

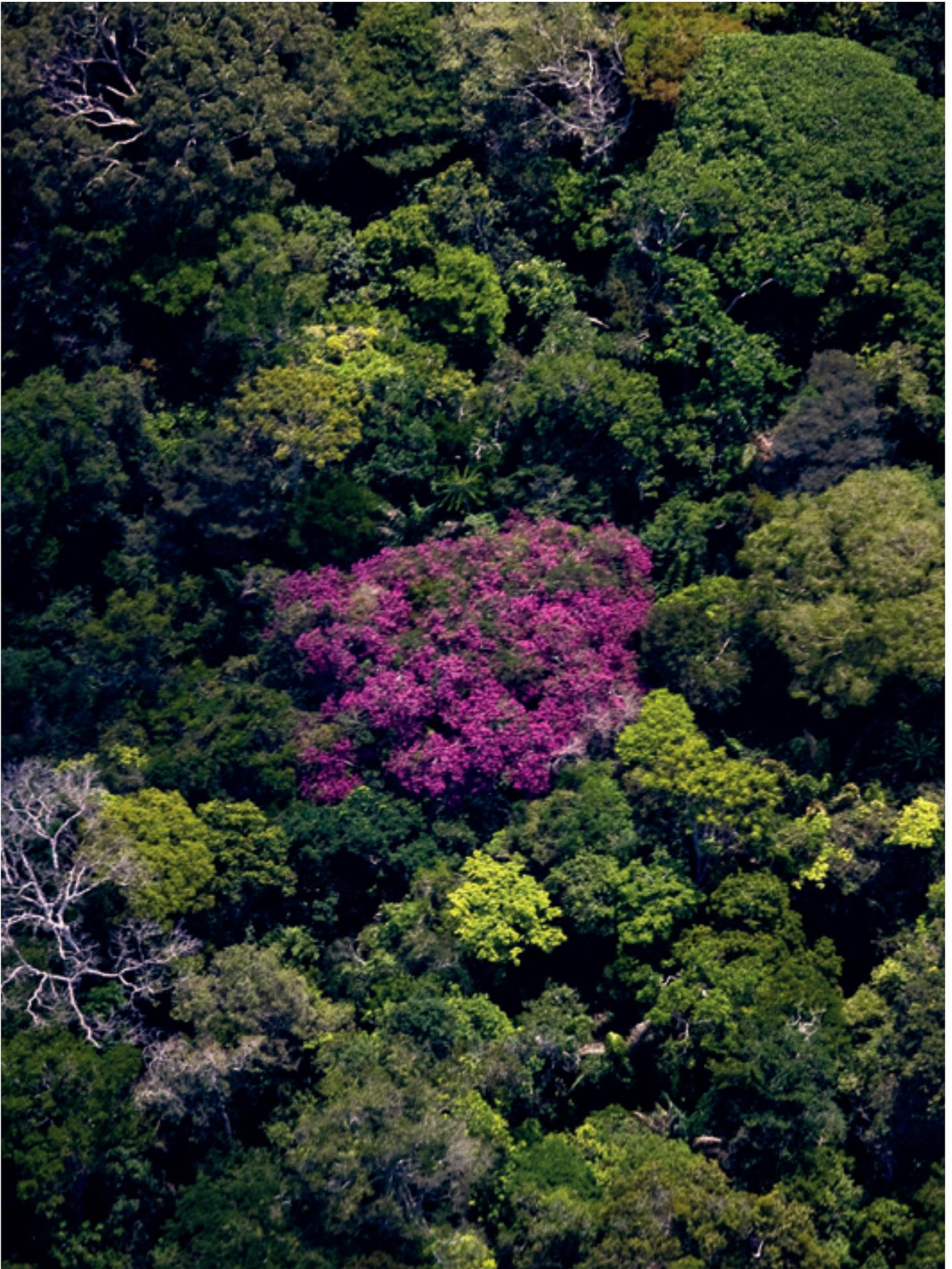


GREENPEACE

**FOREST CRIME FILE
NOVEMBER 2015**

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The Amazon's Silent Crisis: Partners in Crime



Front cover:

Madeira Iller's sawmill near Curuatinga, Pará State. 28/08/2014
© Otavio Almeida/ Greenpeace

Above:

Aerial view of the Amazon rainforest between Alta Floresta (Mato Grosso State) and Santarém (Pará State). 26/08/2007
© Greenpeace/ Daniel Beltrá

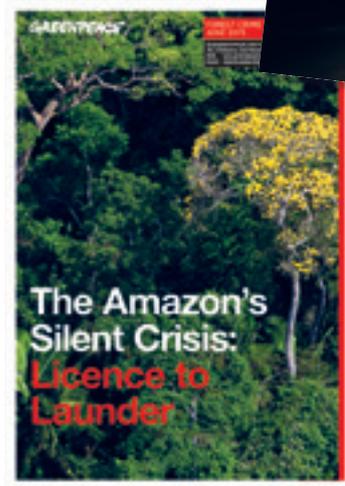
Summary

Since May 2014, three successive Greenpeace reports have revealed how loggers in the Brazilian Amazon are exploiting weaknesses in the country's regulatory system to launder illegally logged timber for the global market. In particular, the reports have exposed the widespread use of fraudulently obtained official documentation to launder illegal timber, with examples presented from a number of forest estates in the Amazon state of Pará. These exposés should have sounded the alarm for global importers that they cannot rely on official documentation alone to guarantee the legal origin of timber from the Brazilian Amazon.

The unreliability of the official timber control system was recently confirmed by Operation Clean Timber, an investigation led by the federal public prosecutor's office in Santarém, Pará, which targeted one of the biggest illegal timber trade networks in the country. It included logging company, sawmill and timber exporter *Madeiraira Iller*, whose owners were arrested and charged with several criminal offences. The company was found to have been using fraudulently obtained documents to trade illegal timber.

Prior to Operation Clean Timber, all but one of the companies importing timber from the Brazilian Amazon into the EU that are known to have been offered timber from *Madeiraira Iller* had failed adequately to mitigate the risk of purchasing illegal timber, when there was already sufficient information publicly available to conclude that official paperwork accompanying the firm's timber could not be trusted. In particular, declarations of implausibly high densities of ipê timber, as previously exposed by Greenpeace in the case of another company, should have served as a clear warning.

In defiance of their due diligence obligations under EU law, several importers in the EU bought *Madeiraira Iller* timber in the course of the past year-and-a-half, at least one of them apparently without even obtaining the required documentation to demonstrate the legal origin of the timber.



Destructive logging is destroying the Amazon

The Amazon rainforest is the largest rainforest on earth. It covers 5% of the world's surface area and extends over nine South American countries,¹ with just under two-thirds lying inside Brazil, covering almost half of the country's territory.² Its biodiversity is unparalleled, it is home to hundreds of indigenous peoples (including many uncontacted tribes), and as one of the world's largest terrestrial carbon stores, containing more than 175 billion tonnes of carbon – over a quarter of all the carbon stored in forests worldwide – it is of vital importance to the stability of the global climate.³

Nevertheless, the Amazon rainforest is blighted by uncontrolled economic exploitation. To date, more than 700,000 km² of Brazil's Amazon rainforest has been deforested,⁴ over half of it within the last three decades.⁵ The total forest loss across the Amazon to date is estimated to represent a net contribution of about 1.8 parts per million of atmospheric CO₂, or 1.5% of the increase in the CO₂ level since the beginning of the industrial era.⁶

The Brazilian government made progress in slowing down the rate of forest loss during the past decade, but deforestation rose again in 2013⁷ and some scientists expect a further increase in 2015.⁸ Recent satellite image data analyses confirm these expectations.⁹

Logging is often the first step towards forest degradation and ultimately deforestation. Loggers build roads deep into the rainforest to extract high-value hardwood trees. Settlers subsequently clear the forest adjacent to these roads for cattle ranching and arable crops. To make matters worse, the regions at the frontline of Amazon deforestation are renowned for poor law enforcement and widespread corruption. Illegal logging is endemic, drastically increasing the overall level of forest destruction. In Pará state, which produces and exports more tropical timber than any other state in Brazil, more than three-quarters of logging is estimated to be illegal.¹⁰



From top:

1. Aerial view of a Forest Management Plan in Pará State. 01/04/2014 © Marizilda Cruppe/ Greenpeace

2. Blue Throated Macao Parrot (*Ara glaucogularis*), Amazon rainforest, Brazil. 17/02/2006 © Greenpeace/ Daniel Beltrá

3. Ka'apor Indigenous People, Alto Turiaçu, Maranhão State. 27/08/2015 © Lunae Parracho/ Greenpeace

4. Area cleared for pastures, Pará State. 16/09/2013 © Daniel Beltrá/ Greenpeace

5. Illegal timber in Ka'apor Indigenous Land, Alto Turiaçu, Maranhão State. 01/09/2015 © Lunae Parracho/ Greenpeace

Trading Amazon timber: a high-risk market



A truck loaded with timber on the Curuá-Una road near Santarém, Pará State. 03/06/2014 © Marizilda Cruppe/ Greenpeace

In 2006, the Brazilian government responded to already rampant illegal logging with a programme of legislative and regulatory measures. Overnight, the new legislation transferred the responsibility for approval, monitoring and evaluation of forest management plans (FMPs – see detailed explanation on page 9) to individual states. State governments also became responsible for registration of timber producers and monitoring of their chains of custody through an electronic system intended to track timber and record transactions. All timber sales and shipments must now be accompanied by the corresponding quantity of timber credits entered on this system. In theory, timber that has been logged illegally, for example in excess of a permitted harvest volume or in an area not subject to an FMP, should not have access to these credits and their associated documentation, and it should therefore be impossible to sell it.¹¹

However, the reality is somewhat different. Endemic corruption in the Brazilian Amazon timber sector is a widely known problem in the international timber trade. In May 2014 a Greenpeace Brazil report, *The Amazon's Silent Crisis*, revealed how loggers were exploiting flaws in the regulatory system to generate fraudulent credits that were then used to launder illegal timber.¹² In October 2014 a follow-up Greenpeace Brazil report, *The Amazon's Silent Crisis: Night Terrors*, exposed a network of sawmills in Pará (centred around a sawmill and timber export company called Rainbow Trading Importação e Exportação Ltda) which had been laundering timber from public forests where no logging was authorised.¹³ A second follow-up report published in June 2015, *The Amazon's Silent Crisis: Licence to Launder*, detailed our suspicions regarding the fraudulent use of credits from an estate run by another company, Agropecuária Santa Efigênia Ltda, to launder timber through the official chain-of-custody system.¹⁴ Following the publication of *Licence to Launder*, the Brazilian Institute of Environment and Renewable Natural Resources (IBAMA) launched an investigation into the operations of the logging sector in the municipality of Uruará, where Santa Efigênia's estate

is located. This investigation was still ongoing at the time of publication of the present crime file.¹⁵

This crime file puts the spotlight on a logging, milling and timber exporting company called *Madeira Ilter Ltda*, whose owners were arrested and charged with several criminal offences in the course of Operation Clean Timber – a wide-ranging and in-depth investigation into the illegal timber trade and corruption networks led by the Brazilian federal public prosecutor's office (MPF) in the city of Santarém, Pará.¹⁶ The vast amount of evidence collected during this investigation confirmed *Madeira Ilter's* involvement in a web of systematic fraud, other parts of which included corrupt government officials and papermakers who created fraudulent logging credits. This conclusion adds weight to our insistence that all FMPs approved in the Brazilian Amazon must be reviewed urgently. Those granted on the basis of false information should be cancelled, and the remainder monitored more effectively to ensure that logging operations comply with forest laws and sustainability regulations, as previous Greenpeace crime files have extensively argued.

Our investigation builds on the evidence collected by the MPF in Santarém to demonstrate once more how importers in Europe are continuing to purchase timber from the Brazilian Amazon despite a lack of assurance as to its legality.¹⁷ We have found that, while one European importer carried out its due diligence obligations and concluded even before Operation Clean Timber went public that *Madeira Ilter's* timber was too high-risk to bring to market,¹⁸ others purchased it without adequately assessing the supply chain risks posed by the company's illegal activities. Greenpeace concludes that strict enforcement measures are required from authorities in importing countries, with a particular focus on companies that have purchased timber with no safeguards of legality beyond official documentation provided by the supplier, in spite of publicly available information showing that supplier to be suspect.

Operation Clean Timber

On 24 August 2015, Federal Police raids on 12 locations in Pará state saw the arrest of more than 30 government officials, businessmen and others¹⁹ (among them Madeireira Iller's owners) on suspicion of involvement in environmental crimes including timber laundering. The MPF subsequently charged 21 of them with fraudulent practices such as the creation of fake and inflated timber credits.²⁰

The criminal scheme exposed by Operation Clean Timber extended deep into the government's timber control and chain-of-custody systems. The evidence gathered reveals an informal criminal structure comprising three interdependent parts. A group nicknamed 'the papermakers' (papeleiros) focused on obtaining timber credits and transport documents which were then used for laundering purposes by the company owners. Together, they constituted the first part of the structure. The second part consisted of officials within the National Institute for Colonisation and Agrarian Reform (INCRA), who illegally authorised logging in areas that had been granted by the federal government for settlement. The third part consisted of a number of officials within environmental agencies such as the State Environmental and Sustainability Secretariat of Pará (SEMAS) and IBAMA, who sold inside information about forthcoming inspections to the company owners. In the words of the MPF: 'To achieve the criminal purpose of trading in illegal timber, the three parts worked in unison, with full awareness, cooperating to ensure that the entire scheme was successful.'²¹

The key to the entire chain of illegal exploitation was the fraudulent timber credits and transport documents. The 'papermakers' obtained credits through front companies that they created with the help of corrupt officials within IBAMA, SEMAS and/or Pará's State Finance Agency (SEFA), or through existing companies that had been barred from trading by these agencies. Corrupt civil servants within these and other agencies, such as the Municipal Environment Secretariat (SEMMA) in the municipality of Óbidos and INCRA, then unbarred the companies in question and transferred large amounts of credits from these companies or from the front companies to Madeireira Iller.²²

INCRA was given no advance notice of the raids, while IBAMA was informed only that there would be a routine inspection. Given that corrupt officials had been previously found to have provided tip-offs about inspections to sawmill owners, this was likely done to

avoid them tipping off Madeireira Iller's owners about the police raids. So secret were the preparations for the raids that most of the 190 police officers in the operation were drafted in from other parts of the country.²³

The 21 detainees have been charged with offences including coercion, receipt of illegal timber, damage to public property, active and passive corruption, racketeering (organised crime), embezzlement, environmental crimes, conspiracy, breach of privacy and use of false documents.²⁴

Despite the large numbers of individuals charged, the illegality uncovered by Operation Clean Timber is just the tip of the iceberg. The UK think tank Chatham House (the Royal Institute of International Affairs) has estimated that over 50% of Brazil's tropical timber production was illegal in 2013, with trends indicating no improvement in the situation.²⁵

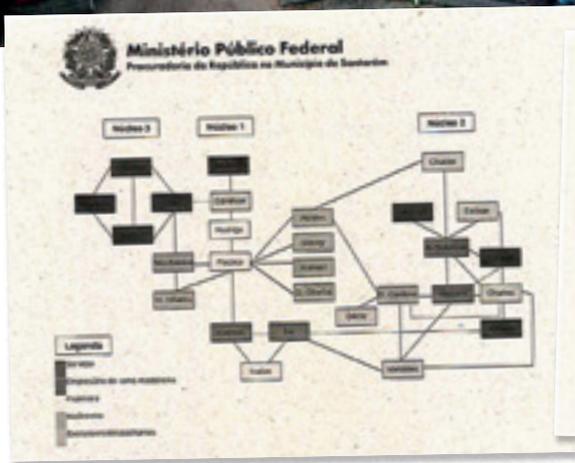
The MPF refers to the Brazilian timber trade as 'A market that generates millions in revenue annually by destroying federal property concentrated in protected forests, corrupting government agencies and distorting social policy for agrarian settlements, all of this in a predatory race to destroy socio-environmental property in exchange for unjust enrichment'.²⁶

The findings of Operation Clean Timber should serve as a very clear warning to importers in the USA and the European Union (EU), who are subject to legislation designed to combat illegal logging and support the trade in legally harvested timber. While in 2014 the USA represented an export market for Brazilian Amazon timber of approximately US\$160 million, the EU remains the most important destination for Brazilian Amazon timber exports. The value of exports to France alone amounted to almost US\$68 million in the same year.²⁷

Among the timber varieties imported by these countries are some of the most highly priced and valuable tropical hardwood species. Our investigations in Brazil found Madeireira Iller to be exporting large volumes of ipê (*Handroanthus* spp.), massaranduba (*Manilkara bidentata*) and angelim vermelho (*Dinizia excelsa*). In August 2015, the export price for sawn ipê timber was as high as US\$1,380/m³ while massaranduba sold for as much as US\$762/m³.²⁸ It is easy to see how lucrative illegal trade in these valuable hardwoods can be.



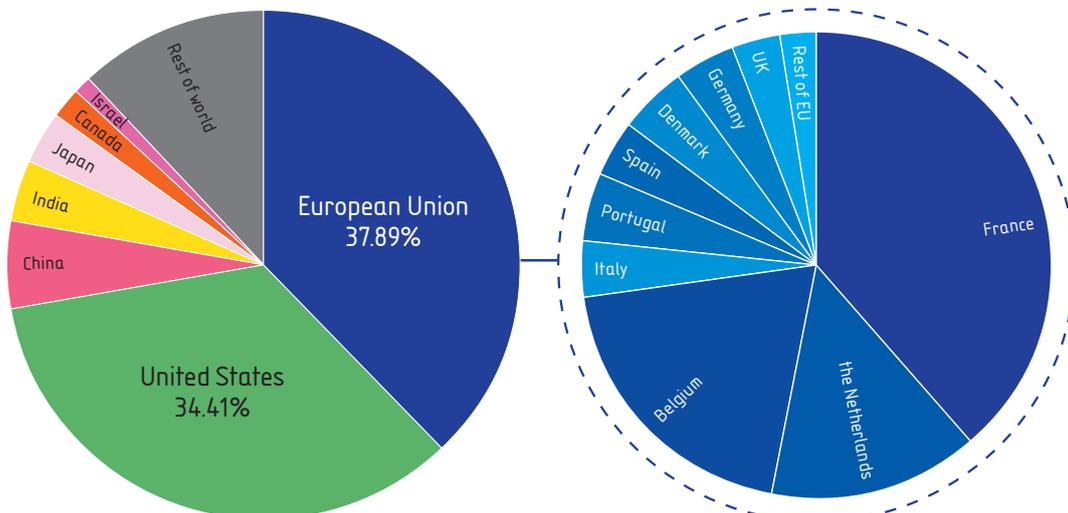
Above: Sawmill in the municipality of Uruará, Pará State. 28/03/2014
© Marizilda Cruppe/ Greenpeace



Left: Two pages from the Operation Clean Timber investigation report of the Federal Public Prosecutor, Santarém, Pará State

Far left: Diagram showing the web of connections that constituted the illegal timber trade network that Madeireira Iller's owners were part of, taken from the Operation Clean Timber investigation report of the Federal Public Prosecutor, Santarém, Pará

Brazilian Amazon timber exports by value 2014 (US\$)



Brazilian Ministry of Development, Industry and Trade (2015) Timber exports from the Brazilian Amazon, by value. www.aliceweb.desenvolvimento.gov.br

Madeira Iller's large-scale timber trade fraud



Madeira Iller's sawmill near Santarém, Pará State. 01/09/2014 © Otavio Almeida/ Greenpeace



Madeira Iller's sawmills and the AUTEFs (municipality of Prainha) obtained by Irio Orth and Everton Orth, Pará State



Madeira Iller's sawmill near Curuatinga, Pará State. 28/08/2014 © Otavio Almeida/ Greenpeace

Madeira Iller Ltda is a logging, milling and timber exporting company based in the municipality of Santarém in Pará. Its father and son owners, Irio Luiz Orth and Everton Douglas Orth, were arrested and detained during Operation Clean Timber. The company owns two sawmills, one near Curuatinga and the other on the outskirts of Santarém's urban area near the Curuá-Una highway. Madeira Iller holds logging authorisations (AUTEFs) covering two areas in the municipality of Prainha; these were not raided by the Federal Police on 24 August but were investigated by IBAMA following Operation Clean Timber.

The evidence compiled by the federal prosecutors details at length how the Orths worked with a 'papermaker' to generate false credits that they used to launder 25m³ of angelim vermelho and 30m³ of massaranduba timber on 6 May 2015. These shipments were seized by the Federal Police.³⁰

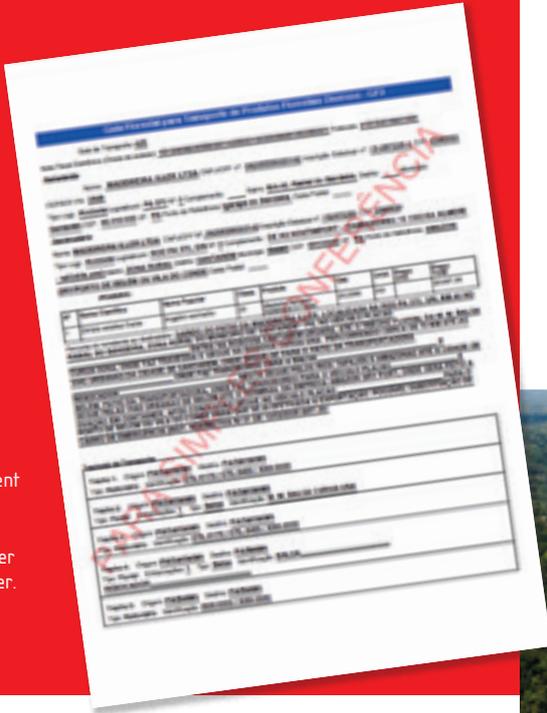
Next, between 11 and 13 May 2015, IBAMA inspectors found approximately 15m³ of ipê in the company's lumber yard in Santarém, ready to be shipped with fraudulent credits and transport documents.³¹ Finally, when IBAMA inspectors visited the lumber yard in Curuatinga on 4 August 2015, they found that the

company was storing at least 58m³ of sawn timber and 1,814m³ of logs without identification, and hence unlicensed by a competent environmental authority. The company received a notice to present documentation regarding the origin of this timber. When IBAMA inspectors returned on 11 August, accompanied by Military and Federal Police, the timber had been hurriedly marked in an attempt to cover up irregularities. On the same day, more than 770m³ of unlicensed sawn timber and 894m³ of unlicensed logs were found in camouflaged storage in the area surrounding the Curuatinga sawmill.³²

Operation Clean Timber exposed the scope and the scale of the criminal activities in which Madeira Iller was involved, but the company was certainly not a first-time offender. Publicly available data shows that it has been fined almost R\$1.9 million (approximately US\$500,000) by IBAMA over the past four years (although no details are given concerning the offences of which IBAMA found the company guilty).³³

What is more, in 2012, the Curuatinga sawmill, where IBAMA inspectors found unlicensed wood, was included in the Federal Labour and Employment Ministry's official list of businesses condemned for using slavery.³⁴

The Brazilian timber control system: out of control



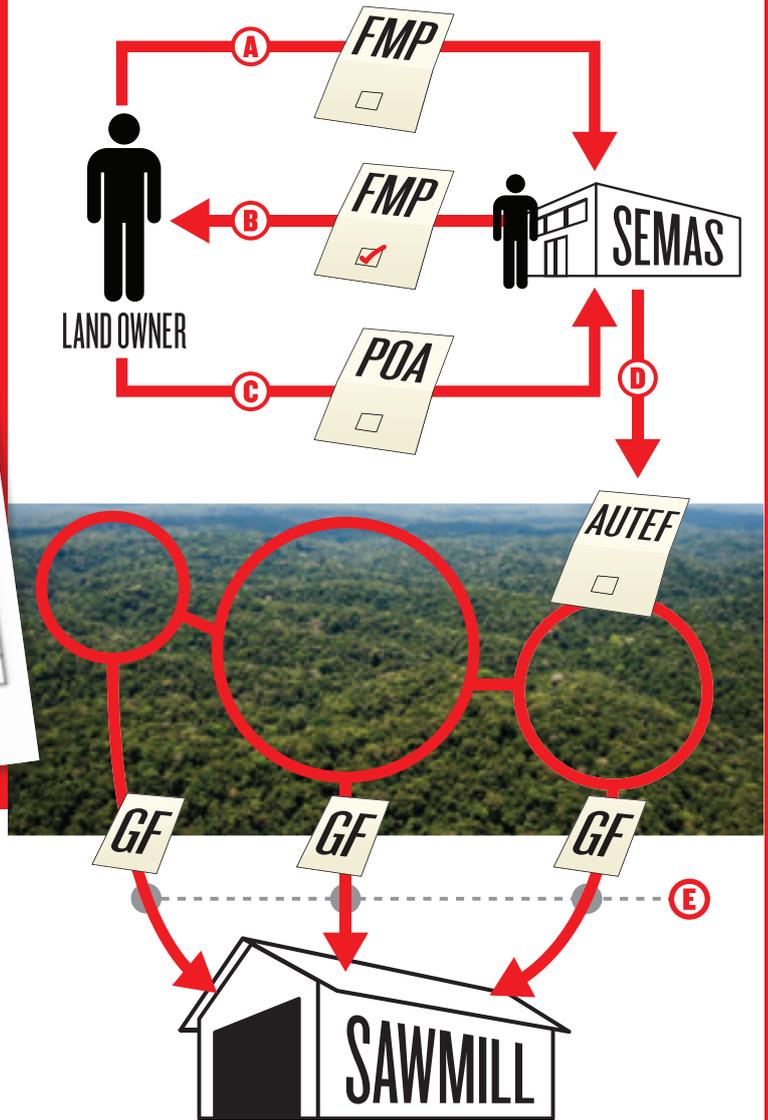
A transport document generated by the SISFLORA system accompanying timber from Madeira Ilter.

Timber in Brazil is normally harvested on the basis of an approved forest management plan (FMP), which establishes how forestry activities will be carried out in a particular area. The landowner or company proposing the FMP submits it to the authority responsible for timber regulation. In Pará this is the State Environmental and Sustainability Secretariat (SEMAS), which registers estates and issues licences, including for logging, on a computerised system called SIMLAM.

Once SEMAS has approved an FMP, or at the same time that the FMP is submitted if it is proposed to carry out all harvesting in a single year, the operator submits an annual plan (POA) for the forthcoming year's harvesting. This includes a forest inventory covering the portion of the FMP area to be logged that year and a detailed logging map showing the trees to be felled. If SEMAS approves the POA, it then issues via SIMLAM a logging authorisation (AUTEF), which contains among other things a definition of the area within which timber can be harvested.

This AUTEF generates an electronic quota (credits) in accordance with the quantity of timber authorised to be harvested. When timber transactions occur, a corresponding quantity of credits is (manually) transferred from SIMLAM onto SISFLORA, the forest product chain-of-custody system used in Pará. Credits are deducted from the vendor and credited to the recipient of the timber according to the volume specified in transport

The official AUTEF licensing system



documents (GFs); the latter are generated by SISFLORA every time timber moves between two stages of the chain of custody. In order to be legally traded, timber must be covered by credits, which are recorded in each GF issued.

However, since the information on which an AUTEF is based (such as the forest inventory) is provided by the FMP holder, its reliability is always open to question. For the system to be reliable the information submitted would need to be verified by SEMAS by means of on-the-ground spot checks before, during and after exploitation. In theory, all estates with a FMP specifying a total designated logging area in excess of 700ha must be inspected before an AUTEF can be granted.²⁹ With this exception, inspections are rare, falling far short of the frequency that would make them effective. Even those that are carried out do not always succeed in identifying fraud or illegalities that have taken place.

On the record

Since 2006, all timber transactions in Brazil must be recorded in an electronic chain-of-custody system. This records the buyer, the seller, how the timber was transported and how much has been sold. Most Brazilian states use the federal system, DOF, run by IBAMA. However, Pará and Mato Grosso elected to use their own system, SISFLORA, run by each state's SEMAS. Sales of timber recorded in SISFLORA must be accompanied by GF transport documents.

Any company involved in a potentially polluting activity must register with IBAMA's Federal Registry of Potentially Polluting Activities (CTF). Companies receive a unique registration number. Timber companies need this number to trade timber within the DOF system. A CTF number can be suspended when a company breaks the law; it is illegal to trade timber without a CTF number or with a suspended CTF number. *Madeireira Iller* had the CTF number for both its sawmills suspended by IBAMA on 21 July 2015.

Information about sanctions and penalties is supposed to be shared between DOF and SISFLORA. In this case, SISFLORA had duly noted the IBAMA injunction that prohibited *Madeireira Iller* from trading or processing timber. Anyone registered on the system could therefore easily have discovered that any timber purchased from *Madeireira Iller* after 21 July 2015 would have been illegal.

However, access to SISFLORA is available only to those registered on the system, such as sawmills, suppliers and exporters that need to use transport

documents. European importers, which do not generally have this level of direct access, should therefore explicitly request information about the status of their Brazilian supplier in the DOF and SISFLORA systems when executing their risk assessments. In the example detailed below (page 17) of the one European company that used information from the SISFLORA system in its risk assessment of *Madeireira Iller*, this proved a critical element, providing clear evidence of illegality.

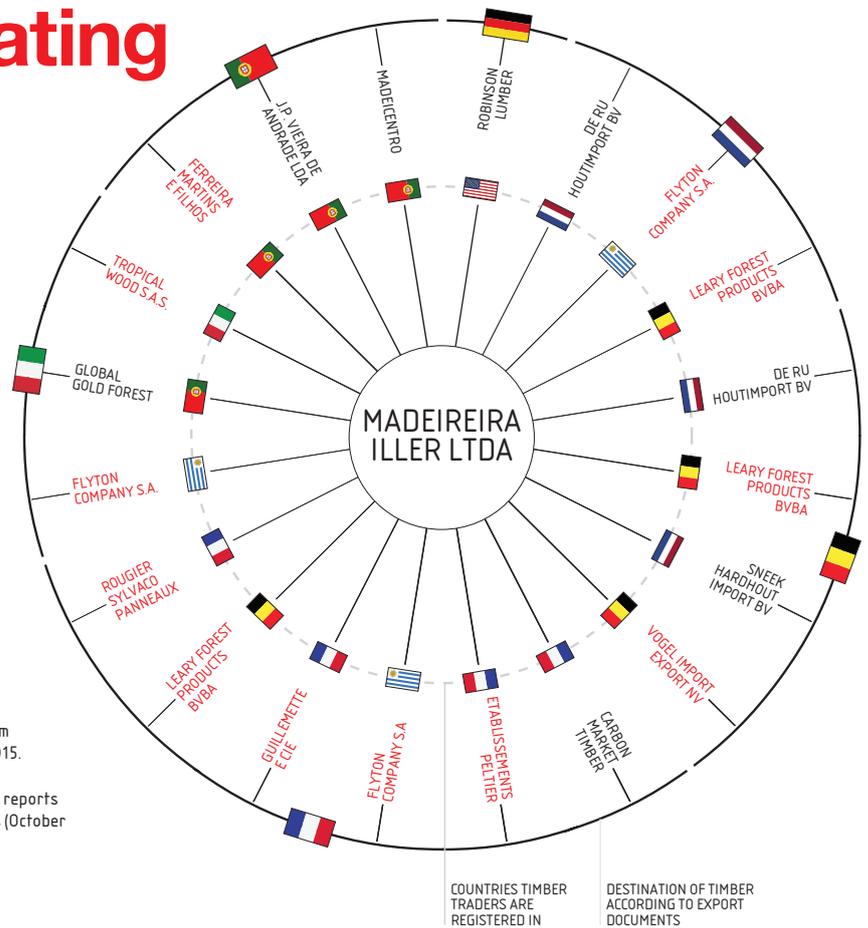
Nevertheless, the fact that the DOF system on the SISFLORA website does not mention that a CTF number is suspended should not be taken as a guarantee of the legal origin of timber. As pointed out above, such information should be shared between the two systems but in reality this often fails to occur. Moreover, sawmills and timber traders are not actually asked to prove that they have an active CTF number when trading timber using SISFLORA.

The examples given in Greenpeace's *Night Terrors* report clearly show the flaws of the Brazilian chain-of-custody system, which pose serious challenges to those considering buying Amazon timber. As detailed in *Silent Crisis*, these flaws result in there being no fewer than five different ways to launder Amazon timber³⁵ – in fact, the MPF charged *Madeireira Iller* with offences related to at least three of these practices. In view of the chain-of-custody system's inability to prevent such widespread illegality, importers should insist that the Brazilian government urgently implements an effective reform of the entire system.



Trucks loaded with timber seen from a car awaiting the repair of a ferry used to cross the Curuá-Una river near Santarém, Pará State. 27/03/2014 © Marizilda Cruppe/ Greenpeace

Contaminating the EU market



International clients purchasing timber directly from Madeira Iller between January and end of July 2015. Companies highlighted in red have previously had contaminated supply chains exposed in Greenpeace reports The Amazon's Silent Crisis (May 2014), Night Terrors (October 2014) and/or Licence to Launder (June 2015).

Over the last 18 months, the published results of Greenpeace's previous investigations into the rampant illegal logging in Pará state have repeatedly confronted importers with the realities of a flawed Brazilian regulatory and monitoring system that enables loggers and sawmills to launder and market illegal timber and that fails to provide traceability or credible assurance of legality.³⁴ Operation Clean Timber has only confirmed the gravity of the problem.

The EU Timber Regulation (EUTR), which became applicable across the EU in March 2013,³⁶ prohibits the placing of illegally harvested timber (and of timber products deriving from such timber) on the EU market. It also requires operators³⁷ to put in place and use a due diligence system in order to identify and mitigate the risk of this occurring. Some timber importers and trade associations,³⁸ as well as national authorities responsible for enforcing the EUTR, have started to take action in the course of the past year to stem the flow of illegal Brazilian timber. For example, recent inspection reports from the EUTR competent authority (CA) in the Netherlands clearly indicate that it no longer considers official documentation from Brazil sufficient to fulfil EUTR due diligence and risk mitigation obligations in the case of Amazon timber imports.³⁹ Similarly, Danish importer Cicon Timber A/S has publicly questioned the trustworthiness of Brazilian official paperwork in the context of an announcement that it would stop buying timber from Pará.⁴⁰

However, despite importers having been repeatedly confronted with the facts, including the legal and reputational risk to companies that continue to

purchase Brazilian Amazon timber under the present circumstances of endemic illegality, a number of them continue to ignore the evidence. There was sufficient information available before Operation Clean Timber made the headlines for importers to conclude that they could not rely on official documents alone to attest the legality of Madeira Iller's timber. The only effective risk mitigation measure concerning Madeira Iller was not to buy the company's timber. Importers that purchased timber from Madeira Iller up until July 2015 have contaminated the EU market with timber that is likely to be of illegal origin and called into question their compliance with EUTR due diligence obligations. In light of the information presented in this crime file, European CAs should urgently carry out checks to establish whether these companies have a due diligence system in place, and have used it effectively to comply with their obligations under the EUTR.

Moreover, the uninterrupted flow of high-risk timber from the Brazilian Amazon to the EU market also raises doubt as to the effectiveness of the EUTR inspection and enforcement actions carried out so far by European CAs. The European Commission (EC) should take these circumstances into account in its evaluation of EUTR implementation, which is due before 3 December 2015.⁴¹

As the following examples illustrate, effective enforcement of the EUTR is crucial to protect companies that take their obligations seriously from being put at a competitive disadvantage compared with companies that are more negligent or less compliant with the rules.

The Dutch Connection

Greenpeace's investigation has found that between January and the end of July 2015 two Dutch companies purchased sawn timber from Madeireira Iller, and that there is reason to believe that they did not adequately assess and/or mitigate the risks of illegality associated with the supplier. A third company was found to have purchased Madeireira Iller sawn timber under similar circumstances from early 2014.

One of these three companies, De Ru Houtimport B.V., bought timber which it introduced onto the EU market via the Netherlands itself, importing almost 60m³ of angelim vermelho.⁴³ However, the company also cleared around 37m³ of massaranduba with the Brazilian customs authorities, with Belgium as its destination.⁴⁴

The second company, Sneek Hardhout Import B.V., imported a total of 123m³ of massaranduba into Belgium, according to official Brazilian export documents.⁴⁵ Meanwhile the third company, LTL Woodproducts, sourced its Madeireira Iller timber through Belgian timber agent Leary Forest Products, purchasing over 100m³⁴⁶ of timber which includes massaranduba and angelim vermelho.

On 25 February 2015, the Netherlands Food and Consumer Product Safety Authority (NVWA), the Dutch CA, inspected De Ru Houtimport B.V. in connection with a batch of around 20m³ of angelim vermelho imported from an unknown source in Pará.⁴⁷ In his or her report, the NVWA inspector ascertained that the company had no due diligence system or risk mitigation measures in place and concluded with a warning to the company, requiring it to demonstrate that it had put adequate measures in place by the time of a follow-up inspection to be conducted six months later. The fact that De Ru Houtimport B.V. continued to buy timber from Madeireira Iller at least until the end of June 2015,⁴⁸ only two months before the date scheduled for the follow-up inspection, shows that the company was still not adequately assessing the risk of importing illegal timber. Information about the outcome of the NVWA's follow-up inspection is not publicly available, and De Ru Houtimport has not responded to a request from Greenpeace seeking clarification about the guarantees the company had been given by Madeireira Iller that the timber it purchased was of legal origin.⁴⁹

The dates in the NVWA's reports on the inspections carried out at Sneek Hardhout Import and its subsidiary Houthandel J. Sneek en Zoon B.V. (responsible for timber imports) are confusing, making it hard to understand when exactly an inspector visited the two companies' offices.⁵⁰ The NVWA carried out an inspection at Sneek Hardhout Import either on 30 May 2014 or on 28 May 2015. In any event, during this inspection visit, the company referred the inspector to Houthandel J. Sneek en

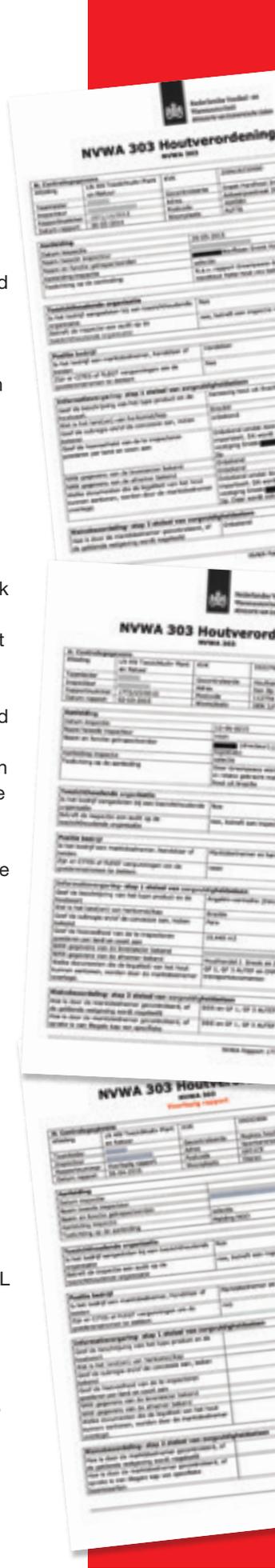
Zoon B.V. According to the inspection report, the NVWA visited this company on 16 February and 12 June 2015.⁵¹ The inspector checked on timber imported from Brazil, including around 18m³ of angelim vermelho from an unknown source in Pará, and found that, even though the company had judged the risk of buying illegal timber to be non-negligible, it had imported it without applying any risk mitigation measures. Sneek Hardhout Import received a warning from the NVWA on both occasions, although it is unclear which consignment of timber the first warning referred to. For at least four months after the first warning, Sneek Hardhout Import was still purchasing timber from Madeireira Iller,⁵² indicating that the company had not yet started to remedy the situation. When requested by Greenpeace to clarify what guarantees it had been given by Madeireira Iller that the timber it purchased was of legal origin, Sneek Hardhout Import responded that it would provide details, but it had not done so by the time the present crime file went to press.⁵³

Last but not least, LTL Woodproducts has also received a warning from the NVWA for not applying adequate risk mitigation measures to imports of Brazilian Amazon timber.⁵⁴ When contacted by Greenpeace with the same request as we made to the other two companies, LTL Woodproducts responded that the timber it imports from Brazil is compliant with its due diligence procedure and manual.⁵⁵ Its representative added that the sawmill it purchased from was visited by one of its timber purchasers in January 2015 and that this person did not encounter any irregularities. However, information obtained by Greenpeace leads us to suspect that the company did not even have documentation to prove the origin of all the timber it purchased from Madeireira Iller, thereby casting doubt on the efficacy of LTL's procedures.⁵⁶

In an email exchange with Greenpeace, LTL Woodproducts has admitted that 'Despite all the measures that we have taken it has become clear during the course of this year that it isn't always possible to rely on the correctness of the documents accompanying shipments from Brazil. LTL Woodproducts' purchasing policy has been adapted accordingly and we do not import any non-FSC certified timber from Brazil any longer.'⁵⁷

While this is encouraging news, LTL Woodproducts should have adopted a strong procurement policy years ago, at least as soon as the EUTR became applicable in March 2013. The announcement of a new policy does not exempt LTL Woodproducts from its responsibility for having placed Madeireira Iller's suspect timber on the market.

These examples not only indicate that a number of Dutch operators have been disregarding their obligations under the EUTR, but also show that the NVWA has not been carrying out its enforcement role effectively.



Above: Three pages from NVWA inspection reports provided by the Dutch Ministry of Economic Affairs following a Freedom of Information request by Greenpeace Netherlands.

EUTR enforcement in the Netherlands: The failure of the non-punitive approach

Greenpeace activists confront a cargo ship carrying Amazon timber from Rainbow Trading into the EU near the port of Rotterdam. 06/09/2014
© Bas Beentjes/Greenpeace



As described above, Greenpeace investigations show that several Dutch operators have recently continued to place high-risk timber on the EU market, despite receiving warnings from the NVWA. This raises many questions about the effectiveness of the Dutch authorities' non-punitive and lenient approach towards the timber trade sector.

The NVWA considers its role primarily as providing guidance to help the timber industry to comply with the EUTR. Even though some companies fail to comply with EUTR obligations, as the examples in this crime file clearly show, not one company has so far been sanctioned in the Netherlands. The NVWA merely issues written warnings to the offenders and gives them six months to comply with the law. This equates to a policy of impunity. Our investigations over the last two years have shown that during these six-month periods granted by the NVWA, several companies have continued to place high-risk timber on the European market.⁵⁸

In May 2014, Greenpeace Netherlands filed a substantiated concern⁵⁹ with the NVWA regarding 11 Dutch companies which it suspected of trading in high-risk timber from Pará state. Among these companies were Houthandel J. Sneek en Zoon B.V. and De Ru Houtimport B.V. Fourteen months later, after filing a Freedom of Information request with the Ministry of Economic Affairs on 30 January 2015, Greenpeace Netherlands received the inspection reports for these 11 companies. The conclusions that can be drawn from these reports are alarming:

The NVWA has approved a number of companies that do not carry out due diligence and/or do not implement adequate risk mitigation measures to prevent illegal timber entering their supply chain.⁶⁰

- As the examples above show, in all cases where the NVWA has detected infringements, it has merely issued warnings to the companies involved.

- Greenpeace research for the present crime file, as detailed above, raises concerns that some of these companies have continued to purchase timber carrying a high risk of illegality after they were inspected by the NVWA.⁶¹

In multiple cases, inspections were only carried out a long time after a substantiated concern was submitted to the NVWA. In three cases, the inspection did not follow until almost a year after our submission.⁶² In two other cases, the inspections had still not been completed at the time Greenpeace Netherlands received the inspection reports 14 months later.⁶³

In two cases, the NVWA responded with reports relating to inspections of timber from Indonesia, whereas the evidence submitted by Greenpeace concerned timber from Pará state, Brazil, which was not inspected.⁶⁴

Regrettably, there are still reasons to fear that approval by the NVWA gives no guarantee that the operator concerned is complying with its obligations under the EUTR. The NVWA inspectors' lack of experience of the EUTR, combined with their lenient approach towards the industry, creates a situation in which, despite a large number of inspections, high-risk and potentially illegal timber keeps entering the EU market via Dutch operators.

However, recent inspection reports show that the NVWA has informed Dutch operators that it no longer considers the mere collection of official documentation from Brazil sufficient to demonstrate compliance with EUTR due diligence and risk mitigation requirements. In a recent letter to Greenpeace, the NVWA stated that 'Since the EUTR came into force the inspections have become stricter regarding the mitigation measures companies should take. This explains the approval during earlier inspections'.⁶⁵

Now is the time for the NVWA to begin sanctioning companies that disregard their EUTR obligations.

Belgium's high-risk timber gateway into Europe



Greenpeace activists confront Belgian Environment Minister Marie-Christine Marghem with the lack of EUTR enforcement in their country, using part of a cargo of ipê purchased by Leary Forest Products from Rainbow Trading. 27/04/2015 © Philip Reynaers/ Greenpeace

Greenpeace's investigation has revealed that several Belgian companies have purchased timber from Madeireira Iller during the past year-and-a-half.⁶⁶ A number of these companies had also figured in previous Greenpeace investigations.

Belgian timber agent Leary Forest Products is one company that featured prominently in our investigation of international buyers of Madeireira Iller's timber, as it has in all our previous investigations since the first Silent Crisis report. Between January and mid-July 2015, the company was involved as agent in the importation of over 600m³ of sawn timber from Madeireira Iller.

According to official Brazilian export documents, this included 83m³ of massaranduba and around 19m³ of angelim vermelho to the Netherlands, around 21m³ of ipê to France, and over 307m³ of massaranduba, 105m³ of ipê and 23m³ of angelim vermelho to Belgium.⁶⁷ These volumes and the frequency of purchases strongly suggest that Leary Forest Products itself has done nothing to put adequate risk mitigation measures in place.

The company plays an important role in the process by which highly suspect timber from Brazil ends up on the European market. As an agent, Leary Forest Products helps European buyers find the species of Brazilian tropical hardwood that they are looking for, in

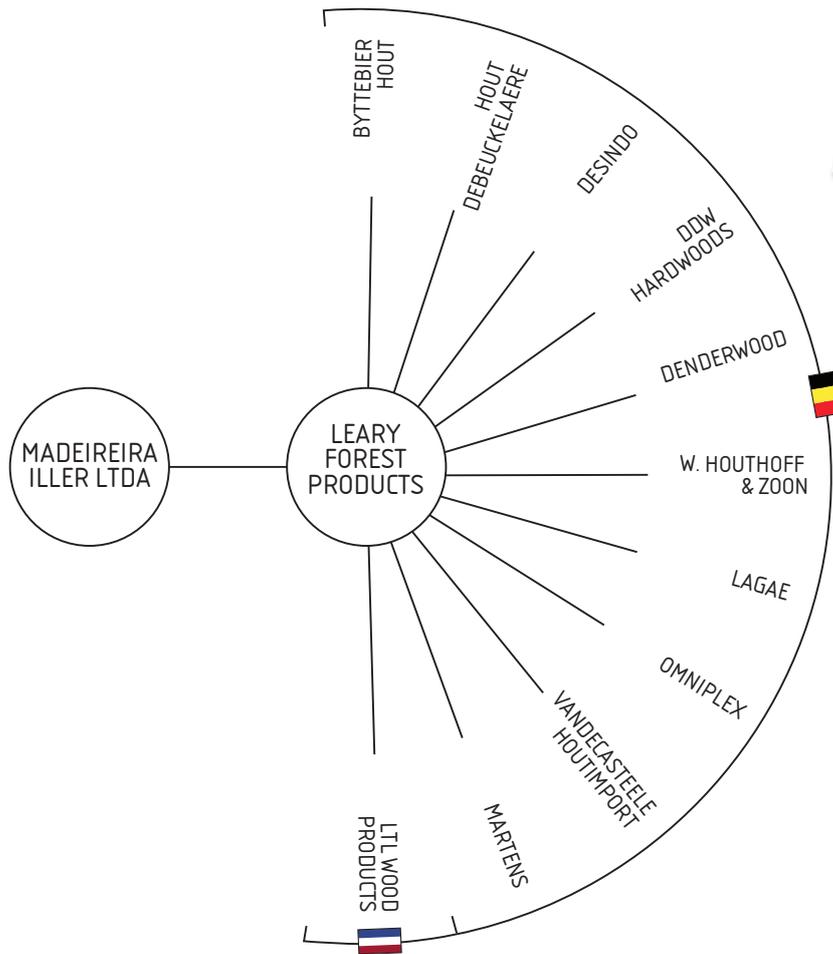
the quantities they want, for a good price. It also takes care of most of the official paperwork and procedures such as customs clearance.

As it does not itself physically trade timber,⁶⁸ under the EUTR, Leary Forest Products is not considered to be an operator liable for bringing timber onto the EU market. This means that European companies that have bought Madeireira Iller or other suspect timber through Leary Forest Products are not exempted from EUTR due diligence and risk mitigation obligations simply by reason of having used the agent to handle their purchases for them.

According to information obtained by Greenpeace,⁶⁹ the operators appearing in the diagram on page 15 purchased timber from Madeireira Iller sourced by Leary Forest Products in 2014 and 2015.

When contacted by Greenpeace⁷⁰ with a request to clarify what guarantees they had been given by Madeireira Iller or by Leary Forest Products that the timber they purchased was of legal origin, most of these companies did not respond. A representative of DDW Hardwoods and Denderwood informed Greenpeace that a 'more than thorough' due diligence procedure was carried out which confirmed that 'the imported products were EUTR compliant'. The representative added that since September

Operators who have placed timber from Madeireira Iller on the EU market during the past 12 months, using Leary Forest Products as their agent.



Official documentation accompanying timber from Madeireira Iller purchased by Leary Forest products.

2015, Madeireira Iller had been 'inactivated' in their list of suppliers following information published in Brazilian media about the Federal Police raids.⁷¹ A proper risk assessment should however have led both companies to refrain from buying Madeireira Iller's timber long before the investigation. Another company, W. Houthoff & Zoon, responded that 'the relevant documents were verified' and that it considered that it had fulfilled 'all agreements'.

Another Belgian company that our investigation has linked to Madeireira Iller is Vogel Import Export NV, which purchased directly from the supplier.⁷² When contacted by Greenpeace with a request to clarify what guarantees it had been given by Madeireira Iller that the timber it purchased was of legal origin, Vogel Import Export NV confirmed that it had purchased timber from the company in 2014.⁷³ However, Greenpeace's investigation exposed a purchase of 17m3 of massaranduba from Madeireira Iller in May 2015.⁷⁴

According to Vogel Import Export NV's representative, the documents accompanying the timber it purchased allowed traceability 'to the forest' and were subject to its due diligence procedures, which revealed no irregularities. This included investigating Madeireira Iller's infraction records

and checking that no trade embargoes had been imposed by the Brazilian authorities in 2014. Vogel Import Export NV also stated that it had suspended all purchases from Madeireira Iller following the news of the investigation by the Brazilian authorities. As with DDW Hardwoods and Denderwood, Vogel Import Export NV's due diligence system should have led the company to conclude long before the investigation that not buying Madeireira Iller's timber was the only appropriate risk mitigation measure.

Encouragingly, the company stressed that it has now started updating its due diligence system. For example, it claims with one exception to have stopped buying from suppliers in Santarém.

The complacent conclusions that these Belgian companies drew from their risk assessments appear in stark contrast with that of another European importer discussed below, which looked beyond the paperwork that it received from Madeireira Iller and decided not to take up the offer proposed by the supplier.

The Belgian CA should investigate the operators concerned and verify whether they have acted in compliance with their due diligence obligation when buying timber from Madeireira Iller.



An example of effective due diligence: excluding Madeireira Iller

AUTEF	SPECIE & GENUS	IPE (M3)	TOTAL M3	TOTAL Ha	PERCENTAGE (%)	M3/ha
20143/2014	Tabebuia serratifolia	7,728.90	39,554.79	1,406.13	19.54%	5.50

Calculation of the ipê density in one of Madeireira Iller's AUTEFs, used by a European timber importer in its EUTR risk assessment

The failure of some companies to conduct due diligence on Madeireira Iller's timber is in stark contrast with the actions of one European importer contacted by Greenpeace.⁷⁵ This company has been investing in improving its due diligence systems since the EUTR became applicable. It received an offer of sawn jatoba timber from Madeireira Iller on 1 May 2015 and an offer of massaranduba in June. As part of its due diligence procedures for information collection, risk assessment and risk mitigation, the company organised a site visit to Santarém on 24 June 2015, in order to meet with the owners of Madeireira Iller and produce a full report on its facilities and the products available. When it then received an offer of ipê decking from Madeireira Iller on 10 July 2015, its attention was attracted by the proposed price, which was well below the market price at that time.

In the meantime, the company's first-stage desktop audit failed to identify any apparent reason to avoid purchasing timber from Madeireira Iller. For example, the IBAMA website showed Madeireira Iller's status as clean, with no embargoes or irregularities. Nevertheless, the company continued its due diligence procedures (which had been modified in light of the information in *Licence to Launder*), in order to identify the origin of the ipê decking being offered. Two striking facts emerged.

First, the declared volume of ipê per hectare in the FMP area from which the timber was said to have been harvested was much higher than would be expected on the basis of observed levels for the region – just as Greenpeace had described in *Licence to Launder* in the case of Santa Efigênia.

Licence to Launder exposed fraudulent declaration of ipê volumes per hectare and population densities in logging estates as a popular means of laundering illegal timber through Brazil's official control systems, also pointing out that benchmark population data derived from scientific field surveys is publicly available. With this in mind, all timber importers should by now have started verifying the volumes or densities of ipê declared in the FMP areas from which the timber they buy is said to originate.

Second, the European importer used Madeireira Iller's company registration number (CNPJ) to verify its status in Pará's chain-of-custody system (SISFLORA) and noted that the permission which it needed to trade and transport timber via the Brazilian federal chain-of-custody system (DOF) had been suspended. This meant that Madeireira Iller was unable to continue its timber trade activities legally as long as the suspension remained in force.

Accordingly, the conclusion of the importer's risk assessment was that Madeireira Iller did not meet the requirements of its due diligence system.

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Demands

The Brazilian government must:

1. review all FMPs approved in the Amazon since 2006
2. implement existing rules for assessment and approval of FMPs and add technical criteria to assess them
3. implement a more robust, transparent and nationally standardised timber industry governance system, including monitoring and enforcement
4. review all sawmill licences and create a new regulatory system for their operation
5. strengthen state and federal environmental agencies by improving infrastructure and increasing funding for surveillance, monitoring and enforcement, and ensure that the penalties imposed on those convicted of forest crimes are carried out
6. prioritise development and implementation of an ambitious plan for effective community forest management
7. ensure that Amazon timber is produced legally and has not contributed to deforestation, forest degradation, biodiversity loss or negative social impacts

Companies buying timber and timber products must:

1. actively and publicly support reform of the Brazilian system of timber industry management and governance to ensure that timber from the Amazon is produced legally and has not contributed to deforestation, forest degradation, biodiversity loss, or negative social impacts. Until the Brazilian authorities will have implemented an effective reform of the system, given the chronic problems with the management and governance of the timber industry in the region, the legal origin of timber sourced from the Brazilian Amazon cannot be fully guaranteed
2. in the light of this, classify Brazilian Amazon timber as high risk and take Brazil's management and governance problems into account when seeking to comply with the EUTR due diligence obligation or other regulations or legislation to which they are subject
3. stop buying timber from the Brazilian Amazon unless their suppliers can provide credible assurances (to a standard of proof beyond current official documentation) that it is legally harvested, complies with relevant trade and customs legislation and has not contributed to deforestation, forest degradation, biodiversity loss, or negative social impacts
4. implement strong procurement policies to ensure that the timber they purchase is from legal sources and has not contributed to deforestation, forest degradation, biodiversity loss or negative social impacts

Authorities in timber importing countries must:

1. investigate the companies identified in this crime file as buying suspect Amazon timber and verify whether they have acted in compliance with the requirements of the legislation in place to combat illegal logging and support the trade in legally harvested timber
2. in the case of the EU, treat any company as having failed to meet its due diligence requirement under the EUTR if it cannot supply credible information demonstrating effective risk mitigation that goes beyond merely collecting official documentation, and sanction the company accordingly

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