

CADWALADER
CLIMATE
Connecting Climate Change and the Law



Toolkit in Progress on Deforestation and Land Conversion-Linked Financial Crimes

December 12, 2023



By Duncan Grieve
Special Counsel | White Collar Defense and Investigations

On October 17, 2023, Themis, a technology platform that helps its clients manage their financial crime risk exposure, and World Wildlife Fund (WWF) UK, announced that they are working together to produce a Deforestation and Land Conversion-Linked Financial Crimes Toolkit to be launched next year.

As the statement announcing the [toolkit](#) explains, deforestation, in particular of tropical forests and ecosystems in the Amazon, the Congo Basin and Southeast Asia, and land conversion, when land is converted from its primary use, such as a forest, savannah or grassland, for agriculture or infrastructure uses, have significant environmental impact globally. Earlier this year, the Grantham Research Institute on Climate Change and the Environment at the London School of Economics [estimated](#) that land use change and, in particular, deforestation, may contribute up to 20% of global greenhouse emissions. Forest degradation—in which total forest area remains unchanged but its structure or overall function has been altered—is also problematic. Both deforestation and land conversion can also adversely impact disenfranchised indigenous and local communities more acutely, causing health issues, loss of income, displacement and human rights violations.

As the statement notes, while deforestation and land conversion are often driven by demand for legal, high-value cash crops, including everyday consumables like cocoa, coffee and cattle, as well as resources such as timber, rubber and minerals, the production of these commodities are also susceptible to infiltration by criminal groups. Government corruption, inadequate land protection regulations, or limited regulatory oversight can lead to illegal land conversion, exposing financial institutions in certain regions to the risk of financial crimes related to these commodities. The Toolkit on Deforestation and Land Conversion-Linked Financial Crimes aims to help financial institutions understand and identify these risks, and address and report any transactions that may involve illegal deforestation and land conversion to the authorities.

The Deforestation and Land Conversion Toolkit will be modeled on the [Illegal Wildlife Trade \(IWT\) Toolkit](#), also produced by Themis and WWF, and will include guidance on a strategic framework and best practices, risk assessment and reporting, as well as general subject matter background. Both toolkits aim to offer a broad view of direct and indirect risks across supply chains.

The first stage of the project is led by UK Finance, a trade association that represents over 300 firms across the UK banking and financial services sector, which is finalizing a research report on deforestation and financial crimes to be shared at COP28 in Dubai. The report will be based on a survey from professionals at financial institutions, in particular, risk and compliance professionals in banks and insurance firms. The finalized deforestation toolkit will be launched at COP29, set to take place in Q3 2024.

Taking the Temperature: While deforestation and land conversion have long been the topic of environmental and social activism, the legal and financial risks associated with directly or indirectly financing or otherwise causing deforestation, whether legal or illegal, are rapidly growing in significance. As we have reported recently, deforestation is increasingly the focus of regulatory, litigation and environmental advocacy attention globally. In June, [Brazil announced a package of environmental measures](#) aimed at controlling and eventually halting deforestation by 2030. Outside of this high-risk region and others, regulators are focused on the impact that the industry has on deforestation and environmental degradation. In April, the U.S. Department of Justice formed the [Timber Interdiction Membership Board and Enforcement Resource \(TIMBER\) Working Group](#) to investigate and prosecute the illegal trade of timber around the world and the deforestation that results. [And as we covered in June](#), the European Parliament has adopted amendments to the Corporate Sustainability Due Diligence Regulation requiring large companies operating in the EU to conduct due diligence to identify, prevent, mitigate or end negative impacts on human rights and the environment, including biodiversity loss and environmental degradation. Industry's role in deforestation has also resulted in litigation. In May, environmental group ClientEarth filed a complaint against Cargill, one of the world's largest soy and grain traders with the Organization for Economic Cooperation and Development (OECD) over [alleged deforestation and related human rights issues](#) in Brazil in violation of the OECD Guidelines for Multinational Enterprises. [We also reported](#) earlier this year on a novel arbitration strategy on the part of Azerbaijan, which commenced an action against Armenia under the Bern Convention on the Conservation of European Wildlife and Natural Habitats, the first such interstate arbitration alleging that actions including deforestation have jeopardized more than 500 wildlife species.