

**COMPLAINT SUBMITTED TO THE UK OECD NATIONAL CONTACT
POINT UNDER THE OECD GUIDELINES FOR MULTINATIONAL
COMPANIES IN RELATION TO STATEMENTS MADE BY DRAX GROUP
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Filed by The Lifescape Project, The Partnership for Policy Integrity,
RSPB, Biofuelwatch, Conservation North and Save Estonia's Forests



EXECUTIVE SUMMARY

Burning woody biomass for heat and power has increased significantly in the UK in recent years because it is treated as a source of renewable energy, attracting generous renewable energy subsidies. However, while renewable energy is generally promoted as a way of reducing greenhouse gas emissions, burning woody biomass for energy generally emits more CO₂ per megawatt-hour of energy generated than burning fossil fuels.¹ Despite this fact, woody biomass is widely eligible for renewable energy subsidies alongside other renewable energy technologies such as wind and solar.

Drax, a UK power generator, has benefited significantly from this trend: since 2012 its power station in Selby has been converted from burning coal to burning wood pellets with the assistance of over £4.16 billion of public subsidies. Drax receives around £2 million per day in subsidies for burning biomass.² The majority of the wood pellet fuel that Drax burns is sourced from the USA, Canada, and Eastern Europe where Drax itself owns pellet-manufacturing operations. The wood pellets are manufactured from a combination of feedstocks, but mostly roundwood (i.e. stemwood of trees including thinnings) and mill residues. The pellet industry in North America has been extremely controversial because of the climate and biodiversity impacts of harvesting and burning forests for fuel.

Although there is no scientific controversy that CO₂ from burning wood warms the atmosphere just as effectively as CO₂ from burning fossil fuels, Drax's marketing and public statements continuously portray its energy as carbon neutral and suggest that with the assistance of carbon capture and storage technology, it will produce negative emissions by 2030. One of its prominent claims at the moment is that it has reduced its carbon emissions by over 90% since converting to burning woody biomass.

The reality, however, is that rather than being a carbon neutral energy generator, Drax is now the UK's largest single source of CO₂ emissions and the EU's third largest CO₂ emitter.³

Complaint to the OECD

This document is a formal complaint about Drax's public statements to the Organisation for Economic Co-operation and Development (OECD) under its Guidelines for Multinational Enterprises, which set standards for global responsible business conduct. The guidelines relevant to the complaint require that businesses provide the public with measurable and verifiable information on environmental impacts of the enterprise, including on greenhouse gas emissions and biodiversity; provide accurate information that allows consumers to compare products and make informed decisions; and to refrain from misleading and fraudulent claims. The OECD refers to other international and national-level codes to support

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- ¹ Booth, M.S. (2014) *Trees, Trash and Toxics: How Biomass Energy has Become the New Coal*. Pelham, Massachusetts, Partnership for Policy Integrity. Available at: <https://www.pfpi.net/wp-content/uploads/2014/04/PFPI-Biomass-is-the-New-Coal-April-2-2014.pdf>. At pp.16-18 [C/1/1]; Brack (2017) *Woody Biomass for Power and Heat: Impacts on the Global Climate*. Available at: <https://www.chathamhouse.org/sites/default/files/publications/research/2017-02-23-woody-biomass-global-climate-brack-final2.pdf> (the "2017 Chatham House report"). At p.2 [C/2/82].
 - ² MacDonald, P. and Moore, C (2020) *The Burning Question. Should the UK end tax breaks on burning wood for Power?*. Ember. Available at: <https://ember-climate.org/project/the-burning-question/#:~:text=Should%20the%20UK%20end%20tax,at%20Drax%20power%20station%20alone> (the "2020 Ember report"). See estimated subsidies figures for Drax for 2020-2027 at p.9. These subsidies amount to approximately £2 million per day [C/3/154].
 - ³ Harrison, T. (2021) *UK biomass emits more CO₂ than coal*. 8 October 2021. Available at: <https://ember-climate.org/commentary/2021/10/08/uk-biomass-emits-more-co2-than-coal/> (the "2021 Ember report") [C/5/176].

its interpretation of the Guidelines, some of which are particularly relevant to this complaint. For example, under the UK's Competition and Markets Authority's guidance, where businesses make claims regarding their carbon neutrality, they must make it clear if this is the case due to carbon offsetting, such as via CO₂ compensation schemes, and provide information about such schemes.⁴

The Complainants are a group of non-governmental organisations that are concerned with climate and forests: The Lifescape Project, the Partnership for Policy Integrity (PFPI), the Royal Society for the Preservation of Birds (RSPB), Conservation North, Save Estonia's Forests and Biofuelwatch. The purpose of the complaint is to explain and provide evidence for why Drax's public statements about the climate and environmental impacts of its business are untrue and misleading, and to demonstrate that they breach the OECD Guidelines.

The Complainants have identified five misleading claims that repeatedly appear in Drax's public statements. Broadly, these claims fall into the following categories:

Claim 1: Woody biomass energy is already effectively a carbon neutral energy generation technology.

e.g. *"Biomass is used to generate carbon neutral electricity"* [Diagram on Drax's website, titled *"How BECCS removes carbon from the atmosphere"*]

Such statements are misleading because Drax is in fact the UK's largest single source of CO₂ emissions and it is widely recognised that burning woody biomass is not "carbon neutral", meaning that emissions are offset so that the net impact on the atmosphere is zero. In making this claim, Drax ignores the biogenic CO₂ emissions (the "stack emissions") which are instantaneously released when woody biomass is burnt for energy as well as important upstream biogenic CO₂ emissions.

Drax relies on a number of contradictory rationales to justify why these emissions are excluded, relying on these arguments interchangeably, an approach which is itself counter-intuitive, misleading, and which undermines each of the arguments.

For instance, Drax claims that *"The biogenic carbon emissions resulting from generation are counted as zero in official reporting to both UK authorities and under the European Union Emissions Trading System (EU ETS) as the use of sustainable biomass is considered to be CO₂ neutral at the point of combustion. This methodology originates from the United Nations Framework Convention on Climate Change."*⁵

International rules governing how countries report greenhouse gas emissions under the United Nations Framework Convention on Climate Change (UNFCCC) do indeed count carbon loss from forest harvesting in the "land sector." To avoid double-counting of this carbon loss,

⁴ Competition and Markets Authority (2021) *CMA Guidance on Environmental Claims on goods and services*. 20 September 2021. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1018820/Guidance_for_businesses_on_making_environmental_claims_.pdf (the "CMA Guidance"). At paragraph 3.72: *"where a business makes important claims about things like net zero or carbon neutrality targets ... they should include accurate information about whether (and the degree to which) they are actively reducing the carbon emissions created in the production of their products or delivery of their services or are offsetting emissions with carbon removal."* [A/1/1]

⁵ Drax Group Plc (undated) *Carbon emissions* (available at: <https://www.drax.com/sustainability/carbon-emissions/>) ("Drax website: carbon emissions") [B/1/1].

emissions from burning woody biomass are counted as zero in the energy sector. However, the Intergovernmental Panel on Climate Change (IPCC), which developed the reporting rules, has explicitly warned that "*the approach of not including these [bioenergy] emissions in the Energy Sector total should not be interpreted as a conclusion about the sustainability or carbon neutrality of bioenergy.*"⁶

Thus while counting bioenergy emissions in the land sector is appropriate for country-level carbon balance sheets, it does not justify Drax making any public representations that woody biomass energy is carbon neutral or that its biogenic emissions should in some way be disregarded. Drax's representation of the carbon reporting convention as affirming biomass carbon neutrality is misleading.

Drax separately suggests that its woody biomass energy is carbon neutral because the biogenic CO₂ emissions will be sequestered by tree regrowth, and / or that emissions are simply releasing CO₂ which had only relatively recently been sequestered by the trees which are manufactured into wood pellets. These claims themselves contradict each other. A key issue is one of timing: burning wood pellets emits carbon instantaneously, but regrowing forests to sequester equivalent CO₂ takes decades. Accordingly, a variety of peer-reviewed studies have found that burning wood actually increases cumulative net emissions compared to fossil fuels for decades to centuries.⁷ By their use of the present tense, many of the statements issued by Drax suggest that such sequestration occurs instantaneously.

Claim 2: Woody biomass energy has resulted in Drax reducing its carbon emissions by 90% compared to when it burnt coal for energy.

e.g. "Drax cuts emissions by over 90% to become one of Europe's lowest carbon power generators" [Drax website home banner, 12 October 2021]

When Drax claims it has reduced its emissions, it is basing this on counting fossil fuel CO₂ emissions from wood pellet manufacturing and transport, but not including CO₂ emissions

⁶ IPCC (2021) *Frequently Asked Questions*. Available at: <https://www.ipcc-nggip.iges.or.jp/faq/FAQ.pdf> ("IPCC Frequently Asked Questions"). At Q2-10: "According to the IPCC Guidelines CO₂ Emissions from the combustion of biomass are reported as zero in the Energy sector. Do the IPCC Guidelines consider biomass used for energy to be carbon neutral?" [C/6/185].

⁷ See, e.g., Laganière, J., et al. (2017) *Range and uncertainties in estimating delays in greenhouse gas mitigation potential of forest bioenergy sourced from Canadian forests*. *Global Change Biology Bioenergy* 9(2): 358-369. Available at: <https://onlinelibrary.wiley.com/doi/epdf/10.1111/gcbb.12327> [C/7/204]. See also Natural Resources Canada (undated) *Bioenergy GHG calculator*, a calculator for woody biomass energy emissions based on Laganière et al (2017). Available at: <https://apps-scf-cfs.rncan.gc.ca/calc/en/bioenergy-calculator> [C/8]; Buchholz, T., et al. (2021). *When Biomass Electricity Demand Prompts Thinnings in Southern US Pine Plantations: A Forest Sector Greenhouse Gas Emissions Case Study*. *Frontiers in Forests and Global Change* 4(42). Available at <https://www.frontiersin.org/articles/10.3389/ffgc.2021.642569/full> [C/9/216]; Walker, T., et al. (2013) *Carbon Accounting for Woody Biomass from Massachusetts (USA) Managed Forests: A Framework for Determining the Temporal Impacts of Wood Biomass Energy on Atmospheric Greenhouse Gas Levels*. *Journal of Sustainable Forestry* 32(1-2): 130-158. Available at: https://www.researchgate.net/publication/241746647_Carbon_Accounting_for_Woody_Biomass_from_Massachusetts_USA_Managed_Forests_A_Framework_for_Determining_the_Temporal_Impacts_of_Wood_Biomass_Energy_on_Atmospheric_Greenhouse_Gas_Levels [C/10/230]; Colnes, A. et al. 2012. *Biomass supply and carbon accounting for Southeastern Forests*. Biomass Energy Resource Center, Montpelier, VT. Available at: <https://www.southernenvironment.org/wp-content/uploads/legacy/publications/biomass-carbon-study-FINAL.pdf> [C/11/262]; Mitchell, S. et al. 2012. *Carbon debt and carbon sequestration parity in forest bioenergy production*. *GCB Bioenergy*. Available at: <https://onlinelibrary.wiley.com/doi/epdf/10.1111/j.1757-1707.2012.01173.x> [C/12/394].

from burning the wood pellets or from wood burned during the pellet manufacturing process. Drax does not disclose that it is excluding these emissions when it makes such claims. Accordingly, the average consumer who is not familiar with how Drax counts CO₂ emissions is likely to understand that the reduction reflects a like for like comparison with coal, and burning wood literally emits 90% less CO₂ than burning coal (when in reality it emits more CO₂ per megawatt-hour of electricity). Such claims are therefore misleading and in breach of the OECD Guidelines.

Claim 3: Using bioenergy with carbon capture and storage (“BECCS”) technology, Drax can become “carbon negative” by 2030.

e.g. *“By 2030 Drax could be delivering millions of tonnes of negative emissions and leading the world in providing a critical technology needed to tackle the climate crisis”* [York Press, 29 July 2021, Drax CEO Will Gardiner]

Biomass combined with carbon capture and storage (BECCS) stores CO₂ emitted at the smokestack in geological formations. The idea is that a carbon neutral process becomes carbon negative if emissions are prevented from entering the atmosphere so that the offsetting action of feedstock regrowth now serves to achieve a net removal of CO₂ from the atmosphere. Thus, to produce “negative emissions”, more CO₂ must be captured by regrowing fuel in a timely way (in this case trees) than is released from the entire fuel supply chain and combustion.

Drax’s statements in relation to BECCS and its ability to produce negative emissions rely on the underlying premise that woody biomass energy is carbon neutral, but for reasons explained above, this claim is itself flawed and misleading.

Separately, Drax claims that it will have operational commercial-scale BECCS units by 2027 and 2030. In reality, significant practical hurdles to implementing BECCS potentially make this timeframe unrealistic and misleading.

Claim 4: Drax accounts for all supply chain emissions of woody biomass energy

e.g. *“we...collect fuel and energy data for each step in the supply chain, enabling us to calculate lifecycle GHG emissions for our biomass”* [Drax 2020 Annual Report, p.53]

These statements suggest to the reader that all greenhouse gases emitted during the production of woody biomass energy are included in Drax’s lifecycle emissions. This is misleading because Drax does not include sources of biogenic CO₂ emitted during pellet manufacturing, including soil carbon loss during forest harvesting, CO₂ emitted from roots and forestry residues left on-site after harvesting, and CO₂ emitted from burning wood during pellet manufacturing (especially for pellet drying).

Claim 5: Whole trees are not felled to produce wood pellets burnt by Drax and Drax's woody biomass energy does not damage forests.

e.g. "... Drax does not burn whole trees or trees harvested solely for bioenergy. Our sustainable biomass pellets are produced from the material leftover from when forests are harvested for other sectors, such as construction and furniture" [Energy Live News, 2 July 2021, Drax spokesperson]

"The sustainable biomass we use does not cause deforestation – quite the opposite. Sustainable demand for wood products leads to bigger forests, better growth and larger inventories of trees" [Letter to the Sunday Times, 29 September 2019, Drax CEO Will Gardiner]

These statements by Drax are misleading because there is clear factual evidence arising from NGO investigations that whole trees are in fact utilised at Drax's own pellet plants and by pellet manufacturers supplying Drax.

Drax is generally correct that its activities do not lead to "deforestation," since the technical definition of this term is conversion of forests to another land use category, such as agriculture. However, the average reader of these statements will not be aware of this technical definition. If readers were shown a picture of clearcut forests where all or a substantial majority of the trees go to pellet manufacture, they would likely consider such activity to constitute deforestation.

Consumers would also likely understand from Drax's statements that Drax's woody biomass energy does not harm forest habitats and ecosystems. However, the available factual evidence demonstrates that intensive forest harvesting for wood pellets, including clear cutting, destroys forest ecosystems. Drax's statements are therefore misleading and in breach of the OECD Guidelines.

Conclusion and the Complainants' Requests

Each of these claims mislead consumers and accordingly are in breach of the OECD Guidelines.

To remedy these breaches of the OECD Guidelines, the Complainants are requesting that Drax engage in an OECD-supported mediation and will:

- Withdraw and/or correct each of the Relevant Statements described in this Complaint in a manner agreed with the Complainants and cease to rely on equivalent or similarly misleading statements in the future;
- Make a public statement, to be agreed with the Complainants, which draws attention to these corrections and provides a full explanation of the reasons for them; and
- Make a public commitment to ensure that its future communications about the carbon, biodiversity and wider environmental impacts of its woody biomass energy are consistent with the OECD Guidelines.