



Importing timber from the DRC: A high-risk business for Europe

Case study II: Undertaken in the port of Antwerp

An illegal shipment from the Bakri Bois Corporation (BBC) for the Swiss based timber company Bois d'Afrique Mondiale (BAM) processed by Danzer Bohemia Dýchárna based in the Czech Republic.

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The logging sector in the Democratic Republic of Congo (DRC) is in a state of organised chaos. Illegal logging is widespread in all of the countries lying in and around the Congo Basin. It is extremely difficult – if not impossible – for importers of Congo wood in the EU to comply with the new EU Timber Regulation (EUTR)ⁱ, yet ships with highly suspicious timber from the DRC continue to arrive in Europe and companies continue to commercialize it.

Greenpeace Belgium recently discovered illegal exports of the threatened species Afrormosia from the Congolese logging company Tala Tina to two of Belgium's leading timber importers, Vandecasteele and Denderwoodⁱⁱ.

This new second case study exposes how illegal BBC wood from DRC has been imported to the Antwerp port for processing at the veneer factory owned by Danzer Bohemia Dýchárna in the Czech Republic. BBC's industrial concession contract is illegal. In early June Greenpeace found further irregularities during a field mission.

Greenpeace is calling on the Czech authorities to immediately seize the wood and apply the EUTR, which prohibits illegal timber and timber products being placed on the EU market. Greenpeace suspects that part of the BBC wood is still in the customs zone of Antwerp port. Timber companies in Europe should not get involved with this wood.

The arrival of the Bakri Bois Corporation wood at Antwerp

On 24 April the 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 Bakri Bois Corporation's (BBC), Equateur Province concession 004/11ⁱⁱⁱ.

According to shipping documents the wood had been sold by Dijo la Grâce (a company unknown to Greenpeace) to Bois d'Afrique Mondiale S.A.^{iv} (BAM), a family-owned company based in Lucerne, Switzerland, long active in the African timber trade.

BAM's website claims: "We work with suppliers who respect a 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.^v" In the case of the import of the BBC timber, this is clearly false.

On 26 April, Greenpeace alerted the EUTR Competent Authority^{vi} in Belgium and urged it to confiscate this illegal wood, but received no official answer to that nor obtained any information about eventual measures to be taken by the Belgian authorities.

In May Greenpeace also contacted the Swiss authorities (SECO^{vii}), which stated they couldn't prohibit illegal wood being placed on the market in line with the EUTR because they are not a member of the EU and a comparable legal framework does not yet exist in Switzerland.

Danzer Bohemia Dýchárna processes illegal Bakri Bois Corporation wood in the Czech Republic

On 24 June, Greenpeace learnt that the the logs from BBC in Antwerp were now at the premises of Danzer Bohemia Dýchárna, a veneer processing facility, in Horní Pocaply, Czech Republic. This is a unit of the controversial Swiss-based Danzer Group^{viii}, 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 EU importers of African wood^{ix}.

In April 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^x. On 21 May 2013 the Forest Stewardship Council (FSC) board decided to disassociate from the Danzer Group, after an independent panel found they had indeed been involved in human rights violations in the DRC^{xi}.

Bakri Bois Corporation's illegal concession contract

In a November 2012 report submitted to 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 the Lebanese-owned BBC's concession contract dated 4 August 2011.^{xii} As of 2 April 2013 REM had "no news" of any pending legal action against BBC.^{xiii}

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,"^{xiv} namely Equateur-province GA 045^{xv}. This title had been held since 2003 by Société d'Exploitation Forestière et Construction SPRL (Soexforco), whose CEO, Jihad Abbas Bakri, is also CEO of BBC. The two companies share a headquarters.^{xvi} According to REM, Soexforco's attempt in December 2003 to transfer its logging title to BBC had never been officially approved and was in reality nothing more than "a maneuver [...] to unload the company's liabilities [...]."^{xvii}

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 of Wengé wood without special authorization and non-payment of fees to update the Ministry's allocation map.

In December 2011 BBC was granted a 25-year area-tax freeze: 0.50 USD per hectare^{xviii}, an amount that in no way is a true value of the forest.

Field mission to Bakri Bois Corporation logging area

In June 2013 Greenpeace took part in a field mission to BBC's logging area in Equateur province, as well as to its headquarters in Ingende. The team found evidence supporting 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 been recently used by the company Ets. Forest Pro SPRL (Forest Pro)^{xix} to log two illegal artisanal logging permits^{xx} near Ilambasa. The permits together cover 100 hectares and authorize the logging of 700 cubic metres of Wengé wood.

According to 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^{xxi}. 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.^{xxii}

The industrial logging by Forest Pro has greatly degraded the forest area. Our team saw an extensive lay out of logging tracks as well as numerous abandoned logs. More than 2000 m³^{xxiii} of logs were found, far in excess of the authorised 700m³. The fact that Forest Pro wood was located near BBC's river port at Ingende also indicates that the company may also be involved in trading it.

Local residents of Ilambasa told us that no agreement had been signed, but that they had been promised 5 USD (3,75 €)/ m³, a very low value – albeit a common one - for a species with a mercurial value of around 295 €^{xxiv}/ m³. But the community had no idea how much wood had actually been logged.

Mr. Hassan claims that BBC plans to log 1,000 trees this year. REM's demand that the firm's contract be cancelled doesn't seem to have made the slightest difference to operations.

The gap in Swiss regulation

It is still unclear if any BBC wood will be placed on the Swiss market, but the links to that country are strong. BAM is based there and Danzer Bohemia Dýchárna is owned by the Danzer Group, also headquartered in Switzerland.

The EUTR does not apply in Switzerland. The Swiss government told Greenpeace during a stakeholder meeting in May 2013 that it will take three to four years before an EUTR-type legislation might be passed. Interim measures are under discussion. Given that the EUTR was originally adopted in 2010, this is a slow response. The absence of any such laws in Switzerland might make halting the illegal trade of wood on the continent all the harder.

The EU Timber Regulation is directly and 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 timber entering their supply chain.

'Operators' are the companies that first place the timber on the EU market^{xxv}. National competent authorities (in this case, the Ministry of Agriculture of the Czech Republic and the Belgian Federal Public Service, Product Policy Unit, DG Environment) have the duty to carry out checks when they are in possession of any relevant information, to detect any violations of the law and an obligation of due diligence. This duty is unconditional, meaning it is not dependent on the existence of 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 laws may be applicable, such as custom and fiscal law. These can lead to immediate seizure of timber.

What needs to be done?

The illegal BBC wood has been imported into the EU and is being processed there without, seemingly, any regulatory action. Greenpeace is calling on authorities in Europe to increase efforts to enforce the regulation. Immediate measures must be taken to prevent illegal BBC wood from being placed on the EU market. The forest destruction driven by Europe's consumption of illegal timber must stop.

- Czech authorities should carry out checks and take the appropriate legal action against Danzer Bohemia Dýchárna. The wood originating with BBC should be seized immediately. Should they fail to do so then companies further in the trade chain should not commercialise it.
- The authorities in Belgium and Switzerland should investigate both BAM and Danzer Group, to determine whether they have violated the provisions of the EUTR and/or any other

legislation including customs law. The Belgian authorities should also alert other EU member states to prevent any BBC wood still in harbour from being placed on the market.

- Swiss authorities should swiftly adopt EUTR-type legislation. In the meantime, an interim regulation should be created, including a mandate for a Competent Authority, to prohibit the placing of illegal timber and timber products on the Swiss market.
- BAM and Danzer Group must immediately stop trading in illegal timber.
- The DRC Environment Ministry must immediately cancel BBC's illegal concession contract as the EU-financed Independent Observer demanded seven months ago. It must also cancel Forest Pro's illegal artisanal permits, confiscate its timber and sanction it. All concession contracts must be published, and sanctions imposed on those responsible for their non-publication in violation of Décret n°011/26 du 20 mai 2011.

ⁱ Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market

ⁱⁱ "Import of timber from the DRC: high risk business for Europe. A case study in the port of Antwerp: the blocking, investigation and subsequent release of illegal Afromosia wood for Belgian timber traders", Greenpeace Belgium, 13 June 2013

ⁱⁱⁱ http://mecnt.cd/index.php?option=com_content&view=article&id=271:un-nouveau-cap-franchi-dans-lamelioration-de-la-gouvernance-forestiere-en-rdc-avec-la-signature-des-premiers-contrats-de-concession-forestiere&catid=30:foret&Itemid=300057

^{iv} <http://bam-timber.com/contact>

^v <http://bam-timber.com/fscenvironment>

^{vi} Competent Authorities are responsible in each member state for the application of the Regulation. See article 7 in REGULATION (EU) No 995/2010 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 20 October 2010

^{vii} Email from State Secretariat for Economic Affairs SECO to Greenpeace, 27 May 2013: 'Als Nicht-EU-Land kann die EUTR als solche nicht direkt in der Schweiz implementiert werden. Eine gute Einbindung der Schweiz in das EUTR scheint indessen im Interesse aller zu sein.' & „Die Schweiz kann aufgrund der aktuellen rechtlichen Basis die Inverkehrsetzung von illegalem Holz (im Sinne der EUTR-Definition) nicht verbieten. Es muss aber die Herkunft des Holzes deklariert werden (Deklarationspflichtverordnung)“.

^{viii} http://www.danzer.com/Veneer.2490.0.html?&no_cache=1&L=1%25255C%252522%2525252%2520%2520 & http://de.wikipedia.org/wiki/Danzer_Group

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

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

^{xi} <https://ic.fsc.org/siforco-drc> & <http://www.greenpeace.org/international/en/news/Blogs/makingwaves/danzer-feels-the-bite-as-fsc-show-its-teeth/blog/45230/>

^{xii} « Rapport de mission de terrain n°4 », Resource Extraction Monitoring (REM), http://www.observation-rdc.info/documents/Rapport_REM_004_OIFLEG_RDC.pdf

^{xiii} http://www.observation-rdc.info/documents/2013_Suivi_OI_REM_CD.L.pdf, p.20

^{xiv} « Rapport de mission de terrain n°4 », op. cit., p.25. (« [...] pour avoir usé de manoeuvres dolosives en vue de tromper l'Etat, en signant un contrat de concession sur un titre forestier dont elle n'était pas régulièrement détentrice ») See also p.18: « [...] toute l'activité menée par BBC est de facto illégale car cette société exploite avec un contrat de concession qu'elle a obtenu en violation des procédures légales. »

^{xv} GA = Garantie d'Approvisionnement

^{xvi} Ibid. (« [...] ces deux entreprises sont logées à la même adresse (732, 8° rue Limete Kinshasa) [et] ont le même dirigeant à leur tête (M JIHAD ABBAS BAKRI). [...] Le fait que SOEXFORCO et BBC appartiennent au même propriétaire ne change en rien le fait que ces deux 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 contrat] du 4 août 2011 et le 19760 dans le contrat de concession du 4 août 2011. »)

^{xvii} Ibid., pp.17, 18. (« [...] le transfert de SOEXFORCO à BBC en 2003 don[t] confirmation a été demand[é] en 2011 n'est pas effectif car il n'a pas été concrétisé. »; « Ces observations indiquent une manoeuvre par les dirigeants de la SOEXFORCO pour se débarrasser du passif de la société tout en capitalisant sur son actif à travers un transfert non conforme à la société BBC, dont les dirigeants sont les mêmes. »)

^{xviii} « Avenant n°1 au contrat de concession forestière n°004/11 du 04 août 2011 », 13 December 2011, http://mecnt.cd/images/DOWN/av_bakribois_ingende%20045.04.pdf.

^{xix} Interview Mr. Hassan, director operations BBC on 01 June 2013 in Ingende, Equateur province, DRC

^{xx} 2010/007/CAB/PROGOU/EQ/MINIPRO/PECI-CRI/RMM/2012 issued 31 July 2012 & 2010/006/CAB/PROGOU/EQ/MINIPRO/PECI-CRI/RMM/2012 issued 31 July 2012

^{xxi} See also "The art of logging industrially in the Congo", 2012, Global Witness, on page 4: '2. permit confusion: artisanal permits vs. special permits' and see MECNT Ministerial Order 035 Articles 12 and 13 that determine that the harvesting of protected species can be authorised through the issuance of special permits. They are to be issued by the Secretary General of MECNT. Whereas the artisanal permits are to be signed by the provincial governor.

^{xxii} « Cut it Out : Illegal logging in the Democratic Republic of Congo », Greenpeace, March 2013 & « The art of logging industrially in the Congo », 2012, Global Witness & « Note de briefing. DERIVES DE L'EXPLOITATION FORESTIERE ARTISANALE EN RDC », December 2012, Resource Extraction Monitoring.

^{xxiii} Marked with : 010 CAB 014 EQ 12 and B.P.

^{xxiv} Value of the wood per cubic metre established by the government and used for calculating export taxes. http://www.observation-rdc.info/documents/REM_OIFLEG_2013_taxes_DRC.pdf page 8

^{xxv} The 'Guidance document for the EU Timber Regulation' further clarifies what 'operator' and 'placing on the market' means: <http://ec.europa.eu/environment/forests/pdf/Final%20Guidance%20document.pdf>