicaragua has one of the world's highest rates of deforestation and has lost nearly 60% of its forests over the last 40 years. In recent years, we have seen documented cases of cattle being raised illegally inside protected areas and indigenous territories and then sold to slaughterhouses that export beef to the United States.<sup>11</sup> In 2021, the US was the largest importer of Nicaraguan beef, accounting for 42% of exports by weight and 49% of exports by trade value, and Nicaragua saw a record increase in beef exports to the US from 2018 to 2021.<sup>12</sup> In the absence of US regulation, these commodities produced illegally in rainforests continue to make their way to the tables of unwitting Americans.

### **Demand-side Actions Urgently Needed**

Voluntary initiatives and corporate commitments have not done enough to curb deforestation and forest degradation for over a decade.<sup>13</sup> Government leadership and regulatory frameworks are urgently needed to address the climate and biodiversity crises, drive systemic change in global commodity supply chains and level the playing field for businesses at home and abroad trying to operate responsibly.<sup>14</sup>

### **The FOREST Act**

As one of the world's largest producers and consumers of agricultural commodities, the United States must play a key role in setting standards for trade and finance that promote good governance and protect people and the ecological integrity of the world's remaining forests. Just last week, the European Union announced agreement on a new regulation requiring deforestation-free supply chains<sup>15</sup> and the United Kingdom is in the process of developing regulatory measures to reduce the negative impacts their trade in agricultural commodities is having on forests and other natural ecosystems. The United States must join these efforts and not lag behind.

We applaud the leadership in the House of Congressmen Earl Blumenauer (D-OR) and Brian Fitzpatrick (R-PA) in their efforts to advance the Fostering Overseas Rule of Law and Environmentally Sound Trade (FOREST) Act (H.R. 5508/S. 2950), together with Senator Brian Schatz and Senate cosponsors. Once law, this bill would be a critical step in reducing our footprint on the world's forests and fighting corruption and crime abroad. We work with a coalition of more than 50 environmental, faith-based,

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<sup>9</sup> <https://news.bloomberglaw.com/esg/jbs-confirms-report-it-bought-8-785-cows-from-illegal-farms-1>

<sup>10</sup> <https://www.earthsight.org.uk/news/american-pie-keeps-growing>

<sup>11</sup> <https://www.pbs.org/newshour/show/in-nicaragua-supplying-beef-to-the-u-s-comes-at-a-high-human-cost>

<sup>12</sup> Based on analysis of UN Comtrade data

<sup>13</sup> For an analysis of voluntary commitments by major companies, see: [Forest 500 annual assessment](#).

<sup>14</sup> For recent commentary, see: Justin Adams, *Financial Times Opinion*, August 7, 2019. [Companies alone cannot tackle deforestation](#).

<sup>15</sup> [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_22\\_7444](https://ec.europa.eu/commission/presscorner/detail/en/ip_22_7444)

human rights and anti-corruption NGOs that urge you to enact the FOREST Act, an amendment to the U.S. Tariff Act to prohibit imports of products made wholly or in part of commodities produced on illegally deforested land, which includes provisions to:

- Prohibit agricultural commodities produced on illegally deforested land from entering the U.S. market;
- Require companies to carry out and report on risk-based due diligence, including supply chain traceability, on imports of commodities linked to deforestation;
- Increase U.S. engagement with and support for countries taking meaningful steps to improve governance and reduce deforestation;
- Strengthen tools to tackle deforestation-related corruption and financial crime; and
- Establish a federal government procurement preference for zero-deforestation products.

### **Industry Support for Regulation of Commodities**

There is significant and growing industry support for this type of due diligence regulation. A group of five of the world's largest chocolate companies recently issued a letter to EU policymakers supporting the farm-level traceability requirement in the proposed EU Deforestation Regulation, showing that this level of traceability is being [embraced by leading businesses](#) and can be achieved for even the most complex supply chains, although support for small-holder producers to comply with emerging market requirements is critical and an area where U.S. should provide technical and financial resources. [The Sustainable Food Policy Alliance](#) (Danone North America, Mars, Incorporated, Nestlé USA, and Unilever United States) and the [US Cattlemen's Association](#) as well as the [National Confectioners Association](#), among others, have also added their voice to the need for a regulatory approach to tackle global deforestation.

### **Traceability and Transparency**

Data and supply chain traceability and transparency are vital to establish basic accountability and effectiveness of due diligence measures, allowing companies and consumers to make well-informed purchasing decisions, and for those governments focused on good forest governance to benefit from increased visibility in the marketplace. More transparency is needed.

It is important to note here that technology is well advanced and rapidly evolving to meet traceability needs across various sectors. Its development has been accelerated when regulation calls for it, with prominent examples in the food, health and pharmaceuticals realm, as well as - increasingly - timber tracking, for instance. Similar incentivization will have the same needed impact on the deforestation-risk commodities at the focus of the legislative efforts outlined above.

### **Effective Use of Existing Tools**

The effective use of existing legal tools, including full implementation and enforcement of the 2008 Amendments to the U.S. Lacey Act, must be a priority. The Lacey Act is a greatly underutilized tool in the fight against global deforestation. Landmark cases, such as the [Lumber Liquidators flooring case](#) involving illegal Russian timber destroying the last habitat of the Siberian tiger and being processed in China to come to the U.S. (concluded in 2016), have proven to get the attention of entire sectors -

increasing industry concern and approaches for conducting due care. In addition to these impactful cases, the efforts to stop illicit deforestation would greatly benefit from more routine compliance and enforcement checks. Further recommendations and information to this effect can be found in our this memorandum by a broad coalition of businesses, labor, and conservation organizations who call for immediate action to fully implement the 2008 Lacey Act amendments:

<https://www.worldwildlife.org/pages/joint-recommendations-to-halt-the-illegal-timber-trade-utilize-the-lacey-act-amendments-of-2008>.

The Forest Annex in the US-Peru Trade Promotion Agreement (TPA) was revolutionary at the time in its level of detail and for raising the visibility and prioritization of legal and sustainable forest management in the trade space. Important outcomes have resulted, such as the exclusion of two persistent exporters of illegal timber from the US market (Inversiones WCA EIRL and Inversiones La Oroza SRL) and support for the independence of the forest oversight body (OSINFOR). However, there are several other exporters with documented illegal timber trade to the US that continue their business as usual, while there are also important commitments that have not been fulfilled now 13 years later - such as the implementation of transparent traceability systems. The US must maintain robust engagement on the commitments in this Annex - as Peru has shown clearly that the corrupt forces behind the illegal trade will do all they can to fight back successful efforts to combat it.

The US-Vietnam agreement that resulted from the first 301 investigation into illegal timber trade shows promise to address illicit timber coming from the 2nd largest processing hub in the world, but the timeliness and nature of implementation will be incredibly important to achieve the necessary impact.

### **Additional Opportunities**

The United States and China [agreed](#) at the 2021 Glasgow Climate COP to “engage collaboratively in support of eliminating global illegal deforestation through effectively enforcing their respective laws on banning illegal imports.” This could be an incredibly powerful and important collaboration to ensure that action against illegal trade gets the attention it needs, but it has yet to be further articulated or enforced.

The Indo-Pacific Economic Framework (IPEF) currently being discussed also offers avenues to address illicit deforestation - and it will be important to include commodities beyond timber in that discussion, and focus on greater traceability and transparency as well as anti-corruption efforts in the natural resource space as core components of engagement.

### **Conclusion**

To confront climate change, nature loss, corruption and other criminal activity, and human rights abuses, the U.S. must play a leading role in addressing deforestation embodied in global trade. U.S. leadership and legislative action must focus on bringing greater transparency and accountability to global supply chains, building partnerships with countries taking meaningful steps to address deforestation, and laying the foundation for engagement with other major economies, such as China and Vietnam, to encourage similar steps.

Enforcement of all of these efforts is really at the heart of driving change in the international system and bringing positive impact for forests and indigenous and local communities around the world.

We look forward to working with you to advance these measures as part of a broader policy and regulatory agenda to curb natural ecosystem loss and degradation and safeguard these essential ecosystems for the sake of our climate, our health, and the future of our planet.