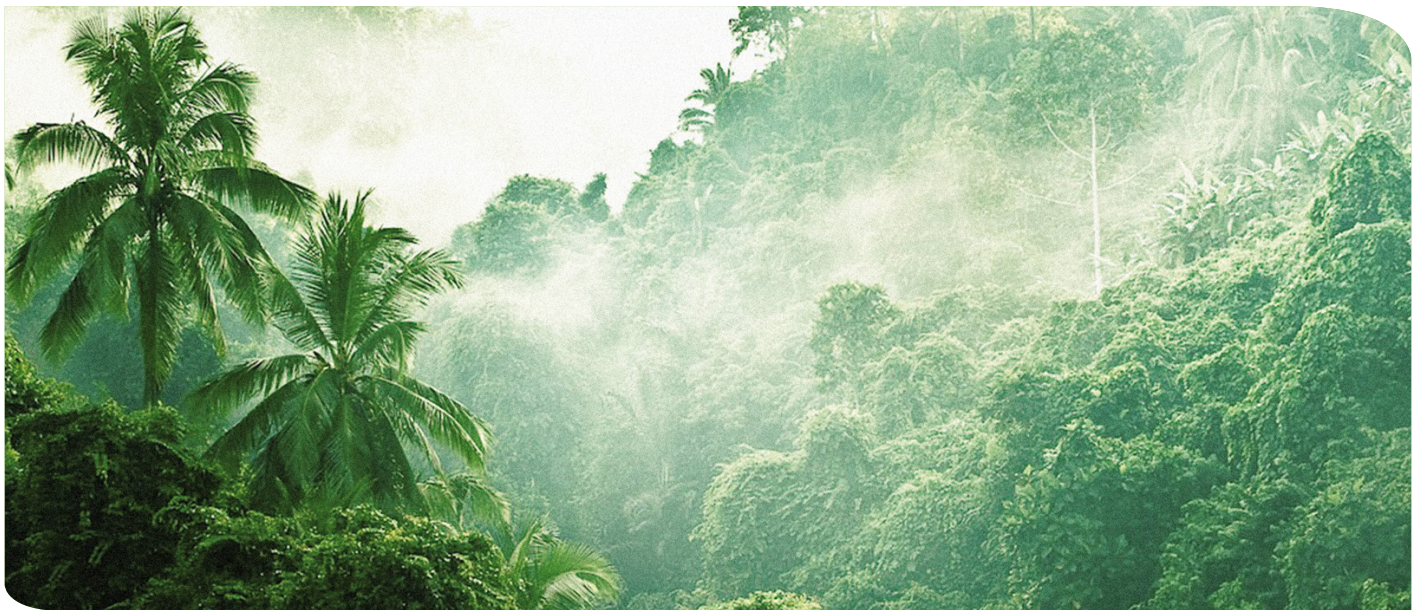


# Legal toolkit on forest conversion

## Overview



This Toolkit is intended to inform law-makers about key legal issues that may arise when forests are cleared for conversion to another use, including agriculture, mining, infrastructure or urbanisation, and the risks that may stem from those issues. It also provides questions to guide law-makers through processes of law reform to address legal frameworks governing forest conversion with a view to limiting forest loss. In addition to this Overview, the Toolkit consists of five Factsheets:

1) Allocation of land, 2) Clearing forested land, 3) Timber from forest conversion, 4) Environmental protection and 5) Communities' rights: <https://www.clientearth.org/forest-conversion/>

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### Why is forest conversion an important challenge?

The growing demand in both domestic and international markets for commodities like soy, cocoa, palm oil, gold and iron ore is driving global tropical deforestation. In response to this demand for ‘forest-risk commodities’,<sup>1</sup> forests are destroyed and the land is converted. Forest conversion<sup>2</sup> contributes to increased emissions of carbon dioxide, loss of biodiversity, soil erosion, conflicts over land rights, and eviction and loss of livelihood for local communities and indigenous peoples. These issues are amplified by the illegal nature of much forest conversion.<sup>3</sup> As well as social and environmental issues, illegal forest conversion could lead to loss of revenue for operating companies, financial investors and governments, as project activities can be delayed once the illegalities come to light.

Activities that lead to forest loss and degradation must be avoided to reduce the current rate of tropical deforestation.<sup>4</sup> In many countries that contain tropical forests, national development policies promote sectors such as agriculture, mining and infrastructure for their potential to improve the national economy. In order to develop those sectors, these countries may not be able to avoid forest loss entirely. Nevertheless, countries must balance economic growth, food security and protection of the environment. Improving the legal frameworks governing forest conversion could help to achieve this balance.

### Why do forest-conversion laws matter?

Legal frameworks governing forest conversion are crucial but complex. They involve the laws of several different sectors, such as land, forest, environment and tax. They are also often unclear, incomplete or contradictory, which means that conversion is not effectively regulated.

Complete and comprehensive legal frameworks create a set of rules that must be followed by those involved in forest conversion. They determine (i) what will be authorised, (ii) what is forbidden and (iii) what conditions need to be followed for rights to access forested land and clear it for another use to be granted. The design of legal frameworks should also take into account how to prevent and mitigate environmental and social damage.

Legal reform is one route to achieving a complete and comprehensive legal framework. However, it is important that legal reform involves a participatory approach, including civil society and local communities and indigenous peoples in decision-making processes.

## How was the toolkit developed?

From 2014 to 2017, ClientEarth analysed legal frameworks governing forest conversion in nine tropical countries: Brazil, Cameroon, Cote d'Ivoire, Gabon, Ghana, Liberia, Peru, Republic of Congo and Viet Nam. ClientEarth and local consultants led the research into how forest conversion is addressed in national laws and identified areas of weakness, including ambiguities, overlaps and gaps, that create risks for national forests and local communities' rights. In five focus countries in West and Central Africa – Cote d'Ivoire, Gabon, Ghana, Liberia and Republic of Congo – we held workshops with national NGOs to share our findings.

Each of the nine countries analysed faces significant and increased forest conversion. However, each country is different in terms of forest cover, economic and environmental priorities and governance – and particularly concerning forest governance and communities' rights. While recognising the differences between each country, and the complexity of creating a unique set of rules to govern forest conversion, we have identified five key areas which require specific attention in all countries.

1. Allocation of land – the need for clarity
2. Clearing forested land – the need for a permit
3. Timber from forest conversion – the need for rules
4. Environmental protection – the need for consideration
5. Communities' rights – the need for better recognition

This Toolkit includes a Factsheet on each of these five topics. The Toolkit focuses on the necessary steps to regulate forest conversion but does not cover the rules that should apply to the production of commodities after forest land-use change.

## What is the scope of the Toolkit?

This Toolkit approaches forest conversion broadly and covers the clearance of forests for multiple end uses. All studies agree that a significant current driver of deforestation is the clearance of natural forest for agricultural activities. However, regional or global trends driving deforestation could change. Therefore, legal frameworks should establish rules for any type of activity that could lead to forest conversion (e.g. agriculture, mining or urban expansion).

It is important to differentiate between large-scale and small-scale activities resulting in forest conversion. While a comprehensive legal framework should address the same issues for all actors, it is unrealistic and sometimes unfair to apply the same rules to a project converting a few hectares of forest as to one affecting thousands of hectares. Smallholders and small companies might not have the capacity and resources to comply with the same rules as a large company, creating significant increased risk that they will operate illegally. Acknowledging that regulating smallholders' activities depends considerably on national contexts, this Toolkit will focus mainly on rules governing large-scale projects.



1. Forest-risk commodities are 'globally traded goods and raw materials that originate from tropical forest ecosystems, either directly from within forest areas, or from areas previously under forest cover, whose extraction or production contributes significantly to global tropical deforestation and degradation' (Rautner et al. (2013), p.15, cited in COWI (2017) 'Draft feasibility study on options to step up EU Action against Deforestation' Part 1 ([http://illegallogging-deforestation-conference.eu/wp-content/uploads/2017/06/Draft\\_Feasibility\\_Study-PART\\_I-.pdf](http://illegallogging-deforestation-conference.eu/wp-content/uploads/2017/06/Draft_Feasibility_Study-PART_I-.pdf)).
2. Forest conversion is the clearing of natural forests (deforestation) to use the land for another purpose. This purpose is often agriculture (e.g. growing crops such as palm oil, or creating pasture for cattle) but can also be mining, construction of infrastructure, or urbanisation.
3. Lawson, Sam et al. (2014) 'Consumer goods and deforestation: an analysis of the extent and nature of illegality in forest conversion for agriculture and timber plantations', Forest Trends ([http://www.forest-trends.org/documents/files/doc\\_4718.pdf](http://www.forest-trends.org/documents/files/doc_4718.pdf)).
4. Global loss of tree cover reached a record 29.7 million hectares (73.4 million acres) in 2016 (Global Forest Watch, <http://bitly/2GbwRMK>).

Our vision is of a planet where all life is diverse, abundant and thriving. We want a home where people and nature flourish together.

We use law as a tool to mend the relationship between human societies and the earth.



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