

# ClientEarth legal complaint against Cargill

FAQs

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## How big are Cargill's soy operations in Brazil?

Cargill is the largest US-based private company in terms of revenue. It has global operations in the food, agriculture, financial and industrial products sectors. Its extensive operations in Brazil span almost every stage of the soy supply chain, from providing farmers with seeds, fertilizer and machinery to handling the storage, loading and transportation of both the soy it owns and that owned by other companies, as well as providing financial services to farmers.

The latest data shows that Cargill is the largest exporter of soy from Brazil, accounting for 10.5% of all soy produced in-country. It sources from across Brazil, including from the Cerrado, the world's largest tropical savanna; the Amazon, the world's largest tropical rainforest; and, the Atlantic Forest, which stretches along Brazil's eastern coast.

Cargill then ships Brazilian soy across the world to be milled and used as animal feed, including in its own contracted chicken farms. It supplies major retail brands, including Tesco, Sainsbury's and McDonald's.

## Why is ClientEarth taking action against Cargill?

A string of reports have documented Cargill's contribution to deforestation, ecosystem conversion and human rights violations in Brazil. ClientEarth has studied the company's due diligence processes and found them deficient.

Cargill says its policies include sophisticated monitoring, verification and reporting systems to end deforestation related to soy production in its supply chain. It has also made a commitment to being deforestation-free in the Amazon and Cerrado by 2025.

However, our analysis of its public policies and reporting documents found significant gaps, which we say put it in breach of its responsibilities under the OECD guidelines.

The due diligence failures have significant implications in the fight against deforestation. We cannot protect the Amazon rainforest, Atlantic Forest and the Cerrado savanna from further destruction if the big agribusinesses operating in these vital ecosystems are not taking appropriate steps to minimise their role in destroying them.

Cargill has the market influence, know-how and resources to adopt robust systems and policies that keep deforestation and human rights abuses out of its supply chain. ClientEarth has submitted a legal complaint to pressure the company to strengthen its due diligence practices and properly address the environmental and human rights risks it is exposed to.

## How is Cargill breaching the OECD guidelines?

The OECD guidelines require companies to conduct risk-based due diligence to identify, prevent and mitigate the actual and potential adverse environmental and human rights impacts of their operations. ClientEarth's complaint alleges that Cargill's due diligence policies and procedures breach this requirement, by:

- Failing to conduct adequate environmental due diligence on soy sourced from the Cerrado savanna and Atlantic Forest;
- Failing to conduct adequate environmental due diligence on indirectly sourced soy;

- Failing to conduct environmental due diligence on third party soy for which Cargill provides loading and unloading, storage and shipping services at its port facilities;
- Failing to conduct environmental due diligence for indirect land use change; and,
- Failing to conduct adequate human rights due diligence on soy supply chains and operations in Brazil.

## **What evidence is there linking Cargill with deforestation and human rights violations in Brazil?**

Reports have shown that Cargill purchases soy that is grown on land that has been “grabbed” from Indigenous Peoples, quilombola and traditional local communities.

For example, in 2019 Greenpeace showed that Cargill purchases soy from the Estrondo estate, which is a mega-farm in the state of Bahia in the western Cerrado that was founded on a land-grab and has seen the traditional geraizeria communities forcibly expelled from their land and subjected to frequent violence and harassment.

A 2020 De Olho nos Ruralistas report showed that Cargill bought soy from farms in the Amazon that are located on Indigenous land. Specifically, it purchased soy from farms located in the municipalities of Santarém and Mojuí dos Campos in the state of Pará, that are located on the ancestral land of the Munduruka Indigenous peoples, from which it has been grabbed.

A 2021 Global Witness report showed that Cargill has purchased soy from suppliers involved in the expulsion of Indigenous Peoples and traditional communities from their land in the Cerrado.

Socio-environmental harms suffered by local affected communities as a result of the construction and operation of Cargill’s Santarém port have also been well documented by Terra de Direitos.

Meanwhile, in April 2023, a report from Mighty Earth showed that 400 hectares of rainforest burned within a few days in September 2022 to make way for soy by a farm supplying Cargill. The report tracks the journey of illegally grown soy at Santa Ana farms in the Amazon on its route through Brazil, and its likely transfer to Cargill’s grain store at Santarém port.

## **What does Cargill say about its environmental and human rights impact?**

In November 2022, Cargill – together with 12 other major agricultural traders and producers – published the Agriculture Sector Roadmap to 1.5°C, in which it announced it will eliminate deforestation in its soy supply chain in the Amazon and Cerrado biomes by 2025. However, ClientEarth’s lawyers note that the roadmap does not contain a commitment to be conversion free, which would include conversion of all native ecosystems, going beyond forests. Depending on the definition of forest, extensive areas of the Cerrado may not be covered.

Cargill also commits to the Soy Moratorium in the Amazon, which is a sectoral pact under which commodities traders agreed to avoid the purchase of soybeans from areas that were deforested after 2008, the “cut-off” date.

Cargill applies no equivalent to the Soy Moratorium in the Cerrado. Unlike in the Amazon, which has a 2008 cut-off date, there is no cut-off date in the Cerrado, beyond Cargill’s commitment to be deforestation free there by 2025.

Cargill makes a policy commitment to support Indigenous Peoples and local community rights in its Commitment on Human Rights. However, there is no evidence that Cargill has a systematic process to deliver on this commitment, or actively monitors the risk of causing or contributing to violations.

Presented with the evidence of its links to human rights violations in Greenpeace's Under Fire report, Greenpeace says that "Cargill failed to provide any meaningful response or to demonstrate action to tackle the issues," though Cargill told them it was investigating.

Global Witness asked Cargill if and how it proactively monitored for violations of the community land rights or FPIC principles that it proclaims as requirements of its soy suppliers, and how many problematic cases had been identified and addressed to date. The company failed to answer the questions, nor did it indicate it has identified or resolved any single case of land rights or FPIC policy violations in its soy supply chain in Brazil.

## What is ClientEarth asking Cargill to do?

To remedy these breaches and ensure that its due diligence complies with the OECD Guidelines, ClientEarth is calling on Cargill to:

- Fully disclose its current human rights and environmental due diligence policies and procedures related to its soy operations in Brazil; and,
- Adopt, implement and disclose effective due diligence policies and procedures for its soy operations in Brazil, including the measures outlined in the OECD-FAO Guidance for Responsible Agricultural Supply Chains and the UN Working Group's guidance on human rights due diligence.

## How is soy production causing deforestation in the Amazon, the Cerrado and the Atlantic Forest?

The rapid expansion of agribusiness in Brazil has been the main driver of deforestation, particularly large-scale cattle ranching and soy production. In the case of soy, the majority of the crop from the Amazon, Cerrado and Atlantic Forest is exported to markets around the world for use as animal feed. Globally, almost 80% of the world's soy is fed to livestock for meat and dairy production.

The Amazon, which historically has been an important carbon sink, is now emitting more carbon than it stores, as a result of factors such as deforestation, forest fires and climate change. Around 13.2% of the total original forest biome is estimated to have been lost due to deforestation and other causes, with this figure rising to 31% in the eastern section of the Amazon, located predominantly in Brazil. In 2021, the Amazon experienced its highest level of deforestation in a decade. The level of destruction is pushing the ecosystem dangerously close to a tipping point where the hydrological cycle is slowed to such an extent that large areas of the rainforest will develop into savannas.

In the Cerrado, which is the most biodiverse-rich savanna in the world, soy-driven deforestation is particularly acute. The biome is estimated to store around 13.7bn tonnes of carbon dioxide, significantly more than China's annual emissions. But despite it being an important region for conservation, only 7.5% of its area is legally protected. Nearly half of the Cerrado's original cover has been cleared to make way for crop and pastureland. In 2022, land-conversion in the Cerrado increased by 25% in comparison to the previous year, with the highest rate of deforestation in seven years.

The Atlantic Forest is a global hotspot in terms of biodiversity and endemism. Despite it being an important region for conservation, less than 2% of the biome is legally protected, and more than 85% of the forest's original cover has already been lost. The forest stretches down the eastern coast, where 70% of Brazil's inhabitants live, and has been destroyed by population growth and development. Scientists have shown that restoration of the Atlantic Forest would help to prevent and mitigate climate change by sequestering and storing carbon dioxide from the atmosphere.

## What is indirect land use change and why is it a problem?

Cargill is implicated not only in deforestation in its own supply chains, but also deforestation that has been displaced from its own supply chains to other areas, a phenomenon known as indirect land use change.

While a lot of soy expansion across Brazil occurs on existing cattle pasture, the total area of cattle pasture has remained more or less unchanged. This is because the conversion of old pastureland to cropland pushes the expansion of new pastureland into areas of pristine ecosystem, such as forest and savanna, causing new deforestation and land use change in those areas.

According to [Trase](#), “Overall, and in both the Amazon and Cerrado, for every hectare of soy expansion onto pasture there is at least one hectare of pasture expansion onto forest.”

## Who is the OECD and what are their guidelines?

The OECD is an intergovernmental organisation created to facilitate collaboration between market-based economies to promote sustainable economic growth. It has 38 member countries, including the US, and six countries that are candidates to become members, including Brazil.

The OECD guidelines are recommendations from governments to multinational enterprises operating or headquartered in OECD adhering countries. They provide standards for responsible business conduct in a global context across a range of issues, including human rights and the environment.

OECD adhering countries, including member and candidate countries, must set up a National Contact Point (NCP), which are national agencies designed to promote and implement the OECD Guidelines. NCPs receive complaints regarding breaches by enterprises of the OECD Guidelines, and provide a mediation platform to resolve practical issues that may arise.

Because Cargill is headquartered in the US, a member country, and operates in Brazil, a candidate country, it should follow the OECD Guidelines.

## What happens next with ClientEarth’s complaint?

The US National Contact Point must first determine whether the complaint is admissible by assessing whether the allegations made by ClientEarth are material and substantiated. If the NCP admits the complaint, it will offer to bring ClientEarth and Cargill together to resolve the issues through mediation. It is important to note that the parties’ participation in mediation is voluntary. At the completion of the process, the NCP will publicly issue a final statement which outlines the allegations of the complaint and the outcome of any mediation. The US NCP may also issue recommendations as to how the OECD Guidelines are to be implemented by Cargill.

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