

Importing timber from the Democratic Republic of Congo: A high-risk business for Europe

Case study II: The first confiscation of illegal timber under the EU Timber Regulation

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Illegal shipments of Wengé logs from the Congolese firm Bakri Bois Corporation (BBC) destined for two German operators were confiscated in November 2013 after German authorities established that official documents from Congo's Environment Ministry (MECNT) had been forged. The wood had been unloaded in April at Antwerp port on behalf of the Swiss-based company Bois d'Afrique Mondiale S.A.¹ (BAM). Alarmingly, BAM has yet to be held accountable for these actions and other batches of illegal BBC wood in the Czech Republic, Italy and in Antwerp port have not been confiscated.

The confiscation of the wood in Germany is the strongest example so far of the enforcement of the European Timber Regulation (EUTR)², an EU law that bans the trade of illegally-sourced timber, which took effect in March 2013. The move sends a strong message to loggers throughout the Congo Basin and importers in Europe that it is advisable to steer clear of suspect business. Corruption and illegal logging are widespread throughout the DRC, meaning trading timber from this country is a high-risk business.

Greenpeace is calling on the German government to submit its evidence to criminal prosecutors for further investigation.

Authorities should in particular take action to investigate BAM: not only did it sell illegal wood to EU-based companies but it also supplied allegedly fraudulent documents to the German government.

Confiscation in Germany

The German government says it took its precedent-setting decision following what it calls a breach of the ruling that prohibits illegal timber being placed on the European market.³ It bases the illegality of the wood on a fraudulent letter from the director of Congo's Ministry for Environment, Nature Conservation and Tourism (MECNT)⁴. The letter was actually supposed to confirm the legality of the wood after the German Competent Authority (CA) suspected the certificate of origin and phytosanitary document were fakes.

According to the government, the two shipments of confiscated Wengé logs were placed on the market by two firms: Holz-Schnettler Soest Import-Export GmbH (HSS) and Holz-Dreier⁵. Both have reportedly appealed the confiscation. A third shipment supplied by BAM is currently at the veneer factory of Danzer Group's unit in the Czech Republic, Danzer Bohemia Dýchárna, and has yet to be confiscated. According to the Czech Ministry of Agriculture⁶, this BBC shipment is owned by the German firm Furnierhandel Winsen GmbH.

In its announcement of the confiscation on November 8, the German Federal Ministry of Food, Agriculture and Consumer Protection stated: "This case illustrates that the legality of origin of wood from countries with high risk of corruption cannot be proven on the basis of official government documents alone."⁷ It said the confiscated wood will be publicly auctioned for the profit of the German State Treasury.

The authorities were warned in July by their Belgian counterparts that the BBC wood had been delivered to three clients of BAM and that there were concerns about its legality.⁸ The same month Greenpeace Germany informed the CA and the ministry about the BBC logs that had been found in the Czech Republic. The former told Greenpeace that Congolese wood at that point was not classified in the highest risk category.

At the beginning of August Greenpeace Germany discovered some of the logs stored at a sawmill in Gütersloh-Niehorst and filed a formal complaint with the CA of a violation of the EUTR by an, as then, unknown operator. "Operators" are the companies that first place the timber on the EU market.⁹

These warnings pre-empted official investigations. The CA blocked the wood at two timber companies because of the suspected failure to comply with the due diligence requirements of the EUTR. The move was undertaken on the grounds that there were inconsistencies in the phytosanitary document and the certificate of origin. Consequently, Congolese wood has been re-categorised as highest risk.

In emails dated November 18 and December 11, the CA explains to Greenpeace Germany that following this first investigation, BAM sent it two new documents that were again considered to be fake. This means that BAM is now not only suspected of selling illegal wood but also of being involved in fraud.

The confiscation took place under the jurisdiction of the German implementation law (HolzSig) regarding the EUTR. The HolzSig law was amended to include articles of the EUTR and came into force on July 11. Last minute changes, however, weakened the penalties imposed on operators caught dealing illegal wood^{10,11}. Only in exceptional cases will the placing of illegal timber on the market be seen as a criminal offence, in most cases it is viewed as an administrative offence.

Under the HolzSig, the CA is not required to hand the case over to a public prosecutor. With regards to the BBC case, it appears to have unilaterally adopted a lenient approach by not involving German prosecutors. This means the operator and other parties involved in the illegal trade are not exposed to investigation and prosecution for any criminal acts they might have committed. This is unacceptable. For Greenpeace, it is clear that the complexity and severity of the case requires a public prosecutor to investigate.

Swiss immunity?

In May 2013 Greenpeace Switzerland informed the country's State Secretariat for Economic Affairs (SECO) that the Swiss-based wood company BAM was involved in trading illegal wood. The body responded by saying that a legal framework conforming to the EUTR that prohibits the placement of illegal wood on the market does not yet exist in Switzerland.¹²

German authorities have not identified BAM as an operator or trader, which leaves it with no obligations under the EUTR. BAM is not held accountable at all, despite directly procuring the timber to later supply the EU market and a suspected attempt to mislead German authorities by submitting to them allegedly forged documents.

The German CA should request the assistance of Switzerland and refer the case to the prosecutor to take appropriate measures, such as to investigate whether BAM has committed any criminal offences in Germany. Belgium, Switzerland and Germany should collaborate to investigate and prosecute BAM for dealing in illegal timber.

BAM, a family-owned company based in Lucerne, Switzerland, is long active in the African timber trade. BAM's website claims: "We work with suppliers who respect sustainable forest management and follow the local requirements of legal harvesting (e.g. FSC, "Forest Management Plan"). In addition, our suppliers act in socially and ethically responsible way."¹³ In the case of the import of BBC timber, this is clearly false.

Central to the BBC case, BAM is a major trader of high-risk wood from the Congo Basin. But it is not the only non-EU based company that supplies high-risk African timber to the EU market: the Swiss-based Interholco is a key market player for Congo Basin wood, and Liechtenstein-based Norsudtimber Group (Neuholz) imports from the DRC's largest logging conglomerate.

The EUTR does not apply in Switzerland. The country's government told Greenpeace Switzerland during a stakeholder meeting in May 2013 that it is willing to adopt a similar type of legislation, but it will take three to five years. Interim measures are under discussion but given that the EUTR was originally adopted in 2010, this is a very slow response. The country must swiftly take interim measures to avoid becoming a black hole in the global effort against illegal logging and the crimes associated with it.

Due diligence and the organised chaos in DRC's logging sector

Illegal logging is rampant in all Congo Basin countries and elsewhere in Africa. Although the DRC logging sector is much smaller than those of Cameroon, the Republic of Congo, or Gabon, it is in a state of organised chaos. As a result all timber from the country is to be considered as high risk. Reports from the DRC's Independent Observer of Forestry Control have found that all investigated industrial logging companies are involved in illegal activity¹⁴. These findings are supported by fieldwork and reports from both local NGOs and international organisations including Greenpeace and Global Witness.

It is therefore extremely difficult – if not impossible – for European importers of Congolese wood to comply with the EUTR. However, ships carrying highly suspicious timber from the DRC continue to arrive on a routine basis in European ports, and companies continue to commercialise it.

A first suspected case of illegal Congolese wood on the EU market was brought to light by Greenpeace in March 2013 when Greenpeace Belgium discovered illegal exports of the threatened and CITES listed species *Afrormosia (Pericopsis elata)* from the Congolese company Tala Tina to two of Belgium's leading timber importers, Vandecasteele and Denderwood.¹⁵ Briefly blocked at Antwerp port, the wood was eventually released by Belgian authorities. This created a bad precedent for EUTR enforcement in Belgium, and highlighted the now broadly acknowledged risks associated with the green lane that has been provided for CITES-listed wood under the EUTR.

BBC's illegal concession contract

In a report of November 2012 approved by the DRC's Environment Ministry, the EU-funded Independent Observer of Forestry Control in DRC, Resource Extraction Monitoring (REM), called for the immediate cancellation of BBC's concession contract dated August 4, 2011.¹⁶ As of April 2, 2013 REM had "no news" of any pending legal action against the company.¹⁷

REM accused BBC of "having used fraud to mislead the State, in signing a concession contract for a logging title it did not legitimately possess,"¹⁸ namely Equateur-province GA (*Garantie d'Approvisionnement*) 045. This title had been held since 2003 by Société d'Exploitation Forestière et Construction SPRL (Soexforco), whose CEO, Jihad Abbas Bakri, is also the CEO of BBC and indeed the two companies share a headquarters.¹⁹ According to REM, Soexforco's attempt in December 2003 to transfer its logging title to BBC was never officially approved and, in reality, was nothing more than "a manoeuvre [...] to unload the company's liabilities [...]."²⁰

In addition to logging without a valid permit, BBC was also accused in the same report of applying fraudulent markings to wood, violation of a social investment contract, pollution, faulty records, logging Wengé wood without special authorisation, and non-payment of fees owed to the ministry for updating its allocation map.

In December 2011 BBC was granted a 25-year area-tax freeze: \$0.50 US dollars per hectare, a very low amount.²¹

On August 7, 2013, Greenpeace Africa, Global Witness and Congolese NGOs wrote to the Minister of Environment regarding BBC's illegal logging and contract. He replied saying he was in the process of setting up an "expert commission" to look into the matter.²² Five months later nothing had happened. During a meeting at the end of November, Greenpeace Africa asked the ministry's Secretary how the "expert commission" he was supposed to lead was progressing, but it appeared he had never even heard of it. This is just another example of how DRC's forestry's sector flatters to deceive when it comes to genuine reform.

Field mission to Bakri Bois Corporation logging area and timber ports

In June 2013 Greenpeace Africa took part in a field mission, supported by Global Witness and local NGOs, to BBC's logging area in Equateur province, as well as to its headquarters in Ingende. The team found evidence supporting the findings in the REM reports and that BBC is involved in logging using an illegal artisanal permit.

The interviews with people from Bowele and Bowulama villages echoed these findings. BBC has violated the social investment contract signed by Soexforco. People said they "didn't know which saint to pray to, to obtain what is rightfully theirs".

BBC has already logged out their areas and moved on. The unfulfilled social investment contract was in French, a language many local people struggle to read, and people say they felt intimidated when signing the contracts in the presence of police and local authorities, including the *administrateur de territoire*.

BBC personnel and equipment had also recently been used by the company Ets. Forest Pro SPRL²³ to log two illegal artisanal logging permits near Ilambasa.²⁴ The permits together cover 100 hectares and authorise the logging of 700 cubic metres of Wengé wood.

According to Congolese forest law, artisanal logging permits are issued exclusively to individuals, not companies. Furthermore, they cover only operations that involve no use of industrial equipment. They are also designed to supply the domestic market.

Logging of Wengé requires a special permit.²⁵ Illegal use of artisanal permits is a well-known tactic used by industrial logging companies to log out endangered species such as Wengé and circumvent a moratorium on allocation of industrial logging permits established in 2002.²⁶

Local residents of Ilambasa told us that no agreement had been signed, but that they had been promised \$5 per cubic metre, a very low value – albeit a common one – for a species with a mercurial value of around €295 per cubic metre.²⁷ However, the community had no idea how much wood had actually been logged.

Mr. Hassan, director of operations, claimed that BBC was planning to log 1,000 trees in 2013. REM's demand that the firm's contract be cancelled doesn't seem to have made the slightest difference to operations.

The industrial logging by Forest Pro has greatly degraded the forest area. The Greenpeace team saw numerous logging tracks as well as many abandoned logs. More than 2,000 cubic metres of logs were found, far in excess of the authorised 700 cubic metres.²⁸ The fact that the Forest Pro wood was located near BBC's river port at Ingende indicates that the company may also be involved in trading it, and it was eventually transported by a BBC vessel (*M/B Michael*) and unloaded in November 2013 at the Congo Futur port in Kinkole, near Kinshasa. Official port documents from Matadi show other batches of Forest Pro wood have already been exported.

Greenpeace Africa checked on the Forest Pro wood in Kinkole on December 15. From small barcodes from MECNT and SGS attached to the logs we could determine that the wood had been seized, although it is unclear to Greenpeace on what grounds and what the present status is. The seizure apparently occurred while workers were repainting the ends of logs with new codes.²⁹ This is a practice called "*redimensionnement*" and is done regularly in DRC's ports to "legalise" illegally logged timber.

The arrival of Bakri Bois Corporation wood in Antwerp

On April 24, 2013 the vessel *MV Chopin* unloaded hundreds of cubic metres of wood from the DRC at Antwerp harbour. The shipment included approximately 200 cubic metres of Wengé wood that appears to have originated in Equateur Province concession 004/11, operated by BBC³⁰. According to shipping documents the wood had been sold by Dijo la Grâce (a company then unknown to Greenpeace) to BAM.

On April 26, Greenpeace Belgium alerted the EUTR Competent Authority in Belgium and urged it to confiscate all of the Antwerp shipments, but received no answer. When the Belgian CA notified its German counterparts in July that three German operators had been identified for the BBC wood, customs officials blocked the rest of the timber.³¹

An article in *Der Spiegel* of 13 August 2013 reported: "The shipment has been released by Belgium authorities after checking all documents including extensive documentation on logging, said the firm [Holz-Schnettler Soest], that has been in the timber business for almost 100 years."³² In short, Belgian authorities allowed illegal timber that they themselves had described as "doubtful" to be placed on the market.³³

On September 10, 2013, the Belgian CA sent an email to Belgian civil servants in DRC³⁴ saying that Greenpeace had informed them about a cargo of timber suspected to be illegal. They said they had analysed the case and harboured "doubts" about the authenticity of the documents accompanying the wood. They said they expected better collaboration with the Congolese authorities, or else they may be forced to classify timber from the DRC in a higher risk category and that the matter would have to be escalated to the EU level – something they want to avoid.

In another email on November 7 the CA informed Greenpeace Belgium that it had asked the foreign affairs ministry to try and contact the relevant Congolese authorities, because its own efforts to do so had proved fruitless.

Illegal BBC wood at Danzer Bohemia Dýchárna in the Czech Republic for processing

On June 24, Greenpeace Czech Republic learned that a shipment of BBC wood had arrived at Danzer Bohemia Dýchárna, a veneer processing plant in Horní Pocaply, Czech Republic. The facility is a unit of the controversial Swiss-based Danzer Group³⁵, one of the world's largest producers of tropical veneer, as well as a prominent industrial logger in the Congo Basin and one of the main European importers of African wood.³⁶

Danzer publicly stated it did not buy or import the logs but was only processing the wood for a third party, and that the EUTR "makes the first importer into the European Union responsible for ensuring legality".³⁷

In April 2013 Global Witness and the European Center for Constitutional and Human Rights (ECCHR) filed a legal complaint in Germany against an official from the Danzer Group for aiding and abetting, through omission, grave human rights violations against Congolese villagers in May 2011.³⁸ On May 21, 2013, the Forest Stewardship Council (FSC) board decided to disassociate from the company, after an independent panel found it had indeed been involved in human rights violations in the DRC.³⁹

Although the Czech authorities were informed about the illegal wood on July 1, they have still not seized the wood. Following several Greenpeace complaints about this inaction, they finally carried out an inspection of the facility in October. The official finding was that Danzer Bohemia Dýchárna is not the operator or trader of the wood but only a "service provider"⁴⁰. A German company, Furnierhandel Winsen GmbH, actually owns the timber.⁴¹

Greenpeace was unclear if the due diligence controls were done properly and therefore asked the Czech Ministry of Agriculture several times for the inspection protocol details. Greenpeace urged it to seize the wood immediately as per the terms of the EUTR.

The authorities explained that they are unclear how to proceed with confiscation, because the operator is based in another country. However, the EUTR leaves no doubt that the CA must ensure illegal timber is not being placed or circulated within its territory. The nationality of the owner of the timber has no bearing on this duty. If it did, dealers in illegal timber could escape seizure by simply placing their wood on the market in EU member states where they are not based.

The EU Timber Regulation is immediately applicable

The EUTR came into effect and became applicable in its entirety throughout the EU on 3 March 2013. It prohibits the placing of illegally harvested timber on the EU market and requires operators to act according to due diligence standards to avoid illegal wood entering their supply chain.

National competent authorities may carry out checks when they are in possession of any relevant information that may pertain to violations of the law. This is unconditional, meaning it is not dependent on existing national regulations.

The enforcement of the EUTR through criminal and administrative sanctions does require the adoption of specific national provisions (based on the *nulla poena sine lege* principle). However, in absence of such provisions, other criminal legislation may be applicable, such as custom and fiscal law. These can lead to immediate seizure of timber.

This is relevant at present for the Italian authorities. The country was informed by Belgian customs of suspect BBC wood transported to Italy in July 2013⁴². At the time Italy still had not adopted the law to fully implement the EUTR. Greenpeace Italy wrote to the Italian Ministry of Agriculture and Forestry regarding the case on December 19, 2013. No formal response has been received, but informally the ministry said that it could do nothing more than take note of the companies involved. Quite simply, this failure to enforce the EUTR has no justification.

It is also important to note that Italian law requires public officials to report to prosecutors all facts and circumstances that may pertain to a violation of criminal law. The agents of the CA should have followed this obligation, as it cannot be ruled out that a company operating in Italy and importing illegal timber is committing a criminal infringement even if it is not directly linked to the EUTR.

Enforcement of the EUTR remains weak

The confiscation of BBC wood in Germany is both a step both forwards and backwards in the fight against illegal logging. It demonstrates that when fraudulent documents are in play, European CAs are willing to enforce the EUTR. Greenpeace supports the position taken by the German CA that official documents alone are not sufficient to demonstrate legality in countries with high levels of corruption.

This position also corresponds with provisions of the EUTR that do not offer operators the possibility to rely on certificates from public authorities (with the exception of CITES and FLEGT timber). If the Belgian authorities had taken that approach in the Tala Tina Afrormosia case they might have concluded to seize the wood.

On the other hand, the German authorities' acts of enforcement in the BBC case also raise several issues.

One major concern is the use of substantiated concerns in enforcement. The German CA was provided with detailed information demonstrating the illegality of the shipment of BBC wood and used this information as a trigger to start investigations. But it did not factor in the decision to confiscate the wood⁴³ or to enforce fully the due diligence obligation and the terms prohibition placing illegal wood on the market.

The authorities should have taken those substantiated concerns into account and should have: 1) identified the operator; 2) examined its due diligence system and evaluate its adequacy to identify, assess and mitigate the risks of illegality of the timber; and, having noted the inadequacy of the system, 3) seized the timber in order to avoid its presence in the supply chain.

Another concern is that the German government informed Greenpeace during a meeting of experts in Brussels on December 19 that the operators in the BBC case will not be charged for breach of due diligence. In their opinion the operators are already sanctioned, because of heavy financial losses related to the confiscation of the wood. The CA says it does not want to bring the case forward for criminal prosecution mainly because the law is new, deals with complex issues, and because the operators reportedly have a due diligence system in place.⁴⁴

Greenpeace denounces any leniency by the authorities towards German operators caught "red handed", as this risks undermining the EUTR and penalises the companies in Europe who are compliant with the legislation. It is worrying that other CAs tend to follow this enforcement strategy. The EUTR is, in effect, applicable and not subject to any kind of "phase in" period. It is clear that the operators acted without due diligence. Publicly available information shows the illegal nature of the BBC wood, meaning strong mitigation measures should have been taken by the operator, but inconsistent paperwork was relied upon instead. Operators who fail to act with due diligence must be sanctioned.

In addition, the German CA decided that illegal timber had been placed on the market and confiscated the timber based on fraudulent documents alone. Worrying in this context is the body's claim that it has no competence to check the legality of the timber based on Congolese legislation, a problem encountered by other CAs. Such a position fails to acknowledge that the EUTR empowers CAs to assess the timber's legality on the basis of the law of the country of origin. BAM and the Congolese authorities were given several opportunities to submit forged or otherwise invalid documents to the German CA, in an attempt to regularise the operator's position. Had they succeeded in their fraudulent activity, timber whose illegal origin was clear and easily detectable on the basis of publicly available information would have been placed in the internal market.

Greenpeace considers that, based on the conclusion of the investigation, the decision to auction the seized timber is appropriate. The money should not simply disappear into Germany's state coffers. It should benefit the forests and people of DRC and help reduce illegal activities in the forestry sector.

Finally, the weak enforcement by the Belgian, Italian and Czech authorities is unacceptable. Belgium cleared the timber even though it doubted its legality. Its first response was not incisive. The wood could have easily disappeared before enforcement action was taken. Czech and Italian authorities, meanwhile, simply refused to take action as stipulated under the EUTR.

What needs to be done?

In DRC:

- Individuals at MECNT responsible for alleged fraud should be investigated and prosecuted.
- The BBC's concession contract should be cancelled – as requested by the Independent Observer of Forestry Control more than a year ago.
- The commission of experts should be put into place, to start investigating and resolving other allegations of illegal logging by BBC.

In Germany:

- The German CA should sanction the German operators for their failure to comply with the obligation of due diligence under the EUTR in addition to their violation of conditions prohibiting the placement of illegal timber. All evidence that has been collected should be submitted to the prosecutor for further investigations.
- Substantiated concerns provided by third parties such as Greenpeace and the Independent Observer of Forestry Control should be taken into account in the assessment of the operator's compliance with the law.
- Criminal investigation and prosecution should take place regarding BAM's alleged misleading of German state officials. German authorities should request the assistance of Switzerland in this case.
- It should be made sure that funds from the auction of the illegal wood benefits the people and forests of the DRC through projects such as independent forest monitoring.

In the rest of Europe:

- The role of BAM in the BBC wood affair should be investigated. Criminal offences associated with illegal timber trade need to be prosecuted. Switzerland, Belgium (where the deal took place) and Germany should collaborate and identify where and how.
- The other shipments of BBC wood in the Czech Republic, Italy and Belgium should be confiscated immediately.
- The European Commission and Council should guarantee that the EUTR is enforced fully, correctly, and uniformly across the 28 member states. This should include a solid and consistent approach dealing with substantiated concerns raised by third parties and the role of Independent Forest Monitor reports.
- Wood from countries with bad law enforcement, weak forest governance and high rates of corruption such as the DRC should be placed in the highest risk category in the risk-based control systems from Competent Authorities and immediately trigger rigorous controls when brought onto the EU market.
- EU member states, such as Italy, which have not yet done so should immediately adopt specific national provisions, including a dissuasive regime of administrative penalties and criminal sanctions for the enforcement of the EUTR. Political will, capacity, and resources for enforcement should increase dramatically for the legislation to have any real impact. Cross-border coordination and cooperation in the EU and at international level should be increased to enhance enforcement of the EUTR and to prevent illegal timber trafficking.
- Switzerland should swiftly adopt EUTR-type legislation. In the meantime it should work out interim measures and appoint an interim CA that is tasked to collaborate with EU counterparts.

Companies in Europe:

- Companies doing business with Congo Basin countries and other countries with high levels of corruption should follow Germany's advice to not solely use government documents as proof of legality.
- Stop buying timber from BAM.

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1 <http://bam-timber.com/contact>
2 Regulation (EU) No 995/2010 of the European Parliament and of the Council of October 20, 2010, laying down the obligations of operators
3 who place timber and timber products on the market
4 German Federal Ministry of Food, Agriculture and Consumer protection, presentation at EU expert meeting, December 19, 2013, Brussels.
5 "Ein [...] Schreiben des kongolesischen Ministerium für Umwelt, Naturschutz und Tourismus, dass die Legalität des Holzes bescheinigen
6 sollte, stellte sich als Fälschung heraus. Damit ist von einer illegalen Herkunft des Wenge-Holzstämme auszugehen [...]", Federal Ministry
7 email, November 8, 2013, "Erster Fall von Beschlagnahmung nach dem Holzhandels-Sicherungs-Gesetz"
8 German Federal Ministry of Food, Agriculture and Consumer protection, presentation at EU expert meeting, December 19, 2013, Brussels.
9 "The tropical timber was delivered by a German company Furnierhandel Winsen GmbH, Wisen/Luhe/Germany that claims to be the owner
10 of this timber." English translation. Letter from Czech Ministry of Agriculture, December 20, 2013, to Greenpeace Czech Republic
11 "Der Fall zeigt, dass der Nachweis der legalen Holzherkunft aus Ländern mit hohem Korruptionsrisiko allein mit staatlichen Dokumenten
12 nicht erbracht werden kann." Federal Ministry email, November 8, 2013. "Erster Fall von Beschlagnahmung nach dem Holzhandels-
13 Sicherungs-Gesetz."
14 "Following information from Greenpeace we have deeply examined a sending of Wengé arrived in April in BE. [...] Therefore we have
15 concerns regarding the legality/origin of this timber." Documents obtained by Greenpeace Belgium through an access to information
16 request: Email July 29, 2013, Belgium competent authorities to German counterpart.
17 The "Guidance document for the EU Timber Regulation" further clarifies what "operator" and "placing on the market" means.
18 <http://ec.europa.eu/environment/forests/pdf/Final%20Guidance%20document.pdf>
19 "Holzhandels-Sicherungs-Gesetz (HolzSiG): Kritik an der vom Bundestag beschlossenen Änderung in der Fassung des Änderungsantrages
20 der Fraktionen von CDU/CSU und FDP", February 25, 2013, Legal advice from Rechtsanwälte Günther
21 "Holzhandels-Sicherungs-Gesetz (HolzSiG). Kurze Ergänzung zu der Rechtsexpertise vom 25.02.2013", March 15, 2013 from
22 Rechtsanwälte Günther
23 Email from State Secretariat for Economic Affairs SECO to Greenpeace, May 27, 2013: "Als Nicht-EU-Land kann die EUTR als solche nicht
24 direkt in der Schweiz implementiert werden. Eine gute Einbindung der Schweiz in das EUTR scheint indessen im Interesse aller zu sein,"
25 and "Die Schweiz kann aufgrund der aktuellen rechtlichen Basis die Inverkehrsetzung von illegalem Holz (im Sinne der EUTR-Definition)
26 nicht verbieten. Es muss aber die Herkunft des Holzes deklariert werden (Deklarationspflichtverordnung)"
27 <http://bam-timber.com/fscenvironment>
28 Field mission reports and analysis from Resource Extraction Monitoring: <http://www.observation-rdc.info/Rapports.html#7>
29 Greenpeace Belgium, "Import of timber from the DRC: high risk business for Europe. A case study in the port of Antwerp: the blocking,
30 investigation and subsequent release of illegal Afrosmosia wood for Belgian timber traders", June 13, 2013
31 Rapport de mission de terrain n°4, Resource Extraction Monitoring (REM).
32 http://www.observationrdc.info/documents/Rapport_REM_004_OIFLEG_RDC.pdf
33 http://www.observation-rdc.info/documents/2013_Suivi_OI_REM_CD_L.pdf, p.20
34 Rapport de mission de terrain n°4, op cit, p25. ("[...] pour avoir usé de manoeuvres dolosives en vue de tromper l'Etat, en signant un contrat
35 de concession sur un titre forestier dont elle n'était pas régulièrement détentrice") See also p18: "[...] toute l'activité menée par BBC est de
36 facto illégale car cette société exploite avec un contrat de concession qu'elle a obtenu en violation des procédures légales."
37 Ibid. ("[...] ces deux entreprises sont logées à la même adresse (732, 8° rue Limete Kinshasa) [et] ont le même dirigeant à leur tête (M
38 JIHAD ABBAS BAKRI). [...] Le fait que SOEXFORCO et BBC appartiennent au même propriétaire ne change en rien le fait que ces deux
39 sociétés sont bien distinctes. Le numéro d'enregistrement au Registre de commerce de BBC est le 288 lors de la signature de l'avenant [au
40 contrat] du 4 août 2011 et le 19760 dans le contrat de concession du 4 août 2011.")
41 Ibid, p17-18. ("[...] le transfert de SOEXFORCO à BBC en 2003 don[t] confirmation a été demandé[e] en 2011 n'est pas effectif car il n'a
42 pas été concrétisé"; "Ces observations indiquent une manoeuvre par les dirigeants de la SOEXFORCO pour se débarrasser du passif de la
43 société tout en capitalisant sur son actif à travers un transfert non conforme à la société BBC, dont les dirigeants sont les mêmes.")
44 Avenant n°1 au contrat de concession forestière n°004/11 du 04 août 2011, December 13, 2011.
45 http://mecnt.cd/images/DOWN/av_bakribois_ingende%20045.04.pdf.
46 Letter from the minister of MECNT, August 16, 2013, in response to the Greenpeace, Global Witness, GASHE, RRN letter, August 7, 2013.
47 Interview Mr. Hassan, director operations BBC on June 1, 2013, in Ingende, Equateur province, DRC
48 2010/007/CAB/PROGOU/EQ/MINIPRO/PECI-CRI/RMM/2012 issued July 31, 2012, and 2010/006/CAB/PROGOU/EQ/MINIPRO/PECI-
49 CRI/RMM/2012 issued July 31, 2012
50 See also "The art of logging industrially in the Congo", 2012, Global Witness, on page 4: "2. permit confusion: artisanal permits vs. special
51 permits" and see MECNT Ministerial Order 035 Articles 12 and 13 that determine that the harvesting of protected species can be authorised
52 through the issuance of special permits. They are to be issued by the Secretary General of MECNT, whereas the artisanal permits are to be
53 signed by the provincial governor.
54 Cut it Out : Illegal logging in the Democratic Republic of Congo, Greenpeace Africa, March 2013; and The art of logging industrially in the
55 Congo, 2012, Global Witness; and Note de briefing. DERIVES DE L'EXPLOITATION FORESTIERE ARTISANALE EN RDC, December
56 2012, Resource Extraction Monitoring.
57 Value of the wood per cubic metre established by the government and used for calculating export taxes.
58 http://www.observation-rdc.info/documents/REM_OIFLEG_2013_taxes_DRC.pdf p8
59 Marked 010 CAB 014 EQ 12 and B.P.
60 FPRO 010/CAB/014/EQ/2012 and the possible client "AA"
61 http://mecnt.cd/index.php?option=com_content&view=article&id=271:un-nouveau-cap-franchi-dans-lamelioration-de-lagouvernance-forestiere-en-rdc-avec-la-signature-des-premiers-contrats-de-concessionforestiere&catid=30:foret&Itemid=300057
62 Documents obtained by Greenpeace Belgium through an access to information request: email July 29 from Belgium competent authorities
63 to German counterpart.
64 "Die Ladung sei von den belgischen Behörden freigegeben worden, man habe alle Dokumente geprüft, inklusive einer umfangreichen
65 Dokumentation der Fällarbeiten, teilte die Firma mit, die seit fast 100 Jahren mit Holz handelt. "Der Spiegel, « Milliardengeschäft: So kommt
66 illegales Tropenholz nach Deutschland", August 13, 2013.
67 Email Belgian CA to Greenpeace Belgium dated August 7, 2013
68 The addressee is deleted in the documents Greenpeace Belgium acquired through a Freedom of Information request. It is most probably
69 the Belgian Embassy in Kinshasa.
70 http://www.danzer.com/Veneer.2490.0.html?&no_cache=1&L=1%25255C%252522%2525252%2520%2520 and
71 http://de.wikipedia.org/wiki/Danzer_Group

³⁶ http://www.danzer.com/Veneer.2490.0.html?&no_cache=1&L=1%25255C%252522%2525252%2520%2520 and
http://de.wikipedia.org/wiki/Danzer_Group
Veneer is used for furniture, cupboards and other wood surfacing. Danzer Bohemia also produces Vinterio veneer products, which have
selling agents all over the world.

³⁷ “Danzer does not buy or sell illegal timber”, press release July 1, 2013, Baar, Switzerland

³⁸ <http://www.ecchr.de/index.php/danzer-en.html>

³⁹ <https://ic.fsc.org/siforco-drc> and <http://www.greenpeace.org/international/en/news/Blogs/makingwaves/danzer-feels-the-bite-asfsc-show-its-teeth/blog/45230/>

⁴⁰ File number: 35VD17870/2013-16222 and reference number :44424/2013-MZE-16222

⁴¹ Letter Czech Agriculture Ministry to Greenpeace Czech Republic, December 20, 2013

⁴² Email Belgium customs to Greenpeace Belgium, November 28, 2013.

⁴³ *“The concerns you have submitted, such as raised in the REM reports, about the legality of the concession contract and possible contract violations by the Congolese firm BBC, did not play any decisive role in our decision. Both the BLE as well as the German judicial system lack the competence to judge these allegations.”* Email German CA to Greenpeace Germany, November 18, “Wenge-Holz aus DRC”.

⁴⁴ *“Ein Ordnungswidrigkeitenverfahren wollen wir nach jetzigem Stand nicht einleiten. Wie Sie wissen, handelt es sich um eine neue und komplexe Materie. Die Marktteilnehmer haben ein Sorgfaltspflichtsystem angewandt [...]”*. Bundesanstalt für Landwirtschaft und Ernährung, email December 11, 2013, to Greenpeace Germany.