

GREENPEACE

BLOOD- STAINED TIMBER



**RURAL VIOLENCE AND THE
THEFT OF AMAZON TIMBER**



AN EVERYDAY SCENE OF HORROR

On 19 April 2017, as families were relaxing at home, four men armed with knives, machetes, revolvers and large-calibre rifles drove onto Linha (small dirt road) 15 in the district of Taquaruçu do Norte, a rural area of Colniza municipality in Brazil's Mato Grosso State, with a straightforward goal: to kill as many people as possible, so as to terrorise the local population and drive them away. The extermination group, known as 'The Hooded Ones', attacked communities across a ten-kilometre stretch of the road, torturing villagers and murdering nine of them: Francisco Chaves da Silva, Edson Alves Antunes, Izaul Brito dos Santos, Alto Aparecido Carlini, Sebastião Ferreira de Souza, Fábio Rodrigues dos Santos, Samuel Antônio da Cunha, Ezequias Santos de Oliveira and Valmir Rangel do Nascimento. Some of the victims were found with their hands tied behind their backs and machete wounds across their bodies.¹

This horrifying scene may seem like something from a crime thriller, but what happened was all too real, and moreover this was not an isolated case. Such brutal violence is a feature of the everyday lives of rural communities in Brazil, especially in the Amazon, where violent conflicts over land are a frequent occurrence, driven both by illegal loggers and by land grabbers who clear the forest illegally to grow crops or pasture cattle.

According to a report by the Justice Department of Mato Grosso State (*Ministério Público do Estado de Mato Grosso*, MPE-MT),² the 'Colniza massacre', as the case has become known, was motivated by loggers' greed for the timber resources of the district of Taquaruçu do Norte, which include high-value species such as ipê, jatobá, and massaranduba, widely used in the manufacture of furniture and garden decking.

The first reports of conflict related to illegal logging in the district of Taquaruçu do Norte date back to 2007, when, according to the MPE-MT,³ 'on 23 May [...] the police was assigned to the special task of assisting ongoing investigations into murders and attempted murders that were putting the municipality of Colniza at the top of the national ranking of

violence. [...] On 28 August the police launched an operation codenamed "Ouroverde" ["Green Gold"] in the course of which we were able to arrest the main perpetrators of the crimes in question.'

In 2014 the same district was the scene of the double murder of Alfredo Teixeira Mendes Filho and Delmar Telek – about which, according to the MPE-MT report, the people of the district are still unwilling to talk – along with the burning of houses and the kidnapping of Abenis Pedro de Lima. These crimes remain unsolved, with no suspect having even been charged as of November 2017.

It was in the same year that Valmir Rangel, one of the victims of the Colniza massacre, first told the police that he 'feared for his life' and that hooded men were terrorising the local population. Threats continued, with reports in 2016 of family evictions, land-grabbing, forest fires, illegal logging and deforestation, and trading of illegal timber.⁴

The Colniza massacre made headlines in the national and international media, and the man accused of ordering the murders, Valdelir João de Souza, sawmill owner and timber exporter, is currently on the run from the police. He has been charged by the state attorney with ordering the violence and murders in Colniza in order to ensure that loggers could gain access to the forest area where the small farmers lived, so as to harvest valuable timber tree species.⁵ Among those also indicted by the MPE-MT for the Colniza massacre are four individuals accused of having been hired as gunmen by Valdelir João de Souza to kick out the residents from the area.⁶

Nevertheless, de Souza's timber milling and export operations continue unimpeded, as witnessed by Greenpeace during a July 2017 field expedition to the nearby town of Machadinho d'Oeste, the findings from which are available online.⁷ Day in, day out, de Souza's company *Madeira Cedroarana*⁸ is processing timber to be sold on national and international markets.

1 Ministério Público do Estado de Mato Grosso, (2017) case number 1629-12.2017.811.0105, Code 78767, retrieved from <http://servicos.tjmt.jus.br/Processos/Comarcas/dadosProcesso.aspx>
2 Ministério Público do Estado de Mato Grosso, (2017) case number 1629-12.2017.811.0105, Code 78767, retrieved from <http://servicos.tjmt.jus.br/Processos/Comarcas/dadosProcesso.aspx>
3 Ministério Público do Estado de Mato Grosso, (2017) case number 1629-12.2017.811.0105, Code 78767, retrieved from <http://servicos.tjmt.jus.br/Processos/Comarcas/dadosProcesso.aspx>
4 Morais, H. (2017) Com 21 mortes em conflitos agrários em 2016, RO fica em 1º no ranking de violência no campo, G1 Globo, retrieved from <https://goo.gl/oTzdMa>
5 Ministério Público do Estado de Mato Grosso, (2017) case number 1629-12.2017.811.0105, Code 78767, retrieved from <http://servicos.tjmt.jus.br/Processos/Comarcas/dadosProcesso.aspx>
6 Ministério Público do Estado de Mato Grosso, (2017) case number 1629-12.2017.811.0105, Code 78767, retrieved from <http://servicos.tjmt.jus.br/Processos/Comarcas/dadosProcesso.aspx>
7 According to shipment data from Panjiva, which tracks companies involved in global trade.
8 Indústria Comércio e Exportação de Madeiras Cedroarana Ltda.



RONDÔNIA, DEFORESTATION AND LOGGING INDUSTRY VIOLENCE



With approximately 31,000 inhabitants, the municipality of Machadinho d'Oeste is located in Rondônia State, on the border with Mato Grosso and at the western edge of the so-called 'Arc of Deforestation', a frontier of deforestation that extends across the Amazon region from the north of Maranhão State to Acre State. Timber industry encroachment and land-grabbing are putting pressure on the state's forests and leaving rural populations at risk of dispossession, violence and even death. There are many accounts of intimidation and of brutal murders and attempted murders.⁹

An Extractive Reserve, as defined by Law No. 9,985, of 18 July 2000, Article 18, is an area used by traditional populations whose subsistence is based on extraction of products from the forest as well as on subsistence agriculture. Its basic objectives are to protect the livelihoods and culture of these populations, and to ensure the sustainable use of natural resources.

Machadinho d'Oeste is 160 km from Colniza, and the municipality encompasses 16 of the 19 Extractive Reserves (Reservas Extrativistas) of Rondônia State. These protected areas, intended to preserve part of the state's native primary forest and protect its traditional inhabitants, have been targeted by criminal groups who have threatened people and driven them from their homes.

According to the MPE-MT report mentioned above,¹⁰ de Souza is known as one of the most important figures in the timber industry in Machadinho d'Oeste.

"Here we have everything we need to live. The forest provides açai and Brazil nuts and the forest communities and social movements are responsible for keeping it alive. But some people are giving up, going away, tired of fighting, afraid of being threatened and killed", says Antônio Fernandes, a resident of the Castanheira Extractive Reserve, located in Machadinho d'Oeste.¹¹

Antônio's daily life has been marked by threats and unexpected encounters with illegal loggers. Until recently, he earned his living harvesting latex from rubber trees – there

are more than 1,500 active rubber trees on the harvesting route he used to follow within the extractive reserve. But in the last two years, entering the forest alone has meant risking a potentially fatal attack on his way to the rubber trees. Now he can't access the forest anymore, and must turn to other sources of sustenance, such as pepper planting and acai collection, which has had a huge impact on his income.

Giselda Pereira Ramos Pilker is a resident of the Massaranduba Extractive Reserve located in Machadinho d'Oeste, and like him she is constantly receiving threats – indeed, such threats affect the routine of all who depend on the forest. "The bad guy always wins. While they're free, we're like prisoners. We become hostages to fear and violence", she laments. Despite the risk, Giselda continues to denounce illegal logging and deforestation in the extractive reserve, knowing that many are depending on her resistance to help keep the forest alive. "I'm proud to take care of the forest. I know it is not mine. I know it belongs to a much greater good, that of billions of people. And I will fight with all my might until someone listens to me."¹²

In the case of the missionary Elizeu Alves, the loggers not only threatened him – they attempted to murder him, but he survived. Elizeu was shot while riding a motorcycle in the city. "I still have the backpack I was using that day with three bullet holes", he says.¹³

According to data from the Pastoral Land Commission (Comissão Pastoral da Terra – CPT), in 2016, for the third year running, Rondônia was the state with the largest number of murders related to land conflicts in rural areas, with 34% of the national total (21 out of 61 recorded).¹⁴

Rondônia CPT coordinator Maria Petrolina Neto says¹⁵ that of the approximately 46 rural murders recorded in the state between 2014 and 2016, only one went to trial. 'Impunity prevails in Rondônia, where we see criminal organisations moving around unchallenged from one place to another, promoting violence not only here, but in other states as well', she adds. According to the aforementioned report¹⁶ by the MPE-MT, four of the five suspects in the Colniza massacre, including Valdelir João de Souza, are residents of Rondônia State.

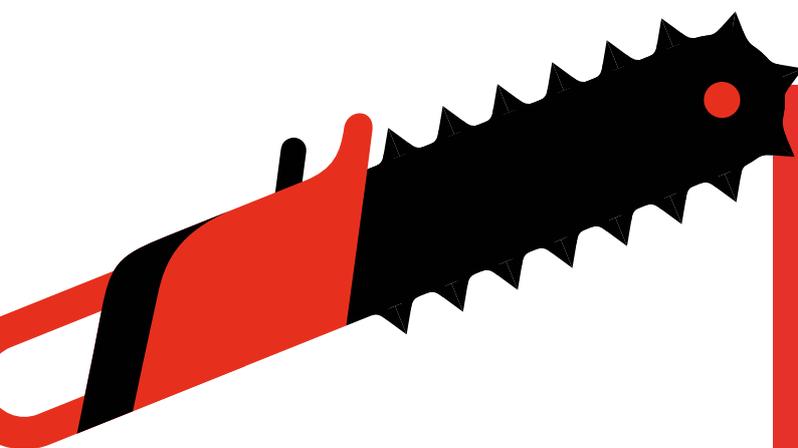
9 Notícias da Terra: Comissão Pastoral da Terra (2013). A armadilha da violência em Rondônia, retrieved from <http://cptrondonia.blogspot.com.br/2013/08/a-armadilha-da-violencia-em-rondonia.html>
10 Ministério Público do Estado de Mato Grosso, (2017) case number 1629-12.2017.811.0105, code 78767, retrieved from <http://servicos.tjmt.jus.br/Processos/Comarcas/dadosProcesso.aspx>
11 Personal statement given in an interview with Greenpeace Brazil, during field expedition in July 2017.
12 Personal statement given in an interview with Greenpeace Brazil, during field expedition in July 2017.

13 Personal statement given in an interview with Greenpeace Brazil, during field expedition in July 2017.
14 Comissão Pastoral da Terra, (2017) Conflitos no Campo Brasil 2016, retrieved from <https://goo.gl/k79uzx>
15 Personal statement given in an interview with Greenpeace Brazil, during field expedition in July 2017.
16 Ministério Público do Estado de Mato Grosso, (2017) case number 1629-12.2017.811.0105, code 78767, retrieved from <http://servicos.tjmt.jus.br/Processos/Comarcas/dadosProcesso.aspx>

THE AMAZON – HISTORIC AND PRESENT-DAY FOCUS OF RURAL TERROR

Indigenous Ka'apor leaders find illegal timber near from an indigenous territory, in Maranhão State. The ethnicity is threatened by violence because of illegal logging.

© Lurnáé Parracho/Greenpeace



MURDERED FOR THE FOREST

The history of Amazon has been marked by violence since colonial times, when the Portuguese crown decimated dozens of ethnic groups as it despoiled the Amazon in search of forest products.

Weak forest legislation, inadequate law enforcement and the huge profits to be made from timber and industrial farming have ensured a continued growth in illegal exploitation of the forest and made the Arc of Deforestation a lawless frontier zone.

From 1985 until 2016, the CPT recorded 18,012 land conflicts that have resulted in 1,722 people killed across the country as a whole, of which there were 110 judgments during the three decades and only 31 people were convicted as the perpetrators of the crimes.¹⁷

On 12 February 2005, early in the morning, American nun Dorothy Stang was ambushed and killed by two men. The 73-year-old missionary had worked for more than 30 years in the town of Anapu, southwest of Pará, providing support to small farmers and extractive producers. At the time of her assassination, she was fighting for the implementation of the Esperança Sustainable Development Project, about 40 kilometres from the town. The area, however, was disputed by landowners and loggers in the region.¹⁸ Vitalmiro de Moura, who ordered the murder of Dorothy Stang, Clodoaldo Batista, one of the men who carried out the murder, and Amair Cunha, who acted as the intermediary, were all convicted, but released early from jail for good behavior and are currently free. Raifran das Neves was also convicted as one of the murderers, however, after also being released early, he is back under arrest, accused of committing a double murder. Regivaldo Pereira Galvão, who is accused of ordering the murder along with Vitalmiro de Moura, was finally arrested in 2017. He is still awaiting decision on appeal in the Superior Court of Justice.

A clash with illegal loggers was the trigger for the murders of Zé Claudio Ribeiro and Maria do Espírito Santo on 24 May 2011. The two extractive leaders were known for their defence of sustainable use of the forest and their

17 Comissão Pastoral da Terra (2017) 2016, ano do golpe e do aumento da violência no campo, retrieved from: <https://www.cptnacional.org.br/index.php/publicacoes-2/destaque/3768-2016-ano-do-golpe-e-do-aumento-da-violencia-no-campo>

18 Carneiro, P.L. (2017) Missionária Dorothy Stang é assassinada no Pará por defender grupos extrativistas, O Globo, retrieved from <http://acervo.oglobo.globo.com/em-destaque/missionaria-dorothy-stang-assassinada-no-para-por-defender-grupos-extrativistas-21321154> and Da Redação (2013) Mandante do assassinato de Dorothy Stang é condenado, Exame, retrieved from <https://exame.abril.com.br/brasil/mandante-do-assassinato-de-dorothy-stang-e-condenado/>

Municipalities with the highest number of murders in the Amazon (2007-2016*)

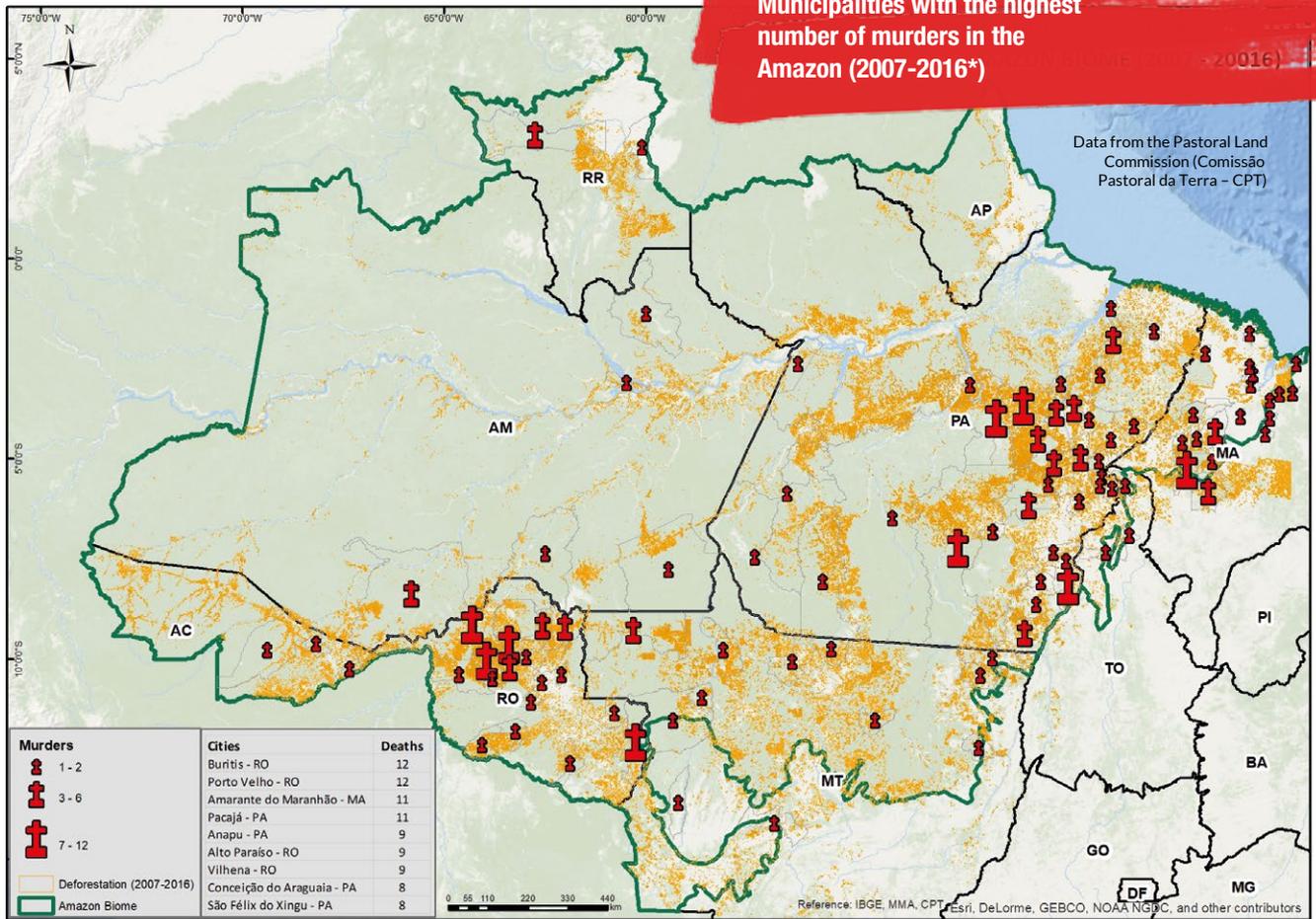


FIGURE 1. Relationship between deforestation (indicated in yellow)²⁴ and rural murders related to land conflicts²⁵ in the period 2007–2016

opposition to its predatory exploitation. They tirelessly denounced the actions of criminals who were logging land in the area of the Praia Alta Piranha Agro-Extractivist Settlement, 50 kilometres from Nova Ipixuna in Pará State. The couple was killed in an ambush by gunmen.¹⁹ One of the murderers, Alberto do Nascimento, was sentenced to 42 years in prison and is in jail in Marabá, Pará. The second murderer, Lindonjonson Silva, was serving a 43-year prison sentence but escaped from the semi-open prison regime and never returned. He is currently considered a fugitive. The man who ordered the killings, José Rodrigues Moreira, had his first trial annulled and was sentenced to 60 years in prison by a new jury in 2016. He didn't attend the trial and remains fugitive.

In the heart of Maranhão State, in one of its last remnant forests, the Ka'apor Indigenous People have for years been resisting illegal logging of the Alto Turiçu Indigenous Land. In April 2015, Indigenous leader Eusebio Ka'apor paid with his life for the persistence of his people in defending their territory. He was executed with a shot in the back less than four kilometres from his village, apparently ambushed on the orders of loggers active in the area.²⁰ The investigation is under the responsibility of the Federal Police of Maranhão State, in São Luís, but remains without conclusion.

As already mentioned, according to the annual report by the CPT,²¹ in 2016 the number of murders related to land conflicts in rural areas of Brazil reached 61 – an increase of 22% on 2015 (50), and the highest number recorded since 2003. Most of these murders – 79% of them – occurred in the Legal Amazon.²² According to the CPT, in addition to these murders, there were 74 attempted murders, 200 death threats and 571 assaults recorded that year in association with rural land conflicts. Such levels of violence mean that Brazil is now the most dangerous place in the world to defend the land and the environment.²³ Many of these murders are linked to illegal logging especially in the Amazon.

Many of the deaths and much of the violence that have occurred in recent decades could have been prevented if the problem of illegal logging had been taken seriously by successive Brazilian governments. Even now, with the implementation of a robust, integrated, public and transparent system for the licensing and monitoring of timber harvesting and transportation, Brazil could prevent illegal timber from being freely traded, contaminating the market and making consumers worldwide the unintentional accomplices of the destruction of its forest and violence against its peoples.

19 Lima, W. (2011) Casal de extrativistas é assassinado no Pará, Último Segundo, retrieved from <https://goo.gl/y1CjXV>
 20 Fasolo, C. (2015) Ka'apor denunciam madeireiros por assassinato de indígena da TI Alto Turiçu, no MA, Conselho Indigenista Missionário (Cimi), retrieved from www.cimi.org.br/site/pt-br/?system=news&action=read&id=8089

21 Conflicts in rural areas in Brazil 2016, available at <https://goo.gl/k79uzx>
 22 The Legal Amazon is an administrative unit encompassing the seven states of the North Region (Acre, Amapá, Amazonas, Pará, Rondônia, Roraima and Tocantins), as well as part of Mato Grosso and most of Maranhão states.
 23 Global Witness (2017) Defenders of the Earth, retrieved from https://www.globalwitness.org/documents/19122/Defenders_of_the_earth_report.pdf
 24 INPE. Prodes - Monitoramento da Floresta Amazônica Brasileira por Satélite, accessible at <http://www.obt.inpe.br/OBT/assuntos/programas/amazonia/prodes>
 25 Comissão Pastoral da Terra. Conflitos no Campo Brasil 1985-2016, accessible at <https://www.cptnacional.org.br/index.php/publicacoes-2/conflitos-no-campo-brasil>



TIMBER LINKED TO THE COLNIZA MASSACRE REACHES THE INTERNATIONAL MARKET



Valdelir João de Souza owns two sawmill and export companies, Indústria, Comércio E Exportação De Madeiras Cedroarana Ltda Epp (henceforth referred to as Madeireira Cedroarana), based in Machadinho d'Oeste, Rondônia State and Madeiras G.A. Industria Comércio Importação Exportação de Madeiras Ltda Epp, (henceforth Madeiras G.A.), based in Colniza, Mato Grosso State.²⁶ According to information obtained in the field, Madeiras G.A. sent thousands of cubic meters of logs to madeireira Cedroarana.

De Souza's company Madeireira Cedroarana has been trading as a sawmill operator and exporter of timber since 2005. According to Customs Data, between January 2016 and October 2017, the company exported thousands of cubic meters of Amazonian timber to customers in countries such as the United States, Germany, France, the Netherlands, Denmark, Italy, Belgium and Japan (see Figure 2).

On the very day that the slaughter took place in Colniza, Madeireira Cedroarana was shipping consignments of timber to the United States in the vessels *MSC Amalfi*, *MSC Arica*, *Monte Cervantes*, *Monte Verde* and *Monte Olivia*, which left the port of Paranagua respectively on 28 February, 5 March, 16 March, 23 March and 6 April 2017. These vessels unloaded in different ports, in all cases reaching their final destinations after 19 April, the day of the massacre. Timber was also en route to Europe in the vessel *MSC Ajaccio*, which

left Paranagua on 9 March, unloading in Valencia between 1 and 3 of April;²⁷ its cargo then carried on to France in name unknown vessel, with its final destination being the port of Fos-sur-Mer.

Even after the MPE-MT issued its indictment on 15 May 2017,²⁸ accusing de Silva of giving the order for the massacre, the company's export business continued to function normally. Between May 15 and end of September 2017, at least eleven shipments of timber arrive to the USA and four shipments leave Brazil with destination to Europe (France and Belgium).²⁹

COMPANIES THAT HAVE CONTINUED TO TRADE WITH MADEIREIRA CEDROARANA AFTER MAY 15TH ARE:

Cibm Centre Import Bois
Delfin Germany Gmbh
Derlage Junior Hout
Global Timber A S
Gwp Lda
Industries Pine Products Inc.
Lacey Wood Products
Mid State Lumber Corp.
South Florida Lumber
Tiger Deck Llc
Vogel Import & Export Nv
Houthandel van der Hoek
Wood Brokerage International

²⁷ Shipping data from Lloyds List Seasearcher, accessed at <http://www.lloydslistintelligence.com/>

²⁸ Anjos, L. dos (2017). G1 Globo. MP denuncia cinco por chacina que matou nove trabalhadores rurais em Colniza (MT). retrieved from <https://goo.gl/oC9KNJ>

²⁹ According to shipment data from Panjiva, which tracks companies involved in global trade.

²⁶ Ministério da Fazenda. Receita Federal, accessible at http://receita.fazenda.gov.br/pessoajuridica/cnpj/cnpjjeva/Cnpjjeva_qsa.asp

FIGURE 2. Companies that imported/traded timber from Madeiraira Cedroarana between January 2016 and October 2017³⁰

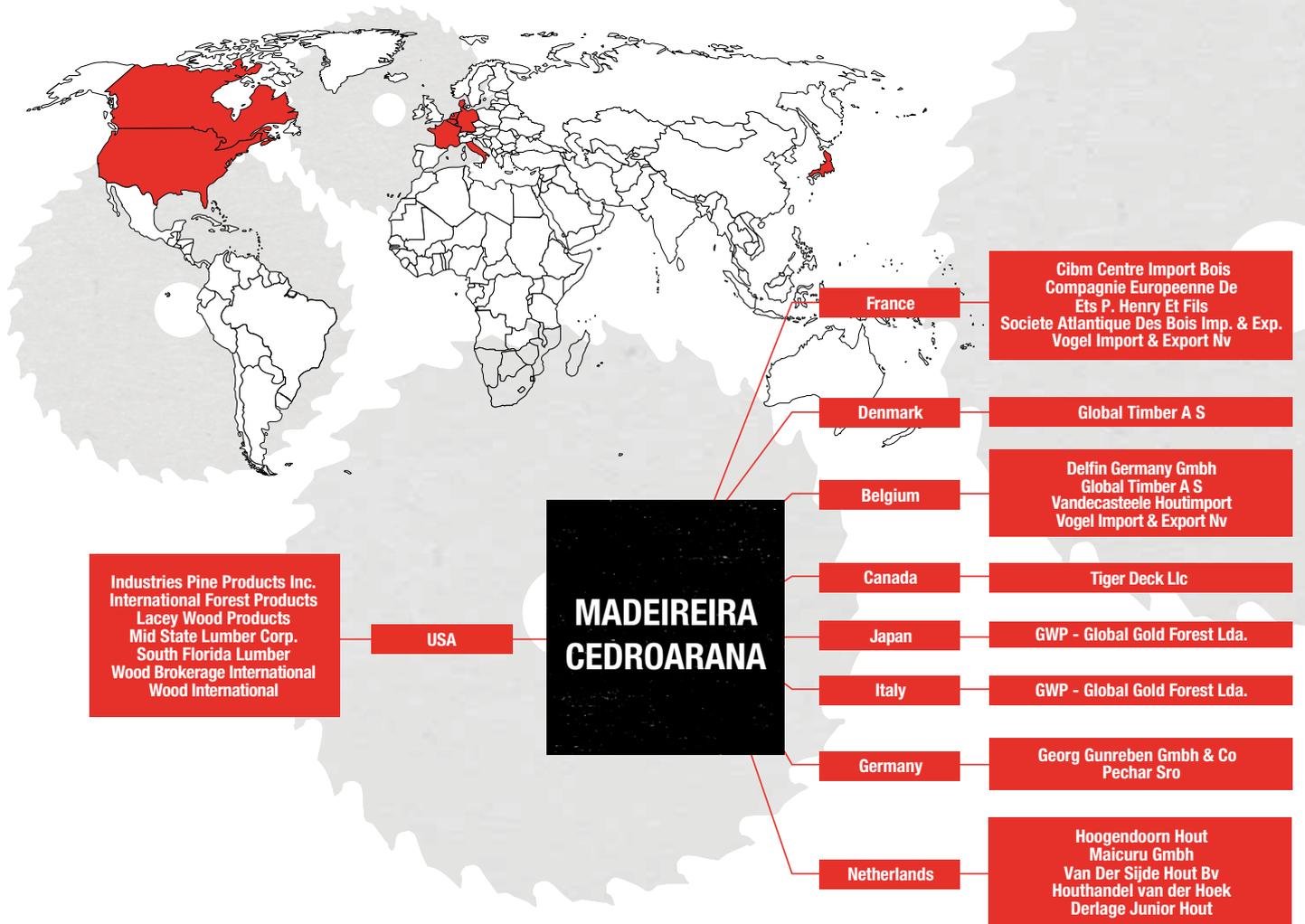


FIGURE 3. Countries that most imported timber from Cedroarana between January 2016 and October 2017, according to the volume³¹



³⁰ Data compiled through industry sources and shipment data from Panjiva, which tracks companies involved in global trade. The figure was designed by Greenpeace.

³¹ According to shipment data from Panjiva, which tracks companies involved in global trade. The figure was designed by Greenpeace.

THE EUROPEAN UNION TIMBER REGULATION: A SAFEGUARD AGAINST ILLEGAL TIMBER

The European Union Timber Regulation (EUTR), which carries force of law and became applicable across the EU in March 2013³², prohibits the placing of illegally harvested timber (and of timber products deriving from such timber) on the EU internal market (Article 4(1)). It also requires operators³³ to put in place, use and maintain use and maintain a due diligence system in order to identify and mitigate the risk of this occurring (Article 6 (1)).³⁴ Operators must not place any timber on the EU internal market unless they have exercised due diligence and reached the conclusion that there is no more than a negligible risk³⁵ that it has been illegally harvested.³⁶

In the context of the EUTR, 'illegally harvested' refers to timber harvested³⁷ 'in contravention of applicable legislation in the country of harvest'. 'Applicable legislation' is defined as legislation that covers, among other matters, 'third parties' legal rights concerning use and tenure that are affected by timber harvesting'.³⁸ Such legislation is obviously contravened by timber harvested in situations in which armed criminals, using violence or threats, violate, prejudice or otherwise hinder the use or tenure of land and forest resources by those who hold legitimate rights over them. It follows from the definitions laid out in Article 2 of the EUTR that timber harvested in violation of third parties' rights, including the rights of individuals and communities to use and exploit land and/or forest resources, cannot be considered as 'legally harvested' for the purposes of the EUTR, and it is therefore a breach of the EUTR to place such timber on the EU internal market.

Operators must comply with due diligence and ensure that the risk of including illegally harvested timber in their

supply chain is negligible. Relying on official documents issued by Brazilian authorities is clearly not sufficient for this purpose.

EU operators who place the timber on market³⁹ often provide both their customers and the competent authorities in the country of importation with Brazilian chain-of-custody documents that include Logging Authorisations (Autorizações de Exploração Florestal, AUTEFs) and Transport Documents (*Guias Florestais, GFs*)⁴⁰ as proof that they have complied with the due diligence obligations of the EUTR.⁴¹ However, as the section 'Timber fraud and illegal logging at the root of violence' below explains, these documents are highly susceptible to falsification and so are insufficient to prove the origin or legality of the timber. The inadequacy of these documents has been repeatedly exposed by Greenpeace in several reports published since 2014.⁴²

Given the shortcomings in the Amazon governance systems, and the fact that the majority of Brazilian Amazon timber is illegally logged,⁴³ companies purchasing timber imported from the Brazilian Amazon should take all the steps to gain direct access to information on their supply chain, up to the point of harvest, assess any risk possibly affecting such supply chain and see that any risk of illegality is mitigated so that it becomes negligible. When taking any of these steps is impossible, the EUTR does not allow placing timber on the EU internal market.

EU Competent Authorities should see that operators fully comply with the due diligence requirements and that this is not limited to the collection of official documents as a proof of legality.

32 Regulation (EU) No. 995/2010 of the European Parliament and the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market. See more at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32010R0995>

33 For the purpose of the EUTR, an operator is defined as any natural or legal person who first places timber or timber products on the market.

http://ec.europa.eu/environment/eutr2013/more-info/index_en.htm

34 Regulation (EU) No 995/2010 of The European Parliament And of The Council of 20 October 2010, accessed from <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32010R0995>

35 "Negligible Risk" means that there is no cause for concern regarding the legality of the timber once the supply chain has been analysed for both product-specific and the general information such as level of governance, location of harvesting, can documents be verified, any indications of.

36 European Commission (2013) Guidance Document for the EU Timber Regulation accessed from <http://ec.europa.eu/environment/forests/pdf/Final%20Guidance%20document.pdf>

37 Official Journal of the European Union (2010) REGULATION (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010. Accessed from <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32010R0995>

38 Official Journal of the European Union (2010) REGULATION (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010. Accessed from <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32010R0995>

39 Operators are defined in the EUTR as the timber traders who place the imported timber on to the EU market.

40 A document generated at state level that authorises transportation of timber. Every consignment of timber must be accompanied by a Transport Document as it moves between two stages in the chain of custody. For more information see:

<http://www.greenpeace.org/belgium/Global/belgium/report/2014/13.glossary.pdf>

41 Greenpeace Investigations (2014-2017).

42 See Greenpeace Brazil reports The Amazon's Silent Crisis (May 2014), The Amazon's Silent Crisis: Night Terrors (October 2014), The Amazon's Silent Crisis: Licence to Launder (June 2015) and The Amazon's Silent Crisis: Partners in Crime (November 2015).

43 Imazon (2013) Forest Management Transparency Report - State of Pará (2011 to 2012), retrieved from <https://goo.gl/C475uq>

THE LACEY ACT

The trading of illegal timber is banned in the USA under the Lacey Act.⁴⁴ This law, in force since 1900, bans trade in illegal wildlife. In 2008 the US government amended it to include trafficked plants as well as fauna, representing the world's first trade ban on illegal timber.⁴⁵ The amended act requires buyers to file 'Lacey declarations' that specify the scientific name, value, quantity and country of harvest of imported timber. Most importantly, it bans trade in timber that was acquired in any manner that violated an underlying US, foreign or international law. Trade in timber acquired in violation of any underlying Brazilian law is thus prohibited under US law. Given the high incidence of illegality in the Amazon timber sector, it is very likely that many US purchases of Brazilian timber have been and continue to be in violation of US law.⁴⁶

The Lacey Act has provisions for both civil and criminal penalties that range in severity depending on the intent of the buyer, whether or not the buyer knows that the timber is illegal and whether or not the buyer has taken 'due care'.⁴⁷ Due care is a legal standard of diligence that differs according to context: high-risk origins may

require additional scrutiny on the part of the buyer in order to ensure that timber is legal.⁴⁸ The Act also has strict liability provisions, meaning that even if a buyer has taken due care to prevent the purchase of illegal timber, they can still be held responsible if any timber purchased proves to be illegal, although the penalties are not as severe as those for buyers who did not take due care.⁴⁹

Given the systemic flaws in the Brazilian timber regulatory system, due care for purchases from Brazil requires an enhanced level of scrutiny from buyers. This should include looking beyond Brazilian legal documentation, which has been shown to be easily misappropriated. Many US vendors of Brazilian timber claim that they review legal documents from exporters and occasionally make site visits.⁵⁰ However, looking at the documents in isolation does not address the issue of whether or not they match the timber that they accompany. In order to ensure that the wood purchased actually comes from the location claimed in the documents, buyers may need to invest additional resources in site visits, third-party auditing, or origin verification technology such as DNA or isotope testing.

44 16 U.S.C. §3372(a).

45 Forest Legality Alliance (undated) U.S. Lacey Act, web page www.forestlegality.org/policy/us-lacey-act

46 United States Department of Agriculture, Animal and Plant Health Inspection Service (2014) Lacey Act retrieved from goo.gl/GMxixv

47 United States Department of Agriculture Animal and Plant Health Inspection Service (2013) Lacey Act Primer. www.aphis.usda.gov/plant_health/lacey_act/downloads/LaceyActPrimer.pdf

48 16 U.S.C. §3371(d); see also United States Department of Agriculture Animal and Plant Health Inspection Service (2013) Lacey Act Primer.

www.aphis.usda.gov/plant_health/lacey_act/downloads/LaceyActPrimer.pdf

49 16 U.S.C. §3374(a)(1).

50 See for example Lumber Liquidators (undated) Lumber Liquidators compliance with California Transparency in Supply Chains Act. www.lumberliquidators.com/assets/images/product_page/California_Supply_Chains_Act.pdf

LAUNDERED FOR EXPORT



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Greenpeace activists installed a banner in a sawmill, near Belém (PA), in 2014, with the message "Laundered for export". The action was part of a research that has connected the logging industry to illegal sale of timber to the United States market.

NO EXCUSE FOR OPERATORS' IGNORANCE

For any company that took its EUTR due diligence or due care under the Lacey Act obligations seriously rather than relying on discredited Brazilian official documentation, there were abundant warning signs even before the Colniza massacre that timber from *Madeiraira Cedroarana* was best avoided. Since 2007, the company has accrued nearly R\$565,900 (approximately €150,000) in unpaid federal fines for stocking and trading illegal timber – information that importers could easily have found by means of a single search on the website of the Brazilian Institute of the Environment and Renewable Natural Resources (Instituto Brasileiro do Meio Ambiente e dos Recursos Naturais Renováveis, Ibama).⁵¹

Moreover, the area around *Machadinho d'Oeste*⁵² is well known for its violence and its trade in illegal timber. For instance, as far back as 2008, *Rolling Stone* Magazine published an article on blood timber from Colniza which was being exported to international markets via *Machadinho*

d'Oeste. More recently, in July 2016, one of the major Brazilian newspaper *O Estado de São Paulo* published a special report exposing logging industry-related violence, with a chapter dedicated to the municipality of *Machadinho d'Oeste*.⁵³

The Colniza massacre itself occurred on 19 April 2017, and by 15 May it had been reported⁵⁴ in the national press that *Valdelir João de Souza*, the owner of *Madeiraira Cedroarana*, was on the run in connection with the murders and that they were linked to logging.

All of the companies listed in Figure 2 are trading with a problematic supplier. Whether their actions also breached the due diligence obligation under the EUTR depends on whether they were the "operator" who placed the timber on the EU market. This is something that the competent authorities in the EU should investigate.

51 Ibama - Consulta a Embargos e Autos de Infração, accessible at <https://goo.gl/Atnebc>, under the number CNPJ 07.519.562/0001.50,
52 Milanez, F. (2008) *Madeira de sangue*, *Rolling Stone*, Junho 2008, <http://rollingstone.uol.com.br/edicao/21/madeiras-de-sangue#imagem0>

53 Borges, A. and Nossa, L. (2016) *Terra Bruta - Destruição Liberada*, *O Estado de São Paulo*, 15 July, <http://infograficos.estadao.com.br/politica/terra-bruta/destruicao-liberada>
54 *Maisonave, F.* (2017) *Ministério Público denuncia seis por chacina em Colniza MT*, *Valor Econômico*, 15 May, <http://www.valor.com.br/politica/4969008/ministerio-publico-denuncia-seis-por-chacina-em-colniza-mt>



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TIMBER FRAUD AND ILLEGAL LOGGING AT THE ROOT OF VIOLENCE

In 2015, the states of Pará, Mato Grosso and Rondônia were responsible for more than 85% of the tropical timber production of the Brazilian Amazon.⁵⁵ These states control the production and trading of tropical timber by means of two systems. One is a licensing system that authorises the harvesting of timber from areas covered by, PMFSs. The other is a system that monitors the supply chain in order to record the identity of companies that buy and sell timber, starting in the forest and going all the way to the final consumer.

However, both systems have been comprehensively evaded by those seeking to profit from illegal logging.⁵⁶ The most recent survey by the Institute of Man and Environment of Amazonia (*Instituto do Homem e Meio Ambiente da Amazônia, Imazon*) shows that between August 2011 and July 2012 up to 78% of the areas exploited in Pará⁵⁷ and 54% of those in Mato Grosso⁵⁸ was exploited without authorisation, in other words illegally.

The five most common ways for a company to circumvent Brazil's state-level timber licencing and control systems in order to launder illegally harvested timber all rely on ways to obtain fraudulent timber credits⁵⁹ and GFs (Transport Documents), either obtained directly from corrupt officials or else generated by means of falsified documentation to generate timber credits. **These methods involve:**⁶⁰

1. Fraudulently obtaining PMFS approval, and subsequently an AUTEF, for an area where timber has already been harvested or that has otherwise been deforested.
2. Falsifying a forest inventory so that it overstates the number or size of valuable trees in the area, and hence the total volume of timber of valuable species available for harvesting.
3. Obtaining PMFS approval, and subsequently an AUTEF, for an area without trees of commercial value, where no timber will be harvested, for the generation of credits and transportation documentation.
4. Persuading a corrupt official to issue more credits than a PMFS allows.
5. Persuading a corrupt official to issue fake credits to a non-existent sawmill.

Most of the timber entering the market with fraudulent papers comes from areas where harvesting is not allowed, such as protected areas, indigenous territories and public lands without authorisation for logging,⁶¹ and this is precisely what generates logging-related violence in rural areas. When traditional and indigenous populations oppose the theft of timber from the land over which they have rights, they themselves become the target of ruthless criminals.

55 "Sistema Nacional de Informações Florestais" - National Forest Service information accessible at: <http://www.florestal.gov.br/snif/producao-florestal/consumo>
 56 Greenpeace Brasil (2014) *Chega de Madeira Ilegal*, accessible at <http://chegademadeiralegal.org.br/>
 57 Imazon (2013) *Forest Management Transparency Report - State of Pará (2011 to 2012)*, retrieved from <http://amazon.org.br/publicacoes/forest-management-transparency-report-state-of-para-2011-to-2012/?lang=en>
 58 Imazon (2013) *Boletim Transparência Manejo Florestal de Mato Grosso (2011-2012)*, retrieved from <http://amazon.org.br/publicacoes/boletim-transparencia-manejo-florestal-do-mato-grosso-2011-2012/>

59 Electronic documents required by producers, sawmills and traders in order to transact timber legally. Credits are allocated to a producer upon the issuing of an AUTEF, and are deducted from the vendor and credited to the purchaser at each stage of the chain-of-custody system. For more information see: <http://www.greenpeace.org/belgium/global/belgium/report/2014/13/glossary.pdf>
 60 Greenpeace (2014) *The Amazon's silent crisis - Logging regulation & 5 ways to launder*, retrieved from <http://www.greenpeace.org/usa/wp-content/uploads/legacy/Global/usa/planet3/PDFs/Amazon5Ways.pdf>
 61 Greenpeace (2014) *The Amazon's silent crisis - Logging regulation & 5 ways to launder*, retrieved from <http://www.greenpeace.org/usa/wp-content/uploads/legacy/Global/usa/planet3/PDFs/Amazon5Ways.pdf>



A BLEAK FUTURE FOR THE AMAZON: DISMANTLED ENVIRONMENTAL PROTECTION AND INCREASING RURAL VIOLENCE

The Colniza massacre, horrifying though it was, was only the most shocking instance of a trend that shows every sign of worsening. According to the CPT, by the end of September 2017, 61 people had already been murdered in rural conflicts across Brazil – the same number as in the whole of 2016. Over three-quarters (77% (49)) of these murders occurred within the Legal Amazon.⁶² This appalling statistic should be ringing the Brazilian government's alarm bells and impelling it to take action.

However, the whole plot of this nightmare begins right at the Brazilian congress. Far from acting to stem the tide of illegal forest destruction and violent oppression of rural populations, the government of Michel Temer, in collusion with the agribusiness lobby caucus in the National Congress, which holds more than 200 seats in the lower house, has actually been promoting an unprecedented attack on the rights of indigenous peoples, traditional extractive populations and small farmers, and on the laws intended to ensure the protection of Brazil's public forest lands. At record speed, it is proposing and approving new legislation that will fuel more conflicts over land rights and resource extraction, worsening an already desperate situation. An amnesty has been granted to those who have carried out illegal deforestation, the environmental licensing regime for activities with potential environmental impacts is under threat of being weakened,

and protected areas have been reduced on an unprecedented scale, delivering the Amazon into the hands of the land grabbers.⁶³

With additional policy measures moreover cuts to the budgets of the Ministry of the Environment and agencies (Funai, Ibama, ICMBio) that have traditionally been responsible for the stewardship and protection of the forests and support for Brazil's indigenous peoples, it seems that the Brazilian government is knowingly turning a blind eye to the perverse consequences of its legislative and regulatory changes.

'We are children without a mother, without a motherland, or if we have a mother, she is sleeping or maybe dead', laments Antônio Fernandes, speaking of his persistent feeling that the authorities have abandoned him to his fate. Like so many other Brazilians, Fernandes has to put his life at risk every day simply in order to assert his right to inhabit the forest in Rondônia where he was born.

Unfortunately, in view of the regressive measures that the government is taking, the violence can only be expected to increase and forest dwellers across the Amazon will continue to be abandoned by their motherland. Brazil needs to act to protect its rural population, its forests and its future.

⁶² Comissão Pastoral da Terra (2017) CPT e REPAM lançam Atlas de Conflitos na Amazônia, retrieved from <https://www.cptnacional.org.br/publicacoes-2/destaque/4038-cpt-e-repam-lancarao-atlas-de-conflitos-na-amazonia>

⁶³ Greenpeace Brazil together with more than 140 organizations launched a movement called #Resista, on May 9, to denounce and resist to the socio-environmental rollbacks promoted by the Michel Temer government and the conservative agribusiness lobby. Read the letter "Temer administration and conservative agribusiness lobby join forces to undermine Brazil's future" at http://www.observatoriodoclima.eco.br/wp-content/uploads/2017/05/cartaconjunta_EN.pdf

Yellow flowered ipê trees in the Indigenous Land Cachoeira Seca, in Pará State. The tree is the most coveted species by illegal loggers.

DEMANDS

Brazil urgently needs a governance and law enforcement system capable of ensuring that Amazon timber is harvested only in compliance with the applicable laws, and with full respect for third parties' legal rights concerning forest use and tenure.

To this effect, Greenpeace calls on the Brazilian government and/or the timber-producing Amazonian states (as applicable) to:

- > conduct speedy and serious investigations and prosecutions of all murders and attempted murders related to rural land conflicts;
- > develop a transparent and accessible state-level forestry licensing systems that automatically rejects licensing applications for areas that have already been exploited or where the amount of harvestable timber has been overestimated according to the best scientific data available, thereby preventing the state-level forestry licensing systems from being flooded with false timber credits that facilitate the laundering of illegally logged timber;
- > incorporate into the state-level forestry licensing systems a transparent and a system that monitors the supply chain in order to record the identity of companies that buy and sell timber integrate or centralized nationally, which will automatically reject Transport Documents that appear to be perpetrating the most common frauds;
- > increase the state and federal environmental agencies' capacity for enforcement action through improvements in infrastructure and investment in monitoring and inspection;
- > ensure that companies or individuals convicted of offences pay fines and comply with other sanctions, such as prohibition of logging in an area where an environmental crime has been committed;
- > prioritise the development and implementation of ambitious plans to promote community forest management.

At the same time, Greenpeace calls on timber importers to:

- > stop buying wood from the Brazilian Amazon unless they can obtain from their suppliers reliable evidence (such as third-party field audits of PMFSs and forest inventories), going beyond the presentation of official documentation, that their product is legal and sustainable, and that its harvesting has respected third parties' legal rights concerning forest use and tenure;
- > actively support the reform of Brazil forestry licensing and timber credit monitoring systems to make them capable of ensuring that all timber originating from the Brazilian Amazon is legally produced;
- > in view of the chronic problems affecting the licensing, monitoring and inspection of the Brazilian timber sector's logging activities and sawmills, immediately classify wood from the Brazilian Amazon as presenting a high risk of being harvested in breach of the applicable legislation and in violation of third parties' legal rights concerning forest use and tenure, and consequently of tainting their supply chains with illegal logging, violence and other unacceptable social or environmental impacts;
- > implement consistent timber purchasing policies that ensure that all products purchased come from legal sources and do not contribute to deforestation, forest degradation, loss of biodiversity or negative social impacts.

Finally, Greenpeace calls on EUTR competent authorities to:

- > conduct thorough checks on operators in their jurisdiction, including ascertaining what measures they have taken to identify, assess and mitigate the risk of placing illegally harvested timber from the Brazilian Amazon on the market;
- > consider operators in breach of the EUTR if they are unable to provide convincing evidence that they have adopted adequate measures, going beyond the presentation of official documents, in order to identify, assess and mitigate the risk of illegally harvested timber entering their supply chain, as required by Articles 4(2) and 6 of the EUTR;
- > take all measures, including the application of appropriate penalties when breaches are detected, that are necessary to ensure that operators in their jurisdiction comply with the EUTR.



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