

# The Amazon's silent crisis

## THE US TIMBER MARKET AND THE LACEY ACT

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*'The truth is that there are many people who are buying Ipê [from Brazil] which they think has been legally logged, but who may actually be getting something that has, for lack of a better term, been laundered.'*<sup>1</sup>

Major US-based timber importer, J. Gibson McIlvain

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The USA represents the largest export market for Brazilian timber.<sup>2</sup> Exotic species are bought at a premium and tend to be used in high-end architecture for decking, siding (cladding), and flooring. Major institutional buyers such as cities, universities and companies with large campuses also purchase massive quantities of Brazilian and other tropical timber for walkways and piers; New York City, for example, is one of the largest purchasers of such timber in North America.<sup>3</sup> These institutions see some South American tropical hardwood varieties, Ipê in particular, as a long-term investment because of their durability and weather resistance.<sup>4</sup> However, buyers of Amazon timber may be not only financing forest destruction but also violating US law.

# Buying Brazilian timber and breaking US law

The trading of illegal timber is banned in the USA under the Lacey Act.<sup>5</sup> 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.<sup>6</sup> 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.<sup>7</sup> 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.

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'.<sup>8</sup> 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.<sup>9</sup> 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.<sup>10</sup>

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.<sup>11</sup> 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.

Although third-party certification schemes such as that run by the Forest Stewardship Council (FSC) maintain legality as a fundamental principle for certified operations, the US government recognises certification only as an indicator of due care, not as stand-alone proof of legality.<sup>12</sup> Several situations could occur that might result in illegal timber being traded under the FSC label, such as a company further up the supply chain violating laws in the country of origin,<sup>13</sup> or the timber's true origin being hidden from the buyer by means of misappropriated documents.

Aerial of a sawmill named Di Trento, in the municipality of Anapu, Pará State.  
© Marizilda Cruppe / Greenpeace





Lumber Liquidators store in Rockville, Maryland, USA. 05/07/2014 © Douglas Reyes-Ceron / Greenpeace

## Amazon under foot in the USA

Greenpeace's two-year investigation into logging in the Amazon has found cases that demonstrate how easy it is to fool the regulatory system at the forest management plan level and so introduce unauthorised timber into the market. The ease with which timber can be laundered helps explain how it is possible for illegal logging to occur on such a large scale.

The investigation has uncovered five cases, each relating to a different property, which illustrate the illegal activities of the Brazilian logging trade. Greenpeace was able to trace these properties' sales to certain sawmills in Pará state and then to map out sales from those sawmills to exporters. The exporters identified as doing business with these tainted sawmills sell to a wide range of high-profile importers and businesses in the USA. Below are given a few examples of companies that do not have satisfactory assurances as to where their timber is coming from, and that should be concerned in view of the sources from which they are buying.

Lumber Liquidators, headquartered in Virginia, is the USA's largest national speciality hardwood flooring retailer, with over 318 storefronts in 46 states and Canada, and over US\$1 billion in annual net sales.<sup>14</sup> The firm positions itself as a competitive source of bargain flooring.<sup>15</sup> Unlike its competitors Lowe's<sup>16</sup> and Home Depot,<sup>17</sup> it still sells large quantities of tropical timber species and does not have a public endangered forest policy. Lumber

Liquidators claims that it sources from 'managed forests', but this claim is not backed by any meaningful minimum standards.<sup>18</sup>

The company was the subject of a recent report by the NGO Environmental Investigation Agency which found that it sourced engineered flooring from a factory that admitted it regularly dealt with illegal timber from the Russian Far East.<sup>19</sup> This report coincided with a raid on the company's headquarters by US Federal agents, and the company is still under investigation for violations of the Lacey Act.<sup>20</sup>

Lumber Liquidators' website admits that the firm still does not 'engage third party auditors or verifiers' to monitor its supply chain.<sup>21</sup> Lumber Liquidators is actively trying to increase the market for Brazilian wood products in the USA. The company recently petitioned the US government to redesignate imports of Brazilian timber products as duty-free; it claimed that as a company it refuses products it suspects to be illegal and that the Brazilian government has 'made significant efforts to eradicate illegal logging and to protect the sustainability of its forestry'.<sup>22</sup>

On Lumber Liquidators' store shelves, exotic solid wood flooring commands the highest prices. Species for sale include Ipê, Jatoba, Massaranduba and Cumaru.<sup>23</sup> Lumber Liquidators buys solid wood flooring from the Amazon from suppliers Exportadora De Madeiras Amazonica Ltda ('Exmam'), Juruá Florestal Ltda ('Juruá') and Pampa Exportações Ltda ('Pampa').<sup>24</sup> These three exporters have all purchased Ipê from the sawmills Itapuranga Indústria E Comércio De Madeiras Ltda ('Itapuranga') and Madeball Industria E Comércio Ltda

(‘Madeball’),<sup>25</sup> both of which have purchased Ipê since the beginning of 2013 from the Associação Virola-Jatobá [see Case Study 1] or the companies that manage its forest. Juruá has bought from Madeireira Alto Giro Belem Ltda (‘Alto Giro’), which sourced timber said to be from one of Ceser Busnello’s estates [see Case Study 3].

Exmam is located outside Belém, Pará but is owned by an American holding company, Pacific States Industries, Inc.<sup>26</sup> Also part of the same group is Redwood Empire, a Northern California timber company that sells Exmam’s products.<sup>27</sup>

Lumber Liquidators supplier Pampa has purchased timber from sawmill Vargas E Vargas Ltda, which has in turn also sourced timber claimed to have come from one of Busnello’s estates. Pampa has a history of environmental violations and has been fined over \$2.5 million (US\$1 million) in recent years.<sup>28</sup>

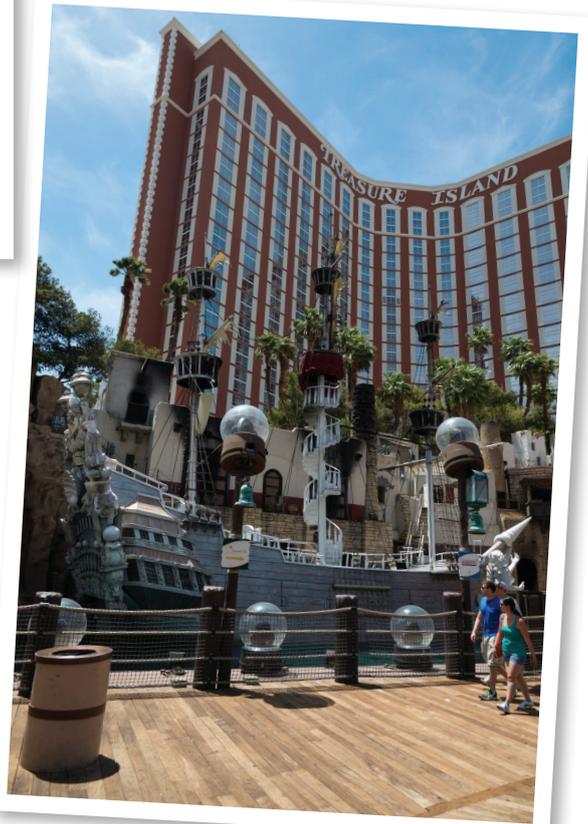
International Forest Products, headquartered in Massachusetts, is a major timber importer owned by the Kraft Group – a sports, real estate and manufacturing group<sup>29</sup> that also owns a major professional American football team, the New England Patriots.<sup>30</sup> International Forest Products purchases Ipê from Monção e Souza Ltda (‘Monção’), Ipezai Comercio De Madeiras Ltda (‘Ipezai’) and K.M. Comercio E Exportação De Madeiras Ltda

(‘K.M. Comercio’).<sup>31</sup> Monção and Ipezai have purchased Ipê from the sawmill Xingu Industria E Comercio Imp. E Exp. De Madeiras Ltda (‘Xingu’), which has also sourced timber supposedly from one of Ceser Busnello’s estates, as has the sawmill Alto Giro, from which Ipezai has also purchased. K.M. Comercio has bought Ipê from Madeireira Vitória Indústria e Comércio Ltda, a sawmill that has processed timber purchased from Agropecuária Vitória Régia Ltda [see Case Study 2].<sup>32</sup>

Timber Holdings USA sells Ipê as ‘Iron Wood’ on account of its durability.<sup>33</sup> Wisconsin-based Timber Holdings imports its Ipê from sources such as K.M. Comercio, Madeireira Rancho Da Cabocla Ltda (‘Rancho Da Cabocla’), Vitoria Exportacao De Madeiras Ltda (‘Vimex’) and Ipezai. The exporter Rancho Da Cabocla has bought timber from MADEVI, the only sawmill known to have processed wood purchased from the estate of Violeta Elizabeth Hagmann [see Case Study 4].<sup>34</sup> The exporter Vimex buys timber from the sawmill WR Industria E Comercio De Madeiras Ltda, which has purchased timber from Agropecuária Vitória Régia Ltda.<sup>35</sup> Timber Holdings claims to have supplied high-profile construction projects including the new United States Census Bureau headquarters, rooftop decks and benches at Harvard University, Treasure Island Casino in Las Vegas, the Miami Beach Boardwalk, Disney World and several projects in New York City.<sup>36</sup>



From top left  
counterclockwise: Columbus  
Circle (New York City, New  
York, USA), Miami Beach  
Boardwalk (Miami, Florida,  
USA), Treasure Island Casino  
(Las Vegas, Nevada, USA).



# Scratching the surface

There are many other US importers that buy from exporting companies that in turn purchase timber from sawmills linked to the properties covered in this investigation's case studies. Some additional links to major US tropical timber importers include the following:

- Ipezai (see above), linked to Ceser Busnello, has also exported to J. Thompson Mahogany, Sabra International, East Teak Fine Hardwoods and Advantage Trim and Lumber.<sup>37</sup>
- Vimex (see above), linked to both Ceser Busnello and Agropecuária Vitória Régia Ltda, has also exported to Timbex, Baille Lumber and J. Gibson Mclvain.<sup>38</sup>
- K.M. Comercio (see above), also linked to Agropecuária Vitória Régia, has also sold timber to Florida-based importers Universal Forest Products and Aljoma Lumber.<sup>39</sup>
- New Timber Comercio Importação E Exportação De Madeiras Ltda exports to Connecticut-based General Woodcraft Inc, which sells Ipê decking under its 'Mataverde' line.<sup>40</sup> New Timber has bought from the sawmills Madeireira Vitória Indústria E Comércio Ltda and Xingu, linked to Agropecuária Vitória Régia Ltda and Ceser Busnello respectively.<sup>41</sup>

# Marketing forest destruction

Many of the purveyors of tropical timber in the USA bombard customers with specious statements that greenwash the product. A typical marketing ploy entails presenting a false choice to consumers: 'If we do not "manage" this forest, it will lose its value and be converted into agriculture.' One company even claims that by buying tropical timber, customers are 'helping save the rainforest'.<sup>42</sup> Such claims ignore the well-documented role that logging plays in degrading tropical forests and making them more vulnerable to fire and wholesale conversion for agriculture.<sup>43</sup> Several sellers also prominently display the FSC chain-of-custody certification logo on their websites and marketing materials, even though a substantial portion of the products they sell are not FSC-certified.<sup>44</sup> The issue of the legality of the products is addressed in many marketing materials, but very few traders offer any assurances beyond the fact that their timber comes with official documents.

## Endnotes

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4 Ibid.

5 16 U.S.C. §3372(a).

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8 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](http://www.aphis.usda.gov/plant_health/lacey_act/downloads/LaceyActPrimer.pdf)

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Primer. [www.aphis.usda.gov/plant\\_health/lacey\\_act/downloads/LaceyActPrimer.pdf](http://www.aphis.usda.gov/plant_health/lacey_act/downloads/LaceyActPrimer.pdf)

10 16 U.S.C. §3374(a)(1).

11 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](http://www.lumberliquidators.com/assets/images/product_page/California_Supply_Chains_Act.pdf)

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13 Ibid.

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24 Documents held by Greenpeace.

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