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Summary of Complaint to the United States National Contact Point for the OECD against Cargill regarding failures in the company's environmental and human rights due diligence systems for soy operations in Brazil

Background

ClientEarth submitted a complaint before the United States National Contact Point (the "US NCP") for the Organisation for Economic Cooperation and Development ("OECD"), under its Guidelines for Multinational Enterprises (the "OECD Guidelines"). The complaint outlines failures in Cargill's environmental and human rights due diligence policies and procedures, which do not adequately address the company's contribution to deforestation and conversion of other ecosystems, and related human rights impacts through its soy operations in Brazil. ClientEarth alleges that these failures amount to breaches of the due diligence standards contained in the OECD Guidelines.

The full complaint document is not disclosed as per the US NCP's confidentiality requirements. This document summarises the key points of the complaint and provides background information on Cargill, the OECD, the US NCP and the complaint procedure.

Who is Cargill and what are the group's soy operations in Brazil?

Cargill is the US's largest private company in terms of revenue.¹ It operates worldwide in the food, agriculture, financial and industrial products sectors.² It operates in Brazil through a network of Brazilian subsidiaries and has extensive operations in all stages of the soy supply chain (except production), from

¹ Forbes (2022). America's Largest Private Companies: [America's Largest Private Companies 2022. \(forbes.com\)](https://www.forbes.com/2022/04/26/america-largest-private-companies-2022/).

² Cargill, *Company Overview*: [Company Overview | Cargill](https://www.cargill.com/about-us/company-overview).

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providing farmers with production inputs (i.e., seeds, fertilizer, machinery) and financing, to storage, loading and transportation both of its own and of third party owned soy.³

The latest data from the transparency initiative Trase,⁴ shows that Cargill is the largest exporter of soy from Brazil, accounting for 10.5% of all soy produced in-country.⁵ It sources mostly 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.

Deforestation related to agricultural expansion in Brazil

The Cerrado, the Amazon and the Atlantic Forest are some of the most biodiverse places on Earth, contain massive carbon stocks and are of global importance given the essential role they play in preventing climate change. All three are in serious danger. Agricultural expansion, particularly large-scale cattle ranching and soy production, is the primary driver of deforestation and conversion of other ecosystems in Brazil.⁶ Brazil accounted for more than 33% of the world's tropical deforestation for commodity production between 2010 and 2014⁷ and deforestation has continued to soar since then.

Breaches of the OECD Guidelines

The OECD Guidelines apply to all multinational enterprises that are operating in OECD adhering countries, including the US and Brazil. As a US-based company operating in Brazil, Cargill should operate in accordance with 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. The complaint alleges that the following failures in Cargill's due diligence policies and procedures breach these standards.

- i. *Failure to conduct adequate environmental due diligence in respect of soy sourced from the Cerrado savanna and Atlantic Forest*

Cargill has huge exposure to deforestation and ecosystem conversion through its soy operations in Brazil. Trase data shows that, in 2020, Cargill was exposed to 25,500 hectares of deforestation and ecosystem conversion. This is equivalent to around 35,000 soccer pitches. The vast majority of this exposure, more than 21,600 hectares, was in the Cerrado, with significant exposure in the Amazon and Atlantic Forest as well. The NGO Aid Environment has linked Cargill to specific farms where deforestation has occurred in Brazil. Using remote satellite imagery, supply chain analysis, field research, and millions of datasets, Aid

³ Cargill (2022). *Cargill Carbon Disclosure Project Forests Report 2022*, F1.1: [cargill_cdpforests_2022.pdf](#).

⁴ Trase is a data-driven transparency initiative to improve understanding of the trade and financing of commodities driving deforestation worldwide by mapping supply chains using publicly available data, see Trase, *What is Trase?: Trase Homepage*.

⁵ Trase data shows that Cargill exported 12,700,000 tonnes of soy, out of a total 121,000,000 tonnes produced in Brazil: [TRAISE - About TRASE](#).

⁶ See Pendrill, F. et al (2020). *Agricultural and forestry trade drives large share of tropical deforestation emissions*; [Agricultural and forestry trade drives large share of tropical deforestation emissions - ScienceDirect](#), graphic contained therein entitled *What are the drivers of tropical deforestation?*, referred to by Our World in Data (2021).

⁷ Our World in Data (2021). *Drivers of Deforestation: Drivers of Deforestation - Our World in Data*.

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Environment monitors real-time deforestation and fires, and identifies responsible actors.⁸ According to our analysis of Cargill's public policies and reporting documents, the company does less deforestation and conversion free (DCF) due diligence in the Cerrado and the Atlantic Forest than in the Amazon. Specifically, in the Cerrado: it appears not to monitor the full extent of deforestation and ecosystem conversion in its soy supply chain; it appears to conduct very low levels of DCF due diligence outside of its priority municipalities, despite high exposure to deforestation and ecosystem conversion in those areas; and it permits the sourcing of soy from recently deforested or converted areas. Cargill appears not to conduct any DCF due diligence whatsoever in respect of soy sourced from the Atlantic Forest.

ii. *Failure to conduct adequate environmental due diligence in respect of indirectly sourced soy*

Cargill purchases soy both directly from farmers, and indirectly from cooperatives, processors and traders who did not themselves grow the soy. According to our analysis of Cargill's public policies and reporting documents, Cargill is doing little DCF due diligence for soy that it sources indirectly from Brazil. Specifically, the steps that the company purports to take to monitor its indirect supply chain are vague, the company appears not to have systems in place to ensure that indirectly sourced soy can be traced to its farm of origin, and it has no measurable goals or commitments for traceability and DCF going forward. This is a serious failing given that Cargill sources 42% of soy in Brazil indirectly, and there is no evidence to suggest that indirectly sourced soy is any less likely to contribute to deforestation and ecosystem conversion than directly sourced soy.

iii. *Failure to conduct environmental due diligence in respect of non-owned soy for which Cargill provides loading and unloading, storage and shipping services at its port facilities*

Cargill operates seven port terminals in Brazil, at which it offers services related to soy owned by other entities ("non-owned soy"), including loading and unloading, storage and transportation for export. This non-owned soy is exposed to deforestation and ecosystem conversion. The construction and operation by Cargill of a major export port at Santarém in the Amazon has opened up large areas of the Amazon to soy production, and has incentivised deforestation and land conversion in the region. According to our analysis of Cargill's public policies and reporting documents, Cargill does not conduct any DCF due diligence whatsoever in respect of non-owned soy.

iv. *Failure to conduct environmental due diligence in respect of indirect land use change*

We believe that Cargill may be linked to deforestation and conversion that has been displaced from its own supply chains to other areas. In Brazil, the conversion of land which was previously used for cattle grazing into cropland for soy production pushes the expansion of cattle grazing into areas of pristine forest and savanna, causing new deforestation and ecosystem conversion in those areas. So, even where soy is produced on old pastureland as opposed to in newly deforested areas, it can still be indirectly linked to deforestation and conversion. This phenomenon is known as indirect land use change. The transparency initiative Trase estimates that, "*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.*"⁹ According to our analysis of its public policies and reporting documents, Cargill does not conduct any DCF due diligence whatsoever in respect of indirect land use change.

⁸ Aid Environment, *Real-time Deforestation Monitoring*, Aid Environment: [Real-time Deforestation Monitoring | AidEnvironment](#).

⁹ Trase (2020). *Indirect land-use change deforestation linked to soy threatens prospects for sustainable intensification in Brazil*: [Trase Insights - Indirect land-use change deforestation linked to soy threatens prospects for sustainable intensification in Brazil](#).

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- v. *Failure to conduct adequate human rights due diligence in respect of soy supply chains and operations in Brazil*

Cargill is at risk of contributing to violations of the rights of local Indigenous Peoples, Afro-Brazilian and other forest-dependent communities through its soy supply chain and operations in Brazil.¹⁰ These rights violations may include, amongst other things, forced displacement, violence against land defenders, destruction of the environment in which these communities live thereby destroying their traditional ways of living and interacting with land, and health impacts as a result of pesticides contamination. These are the very communities that have been shown to be the most effective at protecting forests, thus helping to mitigate climate change.¹¹

Greenpeace and Global Witness report that, when they presented Cargill with evidence of its links to human rights violations, the company failed to provide any meaningful response (see FAQ for more details).

According to our analysis of Cargill's public policies and reporting documents, the company does not conduct adequate due diligence to identify, prevent and mitigate violations of the rights of these communities linked to its soy operations in Brazil.

Remedies sought

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.
- 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

¹⁰ This statement is based on the following reports: The reports referred to in the complaint document are: GreenPeace (2019). *Under Fire*: [86b5fe06-greenpeace_underfire_artwork_pages.pdf](#); Global Witness (2021). *Seeds of Conflict*: [Seeds_of_Conflict_-_November_2021.pdf](#); De Olho nos Ruralistas (2020) *Cargill compra soja de fazendas sobre postas a território indígena em Santarém*: [Cargill compra soja de fazendas sobrepostas a território indígena em Santarém \(PA\) - De Olho nos Ruralistas](#); Earthsight (2022). *Revealed: US agribusiness giants' soy linked to stolen indigenous land and murder in Brazil*: [Revealed: US agribusiness giants' soy linked to stolen indigenous land and murder in Brazil](#) | Earthsight; IPAM (2021). *Land-grabbing and illegal mining bring wildfires and deforestation to Indigenous lands in the Amazon*: [IPAM Amazônia - | Land-grabbing and illegal mining bring wildfires and deforestation to Indigenous lands in the Amazon](#); IPAM (2021). *Amazon on Fire Amazon on Fire - Deforestation and Fire on Indigenous Lands*: [Amazon-on-Fire-ILs.pdf \(ipam.org.br\)](#); Terra de Direitos (2021). *Sem Licença para Destruição: Cargill: e Violação de Direitos no Tapajós*, Terra de Direitos: [estudo-completo-cargill-santarém.pdf \(semlicencaparacargill.org.br\)](#); (2021). *No Licence for Destruction: Cargill and its false solutions for the Climate Crisis*: https://terradedireitos.org.br/uploads/arquivos/10-11-2021-CARGILL-E-CLIMA_-_ingles.pdf.

¹¹ This has been recognised both by the Intergovernmental Panel on Climate Change (IPCC) and Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES). See IPCC (2022). *Climate Change 2022: Impacts, Adaptation and Vulnerability*: [IPCC AR6 WGII FrontMatter.pdf](#), Chapter 12: Central and South America; and IPBES (2019): *Global assessment report on biodiversity and ecosystem services of the IPBES*: <https://doi.org/10.5281/zenodo.3831673>.

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Agricultural Supply Chains¹² and the UN Working Group's guidance on human rights due diligence.¹³

What happens next?

The US NCP 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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¹² OECD-FAO (2016). *OECD-FAO Guidance for Responsible Agricultural Supply Chains: [OECD-FAO Guidance for Responsible Agricultural Supply Chains - OECD](#)*.

¹³ UN (2018). Resolution A/73/163, *The report of the Working Group on the issue of human rights and transnational corporations and other business enterprises: Human rights due diligence: key features and why it matters: [N1822487.pdf \(un.org\)](#)*.