



global witness

**INVESTIGATION INTO THE ILLEGAL FELLING,
TRANSPORT AND EXPORT
OF PRECIOUS WOOD IN
SAVA REGION MADAGASCAR**

AUGUST 2009

CONDUCTED BY

GLOBAL WITNESS AND

THE ENVIRONMENTAL INVESTIGATION AGENCY, INC. (US)

IN COOPERATION WITH

**MADAGASCAR NATIONAL PARKS, THE NATIONAL ENVIRONMENT AND
FOREST OBSERVATORY AND THE FOREST ADMINISTRATION OF
MADAGASCAR**



ACRONYMS

ANGAP	<i>Association Nationale pour la Gestion des Aires Protégées</i> / National Association for the management of Protected Areas (now changed to MNP)
CCPFT	<i>Cercle de Concertation des Partenaires Financiers et Technique (du MEF)</i> / Consultative Group of Donors in support of MEF
CI	Conservation International
CIREF	<i>Circonscription de l'Environnement et Forêts</i> : local MEF representation at District level
CIREEF	<i>Circonscription de l'Environnement, des Eaux et Forêts</i> : local MEEF representation at District level (prior to re-organisation in January 2009)
CITES	Convention on International Trade in Endangered Species
COBA	<i>Communauté de Base</i> / rural community-based organisation
DCAI	Direction / Directeur du Contrôle et de l'Amélioration de l'Intégrité – Directorate / Director of Internal Inspection DGF <i>Direction/Directeur Général des Forêts</i> / Directorate/Director of Forests
DGEEF	<i>Direction/Directeur Général de l'Environnement, des Eaux et Forêts</i> / Directorate/Director of the Environment, Water and Forests (prior to re-organisation in January 2009)
DIREF	<i>Direction Régionale de l'Environnement et Forêts</i> : Regional representation of MEF
DIREEF	<i>Direction Régionale de l'Environnement, des Eaux et Forêts</i> : Regional representation of MEEF (prior to January 2009)
DVRN	<i>Direction de Valorisation des Ressources Naturels</i> / Forest Service Department
EIA	Environmental Investigation Agency
EPIII	Environmental programme, third phase
GIS	Geographic Information System
GOM	Government of Madagascar
GPS	Global Positioning System
GTZ	German Technical Assistance Agency
HAT	<i>Haute Autorité de la Transition</i> / transitional government
KfW	<i>Kreditanstalt fuer Wiederaufbau</i> / German Development Bank
MEF	Ministry of Environment and Forests
MEEF	Ministry of Environment, Water and Forests (prior to re-organisation in January 2009)
MNP	Madagascar National Parks
ONESF	<i>Observatoire National de l'Environnement et du Secteur Forestier</i> / National Environment and Forest Observatory
ONG	<i>Organisation non-gouvernementale</i> / non-governmental organisation
PGM-E	<i>Programme Germano-Malgache pour l'Environnement</i> / German-Madagascan Programme for the Environment
SNFEM	<i>Syndicat National des Exploitants Forestiers de Madagascar</i> / National Association of Forest Operators
USAID	US Agency for International Development
WCS	Wildlife Conservation Society
WWF	World Wildlife Fund

NOTES ON ORTHOGRAPHY

- The administrative unit (“area territoriale”) ‘SAVA Region’ appears throughout the text in this official Malagasy writing; for this reason ‘region’ appears in the text with capital ‘r’. This rule also applies to official names such as ‘Masaola National Park’.
- The citation of official information, reports or any other documents, in this report was authorised by government or other authorities’ officials who provided the EIA/Global Witness team with copies of the relevant documents. These are also listed in the Biography.

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FIGURES

Figure 1: Mission areas

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EXCHANGE RATES (01 OCTOBER 2009)

1 USD = 2,028.40 MGA (Ariary)

1 USD = 0.626541 GBP

1 USD = 0.680839 EUR

1 GBP = 1.08653 EUR

20FT CONTAINER MEASUREMENTS

5.858m length – 2.352m width – 2.393m height = 32.97 m³

Net weight: 28.250 tonnes

LIST OF LEGAL TEXTS REFERRED TO IN THE REPORT

Legal text	Short description	Observations
Ordinance 60-128 dated 03 October 1960	sets the content of procedures applicable to punishable breaches of forestry laws dealing with hunting, fishing and protection of the environment.	
Order 11832/2000 dated 30 April 2000	bans exportation of rosewood and ebony wood except under the form of semi-finished and finished products such as art objects or handicrafts and suspends for a duration of three years issuing of licences to operate in the CAP EST region.	
Order 12704/2000 dated 20 November 2000	suspends and bans all activities dealing with extraction of wood resources in sensitive areas , including protected areas and their peripheral zones; its Article 4 mentions that there won't be any specific measure contrary to this order.	However, no delimitation of the peripheral areas have been made
Inter-ministerial Order 17939/2004 dated 21 September 2004	prescribes that all exported products must be "finished" or "semi-finished" ; annulment and abrogation of contradictory articles contained in Order 11832/2000 dated 30 April 2000 on the banning of rosewood and ebony exports	Contradicts Order 11832/2000
Memorandum 923/05 dated 06 October 2005	authorises the export of existing stocks of ebony and rosewood "following the grievances expressed by operators and exporters of Antalaha, Mahajanga and Taolagnaro".	Contradicts preceding memoranda
Memorandum 001/06 dated 15 February 2006	declares all ebony and palissander stocks illegal other than those designated in the annex of Memorandum 923/05	Legalisation of a specific operator's products
Inter-ministerial Order 16030/2006	bans all extraction of rosewood and ebony and the export of ebony and rosewood; allows export of rosewood and ebony as finished products; all unidentified stocks will be seized	Restitution of banning of export of unfinished precious woods
Inter-ministerial Order 10885/2007 dated 03 July 2007	bans exportation of wood extracted from all categories of natural forests, whether it be raw or semi-finished ; only finished products are authorised for export	Confirms Orders 11832/2000 and 16030/2006
Ministerial Note 03/08 dated 10 January 2008	annuls all existing export agreements and suspends all export until publication of new regulatory measures concerning the principle forest products	
Inter-ministerial Order 003/2009	grants exceptional rights to export raw rosewood, ebony and palissander in the SAVA Region for 13 listed operators; total clearance until 30 April 2009, deadline after which there won't be any more exception issued	Contradicts orders 11832/2000 and 16030/2006

Inter-ministerial Order 38244 dated 21 September 2009	grants exceptional and nominative rights to export ebony, rosewood and palissander in accordance with previously established inventory for operators who have complied with forestry taxation and administrative requirements; maximum quota of 25 containers allotted to each of the “following” operators, in order to pacify the economic situation.	Contradicts Orders 11832/2000 and 16030/2006; does not abide by the provisions of Inter-ministerial Order 003/2009; absence of inventory
Inter-ministerial Order 38409/2009 dated 5 October 2009; Notes to operators 029 and 030/09/MEF/SG/DGF/DV RN dated 02 October 2009	completes the Inter-ministerial Order 38244/2009 on exceptional export agreement of raw and semi-finished precious woods; Application notes on the issuing of export agreements and permits of forest products	Article 6 of the Order pronounces all products currently waiting for approval to be designated as fraudulent exportation

Note: The hierarchy of legal texts in Madagascar is as follows:

Constitution > Law > Ordinance > Decree > Inter-ministerial Order > Ministerial Order > Ministerial Note / Memorandum

EXECUTIVE SUMMARY

In the period since February 2009, a dramatic increase in the felling and cutting of rosewood has been reported in the SAVA Region of north-east Madagascar. As a result, several investigative missions have been sent into the region to gather evidence of these activities. These missions have been organised by the Malagasy Forestry Administration, the management of the National Parks of Masoala and Marojejy, and the Malagasy National Environment and Forest Observatory (*Observatoire National de l'Environnement et du Secteur Forestier*, or ONESF).

In July 2009, two non-governmental organisations – Global Witness and the Washington-based Environmental Investigation Agency, Inc. (EIA) – were contacted by the Malagasy institution, Madagascar National Parks (MNP), to assist their effort in investigating the illegal harvest of precious wood in the SAVA Region, and the associated international trafficking of illegal timber.

The investigation team observed intensive logging of rosewood trees in the northeast of Masoala National Park, and transport of logs to Antalaha. The intensive transport of rosewood in broad daylight, on sections of road policed by Gendarmerie posts, both to the south and to the north of Antalaha, demonstrates a serious breakdown in the rule of law – if not the active collusion of law enforcement authorities with illegal timber traffickers.

The investigation team also observed a serious failure by the Forestry Administration to control both harvesting activities in the forests and the transport of logs to the coast and to Antalaha.

The mission found substantial evidence of the following:

- Breakdown of the rule of law in the SAVA Region with regard to the logging, transport, storage, and export of rosewood
- Ongoing illegal and uncontrolled harvest of about 100 to 200 trees of rosewood per day centred in three locations in the National Park of Masoala and the Mananara Biosphere Reserve
- Confusion regarding the legal framework governing the forest sector and trade and export of precious wood, created by conflicting ministerial and inter-ministerial orders and decrees
- Lack of adherence to laws and regulations governing the forest sector and the harvest, transport, and export of precious wood, on the part of the Ministry of Environment and Forests, or MEF
- Systemic failure to repatriate the proceeds of timber exports, depriving Madagascar of any economic benefit from the trade
- A serious lack of monitoring and control of the harvest, transport and storage of rosewood, and possible collusion of Forestry Administration and law enforcement officials with traffickers of precious wood
- A lack of suitably qualified Forestry Administration agents at regional level
- Widespread abuse of local “small players” in the harvest and transport of illegal wood by “collectors” and exporters (traders)
- Capture of state authorities by the Antalaha traders, and manipulation of the population to – in effect – blackmail the state into authorizing exports of illegal wood and allowing illicit activity in the forests to continue.

As a follow-up phase to this mission, the EIA/Global Witness team will continue to analyze the documentation and evidence assembled during the investigation. This will enable a better understanding of the extent of the fraud committed, and a clarification of the international export chains of illegally harvested precious woods from Madagascar.

1. INTRODUCTION

1.1 Mission Background

The political turbulence in Madagascar in February and March 2009, and an ensuing atmosphere of political instability, further weakened a state authority that was already ineffectual in terms of forest sector law enforcement and reform. To date, the result has been general lawlessness and effectively unregulated access to natural resources.

Since this time, an influential group of “timber barons” who control the trade in precious wood in the SAVA Region have redoubled their pressure on the government to export the precious woods that are currently being stockpiled throughout the region, both in open yards and concealed in forests, beneath stacks of agricultural products, and under buildings.

Additionally, National Park agents and Forestry Administration officials are vulnerable to acts of violence orchestrated by these barons: one such incident resulted in the burning of the Ministry of Environment and Forests’ regional offices, and intimidation of its staff. At the same time, the National Parks in the SAVA Region – Marojejy and Masoala National Parks and the Mananara Biosphere Reserve (protected area within the Makira-Masoala landscape) – have seen dramatic increases in the number of persons entering the parks illegally to cut rosewood for transport to Madagascar’s coast and ports. This influx of illegal timber harvesters, numbering in the thousands, is degrading designated national park forests at an alarming rate.

In response to this situation, in July 2009 the Director General of Madagascar National Parks (MNP) asked Global Witness and the Environmental Investigation Agency, Inc. (EIA) to put together an expert mission to analyze and investigate the trafficking of precious wood in the SAVA Region.

Global Witness has a proven track record conducting investigative work that exposes corruption in natural resource trade and exploitation, and in implementing campaigns that end impunity, resource-linked conflict, and human rights and environmental abuses.

EIA investigates and campaigns against environmental crimes around the world, and has decades of experience investigating illegal logging and international trade in threatened wildlife and other environmentally sensitive goods.

For the purposes of this project, the organisations formed a partnership under a Memorandum of Understanding (MOU).

1.2 Objectives

The objectives of the mission and field investigations were as follows:

- To gain an understanding of the extent of illegal logging in the SAVA Region, and to gather accompanying evidence
- To gain a clear understanding of the economic, ecological and social impacts of the illegal harvest and trade of timber, in particular rosewood and ebony
- To identify those responsible for illegal activities on national and international levels, with the overall aim of eventually curbing the logging, trade and export of illegal timber.

It is hoped that the results of the investigation will be used by Malagasy authorities to educate and mobilize stakeholders towards the reform of the precious wood sector; to implement reform; and to bring to justice the persons and companies involved in illegal logging and associated timber trade, at both national and international levels.

1.3 Methodology of the investigation

The EIA/Global Witness investigation team included an expert of Global Witness in international forestry and independent forest monitoring, and a specialist of EIA in the international timber trade. The team was accompanied by a photographer, who took photographic and video material documenting the illegal harvesting, transport and storage of wood in the region.

The Malagasy Minister of Environment and Forests mandated the *Direction Général des Forêts* (DGF) and the *Observatoire National de l'Environnement et du Secteur Forestier* (ONESF) to assist the mission in all its phases, with the latter providing access to information within other relevant ministries and institutions. The assistance provided by DGF and ONESF included the preparation of all documents necessary for conducting investigations, participation in the investigations themselves, and assistance with mission follow-up and debriefing. As part of their commitment, both DGF and ONESF assigned representatives to accompany the mission.

Starting on 10 August 2009, the team conducted a three-week mission to investigate the illegal harvest, transport and storage of rosewood in the SAVA Region. This mission was the first phase of the investigation into the trafficking of precious woods; a second phase will comprise additional investigations into the supply chain through which the wood moves to recipient countries.

The first phase of the investigation was carried out in close cooperation with the relevant ministries and administrative structures – namely, the MEF and the Ministry of Finance, and the customs and national parks authorities. Consultations also took place with the financial and technical partners of the ministry. In the field, the mission team conducted interviews and consulted with representatives of the relevant ministries, the business sector, logging operations, local communities, and civil society.

Constructive information and planning meetings initially took place between the team and the heads of the contractual and assisting partners: the Directors General of Madagascar National Parks (DG MNP) and Forests (DGF), and the Coordinator of ONESF. Further consultation meetings were held with the representatives of the international community who provide support to MEF under the umbrella of the Consultative Group of Technical and Financial Partners of MEF, or

Cercle de Concertation des Partenaires Techniques et Financiers (CCPTF), which includes: Conservation International (CI), the German-Madagascan Programme for the Environment (PGM-E) of the German Technical Assistance Agency (GTZ); the German Development Bank (KfW); the US Agency for International Development (USAID), the World Bank, the Wildlife Conservation Society (WCS), the World Wildlife Fund (WWF); and Fanamby, an environmental NGO based in Antananarivo.

The team received mission orders from the Malagasy Minister of Environment and Forests and the Director of Judicial Affairs and the Fight against Fraud within the General Directorate of Customs. The mission orders requested all concerned departmental staff and agencies, and private operators to give the

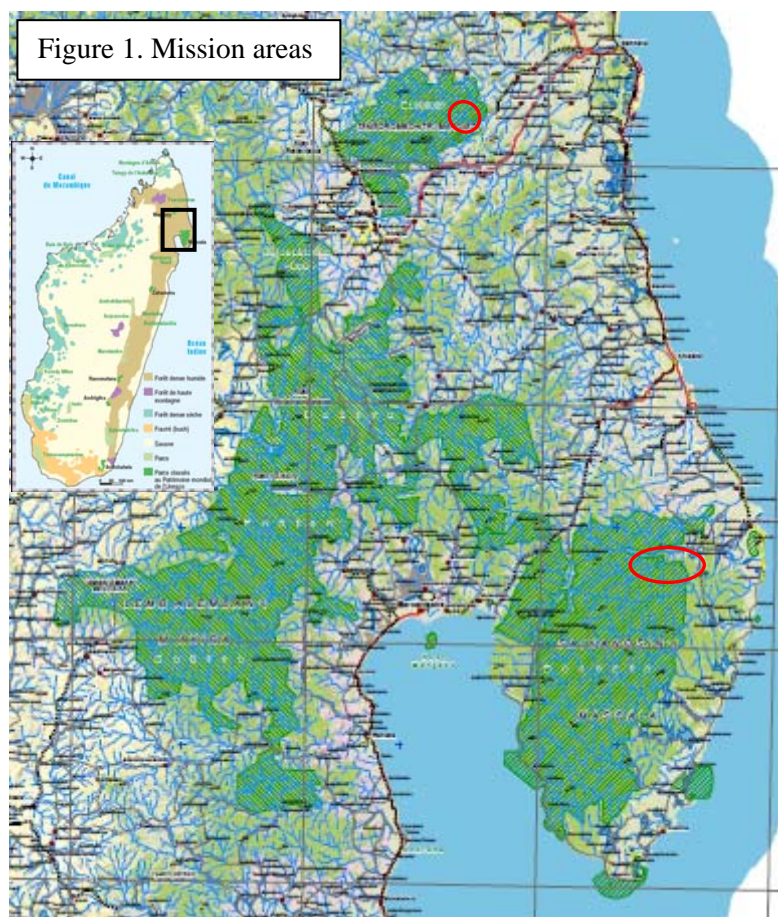


Figure 1. Mission areas

team free access to relevant sites and to provide all necessary documents related to the harvest, storage and trade of precious wood.

The EIA/Global Witness team started the investigation in SAVA by conducting interviews with three of the 13 timber exporters based in Antalaha, followed by consultations with local authorities and representatives of MEF in the towns of Sambava, Antalaha and Vohémar. They then interviewed customs authorities in Vohémar and the President and the Doyen of the Magistrates of the Regional Court of Justice in Antalaha.

The two sites targeted in the field investigation were identified after further consultation with the Directors of the National Parks of Marojejy and Masoala, the Chief Guide of Marojejy National Park, and members of the local population. These were as follows:

- The Mandena area, in the centre-east region of Marojejy National Park, where intensive illegal activities were reported to have ceased only shortly before the mission
- The Cap-Est region of the Masoala National Park, where intensive logging activity was reported. A report of a task force of the Gendarmerie, the military and the Forestry Administration from February 2008¹ had already mentioned this area as a “hot spot” for illegal logging of rosewood.

The team also collected and analyzed relevant documentation concerning past and current authorisations of the harvest, collection, transport and exportation of precious wood.

2. BACKGROUND ON HARVEST AND TRADE OF PRECIOUS WOOD IN THE SAVA REGION

2.1 Precious wood species

All three species of the commonly named “rosewoods” yield valuable hardwood: *Dalbergia baronii*, *D. louvelii* and *D. madagascariensis* (family: *Leguminosae*). The term “rosewood”, or *bois de rose* in French, is a reference to the deep, lustrous red wood of *D. baronii* and *D. Louvelii*. “Palissandre wood” refers to other *Dalbergia* species, such as *D. madagascariensis*, which lack the distinctive red colouration. These rosewood species are endemic to Madagascar. “Ebony” refers to a suite of species in the *Diospyros* genus (family: *Ebenaceae*) with a similarly dark, heavy, fine wood grain. Whereas the economically valuable *Dalbergia* species (“rosewood” and “palissandre”) are mainly found in the forests of the SAVA Region and the Makira-Masoala Landscape, the team was informed that the majority of ebony grows in the northwest part of the island. There is however also some harvesting of ebony in the SAVA and Makira-Masoala Landscape.

2.2 Historical brief

For an informal industry riddled with illegality and corruption, the business of timber extraction and export in the SAVA Region shows a remarkable degree of continuity. Industrial and commercial practices, financiers, exporters, and importers have changed little in the past decade. Many players boast of experience in the trade and relationships with other actors that stretch back twenty years or more. Since at least 1998, intermittent bans and reauthorisations of timber extraction and export have created a market dynamic of rising prices during periods of stricter control, and dumping of available stock once these controls are relaxed, causing prices to tumble shortly after exports restart. Timber traders have grown accustomed to this level of uncertainty, and can easily adjust their operations to be more or less open, depending on the current level of control. Following the political crisis in January 2009, conflicts between the central and regional governments, and among various agencies, have created openings for timber traders to “shop” for authorisations among the numerous authorities responsible for policing the timber trade.

Certain modes of operation have become standard for traders in precious wood in the SAVA Region over the past decade. Conditions attached to the funding of Madagascar’s National Environmental Action Plan’s Environmental Programme, Phase III (EPIII)^{1, 2}, supported by a coalition of bilateral and

¹ World Bank, 20 April 2004, EPIII Project Appraisal Paper, p. 19, 49: “As far as transitional measures for good governance in the forest sector are concerned, it has been agreed during Negotiations that the GoM would maintain a ban on the export of non-processed precious wood (*bois ébène*, *bois de rose*, *palissander*)”

multilateral donors including the World Bank, resulted in a ban on the export of unfinished precious wood in 2002, which has legally remained in effect to the present day, although the degree with which it is applied has varied considerably in the intervening years. While there have been some efforts to stimulate a domestic wood-products industry, virtually all precious wood exported from Madagascar since the ban has been in unfinished or semi-finished form. Almost all of these exports leave as logs or planks, with only a small proportion of planks for the production of furniture or musical instruments. These semi-processed products are typically made from woods such as *ebony*, *faho*, and *andrapotsy*.

Whereas historically, increases in illegal logging activity are directly linked to natural and political events that affect the legality or feasibility of precious wood extraction, the recent dramatic fall of the world market price of vanilla, the SAVA Region's chief export, has shifted the economic focus to the trade of precious woods found in the Region's forests. Timber exporters in the SAVA Region are typically involved in a variety of businesses, of which timber is the most lucrative, but at the same time one of the least predictable, due to the constantly changing nature of the law-enforcement situation. During periods of low vanilla prices, capital is diverted to finance timber extraction and export, a phenomenon which is facilitated by slack demand for labour among vanilla exporters, and shortages in communities dependent on sales of their vanilla harvests for surplus cash for medicine, schooling, and food supplementing domestic agricultural production.

In the past decade, illegal logging crises have also developed as the result of cyclones. Cyclones destroy the vanilla crop, creating an urgent shortage of cash in the region. They also provide a pretext for illegal logging of commercially valuable trees in the forests inside and outside of protected areas, under the guise of "salvage" activities legally authorized with the intent of clearing trees that have fallen as a result of cyclone events (see more below). The aftermath of Cyclone Gafilo, in 2004-5, created an anarchic situation in the national parks, with loggers taking advantage of freely allocated salvage authorisations to extract quantities of protected precious wood that were grossly disproportionate to the real damage inflicted by the cyclone.

Since the last major illegal logging crisis in 2004-5, a confluence of several positive factors has helped to calm illegal activity: increasing amounts of conservation funding and capacity-building assistance from international aid agencies; a greater emphasis by the central government on preserving biodiversity and exploiting Madagascar's potential for eco-tourism; and relatively favourable prices for other cash-generating exports, especially vanilla. Initiatives such as the creation of combined inspection brigades in 2005 enhanced the authorities' ability to control the flow of illegal timber, and the Deputy Director of Prevention at the Independent Anti-Corruption Office (BIANCO) maintains that illegal harvesting and export of rosewood was halted by 2008. However, with the collapse of vanilla prices in mid-2008, the withdrawal of conservation funding following the political crisis in January 2009, and increased interest in Madagascan rosewood from foreign (especially Chinese) buyers, an unfortunate convergence of "push" and "pull" factors has resulted in a significant surge in logging activity.

Corruption has always been a serious impediment to tackling illegal timber extraction in the SAVA Region, but the recent political crisis has aggravated the situation further by disrupting the official hierarchy of control over the forest sector. The national government, short on cash due to the international economic crisis and a suspension of international aid, has restricted the already-low salaries of many civil servants, while the profitability of the illegal trade in precious wood has increasingly enabled timber traders to use bribery and violent coercion to undermine the enforcement of the forest law.

According to interviews with local sources and news reports, in March 2009 national parks in the SAVA Region were flooded with thousands of loggers, in an intensive period of activity lasting six to eight weeks. In mid-April, fresh activities by law enforcement authorities in national parks, as well as renewed enforcement of the export ban, led to a temporary reduction in illegal activity. Timber traders slowed the pace of operations in areas under greater scrutiny, but redoubled their efforts in more remote areas. As timber could not be openly exported in large quantities, exporters began to stockpile rosewood in registered depots, as well as in clandestine stockpiles. At the time of this report's publication, traders in SAVA are engaged in intensive lobbying activities aimed at ensuring the subsequent safe passage of large quantities of timber blocked from export in the SAVA Region.

3. LEGAL FRAMEWORK (MIS)GOVERNING THE FOREST SECTOR IN MADAGASCAR

3.1 Harvesting of precious wood

The following section of this report provides an overview of the major legal texts relevant to the harvest, collection and trade of precious woods in Madagascar (see “List of legal texts referred to in the report”, above).

The Malagasy forest sector is governed by Law 97/017 of 08 August 1997 or the Forest law; Decree 98-781, which outlines the general conditions of Law N° 97-017; and Decree 98-782, which regulates forest exploitation.

Decree 98-782 states in Article 5 that “*no forest product can be acquired without authorisation of an extraction agreement (convention), extraction permit, cutting permit, collection permit or a management contract*”.

Forest management in Madagascar is delegated to private companies, associations, individuals or NGOsⁱⁱ, and harvesting permits and agreements may only be granted to private operators by competitive bidding. In 2000, a ministerial order suspended issuance of new permits on the basis of exclusive negotiations with one interested operator (*gré-à-gré*); in 2001, Decree 13855/2001 regulates the granting of a forest (harvesting) title through competitive bidding. The first subsequent harvesting permit in the country was awarded through competitive bidding in 2006.

All operations in legal management concessions must be carried out according to a management plan developed by the Forest Administration and financed by the beneficiary of the permit, no later than 5 years after publication of the Decree (Articles 7, 8 of Decree 98-782). No such permits currently exist for the SAVA Region.

During the time lag between the suspension of issuance of old permits and the award of new extraction agreements through bidding, a number of questionable wood harvest authorisation forms were used by loggers – forms bearing titles not found in any legal text. For example, permits issued to authorize wood harvesting included *permis de carbonisation*, *permis de ramassage*, and *permis de recuperation de bois morts*. These questionable permits were not based on any management plan or inventory, and allowed timber traders to undermine regulations and the crucial use of wood inventories as a basis for establishing authorized harvest volumes.

In the SAVA Region, in the absence of any exploitation agreement, forest exploitation is limited to the salvage of precious woods (rosewood, ebony, and palissandre), with the main focus on rosewood. Salvage (or “collection”) permits are intended exclusively for the collection of trees already uprooted or damaged by the frequent cyclones experienced in Madagascar – but cyclones provide a welcome opportunity for timber traders to log high-value precious woods under the pretext of salvage.

According to the information received during this investigation, in SAVA Region rosewood is only found inside the National Parks of Marojejy and Masoala, the Mananara Biosphere Reserve and the adjacent forests. The absence of any inventory of cyclone-damaged trees and stocks of collected woods has created a black hole that continues to be filled by logs from trees felled in waves of special authorisations to clear timber stocks (see the rest of this report for more detail). By 2006, the exploitation, in any form, of all precious woods was definitively prohibited throughout Madagascar by Inter-ministerial Order 16030/2006 (see Annex 1).

In conclusion, any precious wood harvested in the SAVA Region before September 2006 should be considered illegal because the permits did not follow the regulations in force. All such wood produced in Madagascar after September 2006 is definitively illegal, wherever it was harvested, due to Inter-Ministerial Order 16030-2006.

ⁱⁱ Décret 98-782, Article 5 : « *sous réserve des dispositions spécifiques concernant l'exercice des droits d'usage, nul ne peut s'approprier aucun produit des forêts soumises au régime forestier, sans y être autorisé par une convention d'exploitation, un permis d'exploitation, un permis de coupe, un permis de collecte ou un contrat de gestion passé en application de la loi n° 96-025.* »

Below: major cyclones that have hit NE Madagascar, and location of greatest damage

April 2000	Cyclone Hudah: Antalaha
May 2003	Cyclone Manou: south of Tamatave
March 2004	Cyclone Gafilo: Antalaha
March 2007	Cyclone Indlala: Antalaha and Maroantsetra

3.2 Trade and export of precious wood

In Madagascar, the past decade has been characterized by constant shifts in the regulations governing the export of precious woods. These ongoing upheavals seem to be motivated by the impact of natural disasters on forests, the high international market value of certain species, and the lobbying activities of those who export these woods.

The initial drafting of legal regulations prohibiting the export of unprocessed precious wood was part of the project preparation process of the above-mentioned Madagascar Action Plan's Environmental Programme, Phase III (EPIII). This plan was instituted in order to meet the Global Environmental Objective (GEO) of improving the protection and sustainable management of critical biodiversity resources at field level.

On 30 April 2000, the minister in charge of forests issued **Order 11832/2000**, temporarily prohibiting the export of rosewood and ebony in non-finished form. **Order 12704/2000** of 20 November 2000 suspended and prohibited all extraction of wood resources in "sensitive zones, including protected areas" and peripheral areas. Article 4 of this latter Order further states that that no special provision is allowed against the Order.

These export bans were relaxed for the first time in the wake of Cyclone Gafilo, which hit Madagascar in March 2004, in order to capitalize on the trees felled by the cyclone. In response to cyclone damage, on 21 September 2004 the minister in charge of forests issued **Order 17939/2004**, governing trade in principal forest products, which permitted the export of all wood in semi-finished or finished form. For wood in Category 2, palissandre, rosewood, and ebony, "*semi-finished*" was defined as "*planed on the four sides*", whereas for all other timber categories (of less economic value) that term was defined as "*all products of sawing and shaping*" (1st phase of transformation). A "*finished*" wood product includes all "*shaped wood, transformed for a definitive use, that must not undergo further modifications (furniture, art objects, doors and windows, modern flooring).*"

The failure to assess the damage inflicted by the 2004 cyclone meant that officially recognized "damaged" wood could be exported under this Order and immediately replaced by illegally harvested wood, in a perpetual cycle.

Service Note n°175/05 of 22 February 2005 reinstated the Government's commitments under EPIII, by prohibiting the export of rosewood and ebony, "*for the preservation of biodiversity and the promotion of local development of wood products*". However, **Service Note n°923-05** of October 6, 2005 overruled the previous Note by authorizing export of existing stocks of ebony and rosewood "*following the grievances of the operators and exporters of Antalaha, Mahajanga and Tolagnaro*". This latter document reportedly opened the door to a series of permissions to liquidate existing stocks of "wood from the 2004 cyclone"ⁱⁱⁱ, and contained an Annex with a purported inventory of these stocks.

The 2006-2007 cyclone season caused a lot of damage in Madagascar's north-eastern region; subsequently, the Forestry Administration issued general "Collection Permits" for damaged precious wood to any applicant without the need to be either registered with the Forest Administration as forest operator ("*exploitant*") or confirming technical forestry competence (see also 4.1.1). The initial permits were issued for non-specified areas in the District of Antalaha, which was affected by the cyclone; allegedly, the head of the District of Vohémar then intervened to ensure that collection permits were also issued for non-specified areas in Vohémar, even though its forests had not been affected by the cyclone.

ⁱⁱⁱ « C'est à partir de ce texte que les problèmes ont commencé, avec les inventaires des stocks de bois / changement de l'état de stock tous les jours. » states ex-DGF Andriamananoro-Radiharisoa Monique, Conseiller Technique Supérieur en matière de Changement climatique, GTZ/PGM-E: Textes et réglementations forestières sur les exploitations et exportations

Forestry experts debate whether cyclones have a severe impact on rosewood, given that mature trees in this genus generally have well developed root systems, with deep tap roots and long lateral roots³; and an assessment of the impacts of the cyclones and flooding in Madagascar in May 2007 conducted by the Joint UNEP/OCHA Environment Unit of the United Nations concluded that Masoala National Park “did not sustain direct damage as a result of the cyclones⁴”. However, the Forestry Administration failed to determine the actual damage done with an inventory, and, as a consequence, permits allowing the “recycling of cyclone wood” opened the door to widespread abuse.

In a study of the illicit extraction of rosewood in the Masoala National Park the Park Director concluded, in April 2009 that “*the authorisations to sell the ‘old stocks’ of woods that were officially cut a long time ago have resulted in new logging, which is moreover focusing on rosewood in the National Park. This thus helps [creating] a ‘revolving door’ cycle, since more than five years*”⁵ (see Annex 2).

The legal texts in the following illustrate the underlying chaotic legal situation over the last years:

- o **Service Note n°001/06** of 15 February 2006 declares illegal all stocks of ebony and rosewood other than those included in the inventory in the Annex of **Service Note n°923-05**. However, the note proceeded to add the stock of “*a legal operator in Maroantsetra*” to the inventory. This exception is an example of legitimised abuse of state authority by an influential businessman in

Pour raison économique en application des dispositions de l'article 2 de l'Arrêté N° 7204/2005 du 20 Juin 2005 et suite aux doléances émanant des exploitants et exportateurs de bois, dont ceux d'Antalaha, de Mahajanga et de Taolagnaro, il est autorisé, par la présente, la commercialisation et l'exportation des stocks de bois d'ébène et de bois de rose déclarés officiellement suivant les états annexés à la présente. L'exportation de ces bois doit s'effectuer sous forme de bois « semi travaillé » ou « travaillé ». Leur exportation sous forme de grume reste, par contre, interdite.

Above: Extract from Service Note n°923-05 of 6 October 2005

- o **Inter-ministerial Order 16030/2006** prohibits extraction, trade, and export of ebony and rosewood, but permits the export of stocks of finished products of ebony, rosewood and palissandre, as long as “*the stocks are registered under valid permits*” (albeit no register of stocks had been established at that time; see below)⁶.
- o **Inter-ministerial Order 10885/2007** of 3 July 2007 prohibits export of wood of all categories from natural forests in raw or semi-finished form.
- o **Ministerial Note 03/08** of 10 January 2008 revokes all export agreements, and prohibits export either under these agreements or under new agreements/authorisation for export.

In 2008, several inventories of stocks of precious wood in the towns of the SAVA Region were conducted, the first one carried out by the Forest Service Department (*Direction de Valorisation des Ressources Naturels*, DVRN) in April, but the evaluation teams did not finalize an assessment of the stocks remaining in the forests.

The most recent assessment at time of writing, conducted in December 2008, was conducted by a Regional “Inventory Ad hoc Committee” in Antalaha, Sambava, Vohémar and Andapa (Annex 3)⁷, and forms the basis of the inventory list in **Inter-ministerial Order 003/2009** (see below).

In July 2009, in response to uproar following the surge in illegal activity in the national parks in the SAVA Region, the minister in charge of forests ordered an investigation into the legality of wood stored in 176 containers in the port of Vohémar. The investigation established that “of 7 operators, 5 had violated forestry laws”.⁸

The investigators recommended imposing a penalty of 72 million Ariary for each of the 83 containers containing improperly documented wood, without confiscation of the wood from those storing it, as a “transaction before judgment” (see Annex 4). This situation contradicts current Malagasy law, which does not permit the restitution of seized wood to those responsible for the illegal acts used to obtain it⁹. It is noteworthy that contradictory to the law in force the timber has never been seized despite being

declared illegal^{iv}; likewise, no official statement of offence (“procès-verbal”) has ever been issued for the wood stored in the port of Vohémar. However, the act of offering a transaction payment as out-of-court settlement of an infraction by the forestry administration confirms the illegal nature of the wood, as does its acceptance by the suspected person in possession of the wood.

This illegal situation is “allowed” as follows:

- **Inter-ministerial Order 003/2009** “exceptionally” permits the export of precious wood for 13 listed exporters, as per the inventory listed in the order. Liquidation must be finalized by 30 April 2009.
- **Inter-ministerial Order n°33244/2009** of 21 September 2009 permits the export of 25 containers of precious woods in raw or semi-finished form “*under exceptional title*” for listed exporters. However, the list of exporters is not included in the order (it can be assumed that the list refers to the 13 exporters cited in Order 003/2009, above), and the permitted amount is neither based on an inventory of the beneficiaries’ existing stocks, nor is it subject to verification of the wood’s origin as previously demanded under existing law. Export is authorized upon payment of 72 million Ariary, a sum consistent with the fine recommended by investigators for the “liquidation” of 176 containers of illegal timber in the port of Vohémar in July 2009^v. This Order does not state whether the payment is a penalty for trading in illegal wood or a special tax; but neither of these alternatives adheres to procedures under law.¹⁰

Art 2 : A titre exceptionnel, un quota maximum de 25 containers est attribué à chacun des opérateurs ci-dessous afin d'apaiser la situation socio-éco-politique qui prévaut dans la Région. Cette limitation évite la difficulté de contrôle à l'exportation et également décourage les opérateurs à avoir une idée de retourner dans la forêt pour couper de nouveau des bois précieux afin

Above: Interministerial Order n°33244/2009

After the submission of the present report, the authors received information on the Inter-ministerial Decree 38409/2009 on 5 October 2009 (see Annex 14) complementing the Inter-ministerial Decree 38244/2009 of 21 September 2009 on the exceptional agreement to export precious wood in raw or semi-finished form which aims to make the beneficiaries of Decree 38244 (see 3.2 below) to compliant with the legal conditions, notably with Decree No. 5139/94 regulating the exploitation and commercialisation of wood. In particular, the operators are, according to Article 2 “held to declare their stock in their agreement application. Each exporter must declare the origin of their products, their nature, their volume, their quality, their quantity as well as their destination” – all this within the export regulations in force. Article 3 of this decree stipulates “a contradictory stocktaking will be conducted by the agents of the forestry administration, who are sworn to oath, assisted by the task force (...) before the issue of an authorisation to export.” The liquidation of stocks must be done before November 30th 2009.

The Global Witness/EIA team note that Article 6 of this decree clearly states that all wood to fill the 25 containers that were guaranteed to the operators is illegal: “Given the illicit nature of the products, those operators who could have made the transaction payment are enclosed in the list of those authorised to exceptionally export precious woods” while those operators who have still not paid the fine of 72 million Ariary must do so within 15 days.

The Global Witness/EIA team recognises the intention and willingness of the concerned current Malagasy authorities to end the cycle of illegality in the production and commercialisation of precious woods, but remains very concerned about the measures taken to address it; not the least because they nurture the impunity of those business and administration persons responsible for the pillage of forests and protected areas in Madagascar over the last decade. Therefore, the Global Witness/EIA team emphasises the urgent need to implement the recommendations in this report.

^{iv} Order 13855/2001 prescribes in its Article 37 seizure of all wood of illegal origin

^v Note 290-09/MEF/Mi; Assessment report by Rambeloson and Azihar, July 2009, Annex 3

Nom et Prénoms ou raison sociale de l'opérateur	Lieu de dépôt	quantité de bois de rose		quantité de bois d'ébène
		rondin	plaquette	
1. LAISOA Jean Pierre	Belle Rose Antalaha	3 838	15 094	NEANT
2. BEMATANA Martin	Akoalabe Antalaha	1 704	37	NEANT
3. SOA Elia Rolaine	Ambalahoraka Antalaha	92	53	NEANT
4. RAMILIALISON Arland	Ankoalabe Antalaha	3 437	NEANT	NEANT
5. BEZOKINY C. Claude	Ambondrona Antalaha	3 814	279	NEANT
6. BODY Thierry	Antsonasona Antalaha	563	NEANT	1 027
7. CHAN HOYLANE	Ankoalabe Antalaha	288	NEANT	NEANT
8. PATRICIA Son	Belle Rose Antalaha	616	1 947	NEANT
9. NDAHINY Grégoire	Manolotsoa Antalaha	123	237	NEANT
10. MALOHELY	Maherifody Antalaha	45	2 111	NEANT
11. Sié THUNAM Roger	Ankoalabe Antalaha	NEANT	8 802	NEANT
	Andranomasinkely I Vohemar	NEANT	14 384	NEANT
12. Ets RANJANORO	SMPI-Antalaha	1 727	3 696	NEANT
	4 Minutes Antalaha	3 772	2 642	NEANT
	Analamandrorofo-Sambava	NEANT	49	NEANT
	Andranomasinkely-Vohemar	NEANT	12 920	NEANT
13. GURERRA William	Fotobato-Ambalabe Antalaha	751	NEANT	NEANT
TOTAL		20 770	62 251	1 027

Above: Extract from Inter-ministerial Order 003/2009

3.3 Analysis of legal situation concerning precious woods in the SAVA Region

While the EIA/Global Witness investigators did not have access to a complete data set for precious wood shipments prior to 2008, Forestry Administration officials and customs authorities confirmed that rosewood was exported following issuance of Inter-ministerial Order 16030/2006. This is also confirmed by the statistics of Chinese imports of rosewood logs of Malagasy origin which are held by the EIA/Global Witness team. Since no collection permits were issued after 2004, and no timber harvest concession exists in the SAVA Region, the remaining stock of legal rosewood should have been reduced by the amount of wood that was exported. However, the comparison of the periodic stock inventories done in 2007 and late 2008 seems to indicate an increase of the stockpiled volume.^{vi} An ONESF mission in the SAVA Region in July 2009 notes that “for some operators, stocks have tended to increase. The argument for them is that (...) they have certain amounts in the forest not yet inventoried and that these parts are in addition to their current stock.”¹¹

This situation is illustrated in Fig. 2. The negative bars are showing shipments that would be subtracted from the legally permitted stocks (logs and planks); these are however based on incomplete statistical information and are therefore likely to be lower than the actually exported volumes. The data for 2005 to 2008 are those of Chinese Import statistics that only list “Rosewood in the rough”, whereas the 2009 figure was derived from cargo manifests made available to the EIA/Global Witness team.

An analysis of the legal notifications issued concerning trade and export of precious woods suggests that there is confusion about the hierarchy of legal texts. “Service notes” appear to abrogate “Orders”, and “Orders” abrogate “Decrees” – even though the latter should be superior to the former in both cases. For example, Ministerial Notes 290-09MEF/Mi and 338/09/MEF/Mi offer settlement payments to traders of illegal timber, with the possibility of restitution of illegally obtained wood; but this policy contradicts Order 60-128 of 3 October 1986 and Order 13892 of 25 October 1986 prohibiting restitution.

Over time, a series of Ministerial and Inter-ministerial Orders has alternately cancelled and reinstated previous Orders. In addition, authorisations appear to be signed by people without the authority to do so: for example, one authorisation to load a shipment of rosewood was signed, in violation of existing regulations, by the Director of the Cabinet of the Minister of the Environment and Forests (001/09/MEF/DIRCAB).

^{vi} It is not possible to make an accurate estimation because the 2007 inventory only lists round wood whereas in 2008 round wood and planks were inventoried. Assuming that up to 5 planks can be produced in average from one log, the volume of planks would be the equivalent of 12,441 m³ of round wood; resulting in a total of 34,238 m³ round wood.

Such examples support allegations of systematic legal inconsistencies made by members of the donor community, such as the legal expert of the German-Madagascar Environment Programme (Programme Germano-Malgache pour l'Environnement, PGM-E) (see Annex 5). The President of the Courts of Justice of Antalaha has also affirmed that “*serious legal uncertainty*” has resulted in several dismissals of charges brought against exporters and officials by the MEF.

In addition, as mentioned above (section 3.2), the Malagasy Forestry Administration’s practice of allowing the restitution of illegally acquired wood contradicts current law. Buyers of timber which was exported as a result of such practice will therefore find it difficult to claim legality of their products; or, because of mixing timber of various origins, of any product purchased from traders involved in these practices.

4. HARVEST AND TRADE OF PRECIOUS WOOD IN THE SAVA REGION, 2002-2009

4.1 Activities and actors

4.1.1 Collectors / traders / exporters / economic operators

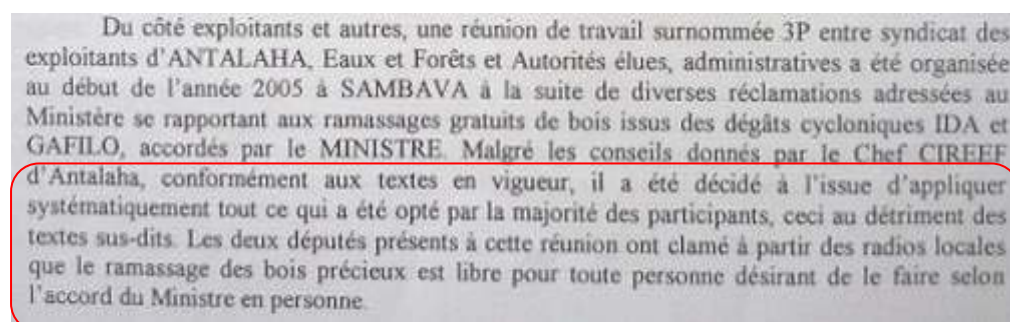
Those involved in the harvest and trade of forest products are often referred to as *exploitants* or *opérateurs* (forest operators). However, in the absence of any legal timber extraction or meaningful forest management in the SAVA Region, the term “forest exploiter” does not reflect the reality of the situation. The *exploitants* are in fact traders or “collectors” of wood that has been salvaged or harvested illegally in the forests, purchasing the wood from *sous-collecteurs* (“sub-collectors”) who are either subcontracted or independent. Currently, as listed in Inter-ministerial Order 003/2009, 13 “operators” are officially recognized as dealing in precious wood. These collectors are as follows:

BEMATANA Marie BEZOKINY C. Claude BODY Thierry CHAN Hoylane	Ets Ranjanoro GUERRA William LAISOA Jean Pierre	MALOHELY Jean Michel NDAHINY Grégoire SOA Patricia	RAMILIAISON Ariand SOA Elia Rolaine Sté THU NAM Roger
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It should be noted that the report of the ad hoc Committee of December 2008¹² also listed Jocelin (or Josseline) GUERRA.

Court documents made available to the investigation team¹³ show that law enforcement agents were able to gather sufficiently strong evidence of the involvement of all but four of these traders^{vii} in illicit activities to enable them to bring prosecutions in the Court of Justice of Antalaha and the Court of Appeal in Mahajanga (see Annex 6). Their activities are also elaborated in a 2007 report by a task force of the Gendarmerie, the military and the Forestry Administration, which was ordered by concerned government authorities to conduct an official mission to evaluate the “*exploitation of Precious Woods in the SAVA Region*”.

This report, entitled *Rapport sur la suite de l'enquête effectuée par la task force sur l'exploitation de bois précieux dans la région SAVA*, demonstrates for example that in the wake of the 2004-2005 cyclone season, traders convened meetings with the Forestry Administration and territorial authorities in order to lobby for the issuance of collection permits (see Annex 7).



Left: Extract from *Rapport sur la suite de l'enquête effectuée par la Task Force ...* showing two MPs declaring free the collection of precious woods by whoever desires to do so

^{vii} Bematana Marie, Guerra William, Ramiliaison Ariand, Soa Elia Rolain

It should be noted here that one member of the Madagascan Parliament, referred to in a report by a member of this task force (see the scanned extract from this document¹⁴, above), is also amongst the listed “operators”.

The task force report also concluded that the operation of sawmills by some traders created a demand for precisely the raw precious wood the extraction of which is forbidden by Inter-ministerial Order 16030/2006 (see copy of document extract below).

Les employés de la CIREEF ont été dépassés et assaillis par des vagues de ramassages non-conformes aux lois forestières. Tous ceux qui ont les moyens de se procurer de bois précieux se sont rués là où on peut le faire dans toute la région de SAVA.

L'octroi d'un permis d'exploiter au profit du sieur BEZOKINY Christian Claude et l'agrément d'exportation accordé au sieur RANJANORO Jeannot consentis par le Ministre KOTO Bernard ont encore accentué cette irrégularité.

Encore, la société THUNAM a aussi bénéficié l'autorisation de transformer des bois précieux dans un atelier en vue d'exportation accordée et signée par le DGEEF. Mais cette société en a monté au total trois qui ont tous besoin d'être approvisionnés en rondins de bois précieux. Des ordres verbaux et écrits émanant respectivement du Ministre et du Directeur Général de l'Environnement, des Eaux et Forêts ont imposé les employés de la CIREEF d'ANTALAHA d'arrêter tout contrôle procédé à l'encontre de BEZOKINY et de délivrer des autorisations d'évacuation au profit de tout exploitant désirant collaborer avec les sociétés RANJANORO Jeannot et THUNAM Roger en les fournissant de rondins de bois précieux, ceci concrétisé par de contrat d'approvisionnement. Au même moment, bon nombre d'exploitants n'ont pas encore effectué la constatation officielle de fin d'exploitation que vers la fin de l'année 2006. Ce qui a encore permis à ces exploitants de continuer officieusement voir frauduleusement leurs activités dans la forêt au-delà de la période accordée. Or selon la loi seuls les produits forestiers (bois déjà coupés) délaissés dans la forêt après la période légale d'exploitation trois (03) ans qui bénéficieront d'autorisation d'évacuation. Normalement, la délivrance de la dite autorisation est de la compétence exclusive du DIREEF, mais modifiée par le DGEEF et confiée au Chef CIREEF.

Above: Extract from *Rapport sur la suite de l'enquête effectuée par la task force sur l'exploitation de bois précieux dans la région SAVA* (for context of the report see below) -

It has again become apparent in 2009 that traders are willing to go to great lengths to pursue export business, despite the irregular nature of these activities. For example, in January 2009, disgruntled loggers staged protests in Sambava that culminated in the looting and burning of Forestry Administration offices; these were allegedly orchestrated by the timber traders. It is also reported that a delegation of Antalaha traders went to Antananarivo on 10 April 2009 for a meeting with the HAT (*Haute Autorité de la Transition*, the transitional government) to “discuss” the ban on timber exports from the port of Vohémar¹⁵. In a meeting chaired by the Head of Region of Antalaha following further protests on 24-25 August – which took place after forestry law enforcement officials seized a boat carrying illegal timber – officials addressed “*the problem of implementing control of the transport of precious wood in Antalaha*”. Collectors requested that authorities “*revoke the suspension of export in Vohémar*” and “*remove by export the precious woods in and outside the Port of Vohémar in due time*” (see Annex 8) for further detail). Interestingly, during this meeting the Regional MEF Representative, in charge of enforcing forest law and regulations, declared as the “*source of the problem [to be] the Application of the Regional Note No. 349-09/REG of 17 August 2009 which reinforced the legal text in force prohibiting the logging, collection, and transport of precious wood in the SAVA Region*”¹⁶, and sought solutions from the very traders at the center of the problem of illegality in the trade of precious woods in the SAVA Region.

The language used in the various export authorisations over the last few years reflects the political sway of the timber exporters. Authorisations are justified on the basis of: “*economic reasons (...) and following the grievances arising from the forest operators and exporters*” (Service Note 923-05); “*supporting the local private operators particularly concerning their financial situation in the wake of the global financial crisis*” (Government Communiqué, 20 January 2009); and “*to appease the socio-eco-political situation which prevails in the Region*” (Inter-ministerial Order n°33244/2009). The latter

justification refers to the public demonstrations and looting mentioned above. Crucially, these authorisations do not reference the government's overarching forest and development policies; instead, they focus on the particular interests of a small group of businesspeople in the SAVA Region.



Photo 1: Trader's stock in Vohémar



Photo 2: Trader's stock in Tsarahita

4.1.2 The government

*“Rumours about **the corruption of our agents** circulate both in Maroantsetra and Antalaha. Their involvement would consist of closing their eyes when they surprise loggers in the park, in exchange for a certain amount... This information has been given to the Section and Conservation heads partly by proxy or by the traffickers themselves who disclosed this kind of dishonest practice.*

*Besides the rumours of corruption implicating agents of Madagascar National Parks, this also concerns **all the services and local entities** that may be involved in the timber sector: the Department of Water and Forests (DREEF), the Gendarmerie, the Judiciary, transporters, the Village heads and the Town Mayors. If this is true, in any part of the criminal justice system, it is difficult to expect reform in the sector in the short term without a drastic measure.”¹⁷*

Forestry Administration

The local Forestry Administration, consisting of the Regional Director of the Environment and Forests (*Directeur régional d'environnement et forêts*, or DREF) and the District Head of Environment and Forests (*Chef de circonscription de l'environnement et forêts*, or CIREF), is in charge of the management of state forests, and controls all forestry-related operations in the SAVA Region. The DREF has the power to issue collection permits and transport permits (*laissez-passer*), a power which has reportedly been used widely in the wake of the 2004 cyclones. However, with respect to the management of forest resources (such as the establishment of forest inventories and inventories of damage done by the cyclones that hit the SAVA Region in 2004 and 2007), regional and local forestry officials do not appear to have been very active. The Director of Internal Inspection within MEF (*Directeur du Contrôle et de l'Amélioration de l'Intégrité* or DCAI) noted in a meeting with the Global Witness/EIA investigation team that “in each infraction, an agent of MEF is implicated”, pointing to the recent imprisonment of the CIREF of Antalaha as an example.

The Global Witness/EIA investigation team observed a serious failure by the SAVA Regional administration to control both felling activities in the forests – as confirmed by interviews undertaken with migrant workers in the forest – and the transport of logs to the coast and Antalaha. These observations of the team confirmed observations made in 2007, some two years previously, by the aforementioned task force. A follow-up report¹⁸ by task force member Lt. Col. Fanomezana Roger Rasoloson alleged serious incidents of collusion by high-level Forestry Administration officials with traders of illegally produced rosewood.

au bureau pendant ladite période. Toutefois, ils ont évoqué quelques cas flagrants qui méritent d'être portés à la connaissance des responsables de haut lieu, dont : l'existence de deux interventions des agents à l'encontre de transports de bois de rose en temps de nuit, qui ont été orientés au bureau de la CIREEF aux fins d'une saisie et de l'établissement de la procédure. Le matin, les véhicules concernés n'y sont plus avec leur changement puis qu'ils sont autorisés par le Chef CIREEF RAKOTONJANAHARY Fils Olivier à quitter l'enceinte, prétextant que les intervenants ne sont pas habilités à verbaliser. Or ces actions de contrôle ont fait l'objet des ordres de mission délivrés par lui-même. Alors, aucun acte se rapportant à la répression de quelle infraction que ce soit n'a été établi durant son séjour à ANTALAHA.

Un employé, de formation administrative, a été autorisé à signer de correspondances d'ordre purement technique dépassant largement ses connaissances. Les employés n'ont pas pu signaler toutes ces anomalies à l'échelon supérieur par peur d'être malmenés par le Chef CIREEF qui est le seul signataire de leur dossier de solde.

Le cas de bois de rose embarqués sur deux camions pesant au total 15,800 tonnes, destinés à un certain NONO demeurant à AMBOSITRA, et interceptés à AMBILLOBE mi-janvier 2008 se résume comme ci-après. Le fournisseur, MALOHELY Jean Michel insiste qu'il n'aurait pas vendu à son client que des déchets de bois de rose moyennant de bordereau de livraison. L'acheteur se charge de la fourniture des autres pièces nécessaires pour le transport. Or le Chef CIREEF qui a signé l'autorisation de transport s'y correspondant a confirmé dans sa déposition qu'il s'agirait de déchets de bois de rose et si ce n'est pas le cas les chargements seraient changés en cours de trajet. Toutefois, le Gendarme gradé, surpris à bord de l'un des deux camions à Ambilobe, atteste que ce sont les mêmes chargements embarqués à Antalaha qui ont été surpris à Ambilobe et ce sont des rondins de bois de rose et non pas de déchets.

De la déposition du receveur de douanes Antalaha, le nombre de containers de bois de rose saisis au port de VOHEMAR est « CINQUANTE ET UN (51) » au lieu de « TRENTE (30) » avancé par le Directeur Général de l'environnement des Eaux et Forêts lors de son audition. Ils se répartissent comme ci-après : Pour l'Etablissement RANJANORO Jeannot THUNAM Roger vingt deux (22), contenant 8.076 colis pesant 457.354 KG. Mais du Messager

Selon les employés de la CIREEF d'ANTALAHA, l'origine incontestable de ces désordres se rapportant à l'exploitation des bois précieux dans la Région SAVA n'est que l'échelon supérieur sis à ANTANANARIVO dont le Ministre KOTO Bernard et le Directeur Général de l'Environnement, des Eaux et Forêts RAKOTONDRANONY Laurent Guy. Il n'existe pas de franche et étroite collaboration entre eux et leurs subordonnés. Ils s'immiscent dans les attributions de ces employés et abusent de leur autorité soit en modifiant à tout instant leurs décisions, l'une allant à l'encontre de l'autre, soit en donnant des ordres verbaux non suivis de confirmation par écrit, soit en les remplaçant carrément dans leurs missions. Les supérieurs ne prennent pas en considération ni les comptes rendus ni les doléances provenant des subordonnés.

Above: Extracts from *Rapport sur la suite de l'enquête effectuée par la Task Force sur l'exploitation de bois précieux dans la région SAVA* – deploring collusion and/or abuse of authority by forest administration officials

Rasoloson also alleged that the minister in charge of forests and his Director General of the Environment, Water, and Forests “*interfere with [the Forestry Administration’s] employees and abuse their authority*” in favour of illegal timber traders (see the scanned extract above). The author of the report questions the restitution of illegal goods into the possession of the *exploitants méritants*, or beneficiaries.

The report was subsequently transferred by the Minister of National Defence to the minister in charge of forests by letter No. 195/MDN/CAB. The Global Witness/EIA mission confirms to a great degree the findings of this report, which warned, presciently, that “*...the resumption of forest exploitation, if at all, must be reorganized and studied in detail by all stakeholders to avoid further disorder.*”

Regional political administration

The application by District Heads to have their territories included in the area for which collection permits could be issued in the wake of the 2004 cyclone is a strong indicator of the collusion of local political administrations in the legalised pillaging of the SAVA Region’s forests. Likewise, the demonstrations and looting witnessed by the region in 2009 were not met by inquiries into the root causes of the events, but rather by invitations to the traders suffering “*from the impacts of the global financial crisis*”¹⁹ to present their own “*solutions to the problem of how to control the circulation of precious woods in Antalaha*”²⁰.

The fact that the Global Witness/EIA investigation team observed intensive transport of rosewood in broad daylight along sections of road policed by Gendarmerie posts both south and north of Antalaha indicates at the very least negligence on the part of law enforcement authorities. More probably, it

indicates their active collusion in the trafficking of illegal wood – a conclusion supported by the 2007 task force report. The same report also made the observation that in addition to their observed collusion with the rosewood traffickers, the limitations of the law enforcement authorities in personnel do not seem to allow for due and timely control missions.

Judiciary

Only two of the six cases known by the investigation team (see Annex 6) brought against traders suspected of trading illegally in precious woods have resulted in guilty verdicts.

One trader, Mr Thu Nam, was released from custody in late 2008 after payment of an out-of-court settlement (“transaction”) to the MEF²¹. Out-of court settlements such as that pursued by Mr Thu Nam can be arranged when a case is already before the courts. This may only occur when either a request by the defendant or an offer by the plaintiff for a settlement has been made before the case was opened. The request for, or acceptance of, an offer of settlement, assumes the guilt of the accused.

Another trader, Mr Ranjanoro, was found guilty of violating the regulations regarding “finished products”, having declared a quantity of non-finished rosewood to be finished products. An appeal against this verdict is pending in the Court of Appeal²².

In cases against Ndahiny, Malohely, J. Guerra, Mbotifen and Rakotonjanahary²³, the court either found there was no evidence provided by the plaintiff, or that the relevant Forestry Administration official had not properly complied with forest control regulations, resulting in the acquittal of the accused.

Another case (see Annex 6 for further detail) implicates 33 persons²⁴ – ten traders (nine of the thirteen listed in Inter-ministerial Order 003/2009), seven collectors, two sub-collectors, one transporter, seven MEF officials, three local MEF representatives (*Chef de Triage* and *Chef de Cantonnement*), the CIREF official responsible for the collection of revenues, and the customs financial officer (*recepteur*) – in the “*abuse of [public] function, hijacking of seized rosewood, forgery and use of forged public documents, complicity with the abuse of [public] service, illegal exploitation of forest products of 2nd and 3rd category, [and] complicity in the illegal exploitation of forest products of 2nd and 3rd category*”. This case is still pending in the Court of Appeal.

It is noteworthy that amongst the accused MEF officials is a certain Said Azihar Hughes; this is the same MEF official who was assigned by the Minister of the Environment and Forests to assess the legality of the wood stored in the 176 containers in the port of Vohémar in mid-2009 (see 3.)²⁵.

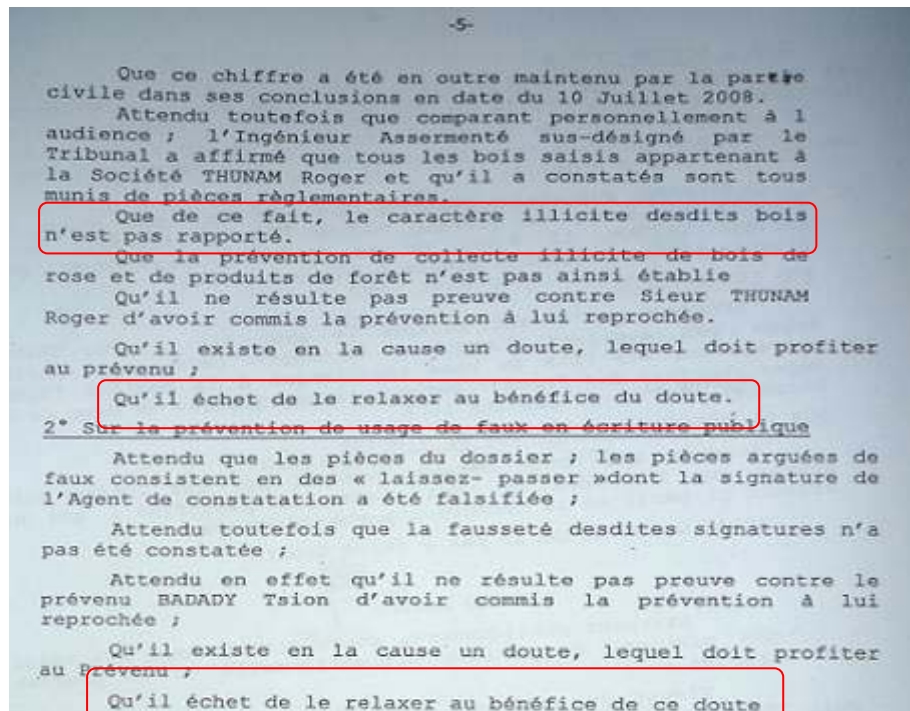
Prévenus d'abus de fonction, détournement des bois de rose saisis, faux et usage de faux en écriture publique, complicité d'abus de fonction, exploitation illicite des produits forestiers de 2^{ème} et 3^{ème} catégorie, complicité d'exploitation illicite des produits forestiers de 2^{ème} et 3^{ème} catégorie ;

In a consultation meeting with the investigation team, the President of the Court of Justice of Antalaha noted two conflicting trends in the judiciary approach to prosecutions of illegal trade in wood: on one hand, “technical legal flaws” in the cases brought forward by MEF; and on the other hand, “uncertainties in the regulations”. The first complaint referred to a reported lack of submission to the Court of official written statements of offence (*procès verbal*) or elements of proof (see scanned extract below for an example). The second complaint is a reference to the MEF’s practice over the past few years of prohibiting exploitation, transport, and export of precious woods, only to issue, routinely, “extraordinary exemptions” from these regulations (see 3.2).

Attendu que compte tenu d’une part de la complexité et la technicité de l’affaire et d’autre part des contradictions subsistant dans les affirmations aussi bien des agents de constatation à Antalaha et à Sambava, que l’équipe qui a constaté à Vohémar et des agents mandatés à représenter le Ministère à l’audience ; le Tribunal de céans ; ne se sentant pas suffisamment éclairé pour statuer en toute connaissance de cause a ordonné ; faute d’Expert Agrée en la matière à un Ingénieur assermenté exerçant dans la Région SAVV à l’effet de déterminer le niveau de finition des bois saisis ,aux articles 2 et 3 de l’arrêté interministériel sus- dit.

Above: Extract from verdict of *MEF vs. Rajanoro*²⁶ - declaring lack of clarity of case brought forward by MEF

As a consequence of these issues, defendants have had to be acquitted on the basis of *in dubio pro reo* (the presumption of innocence) despite “serious suspicion of criminal offences”^{viii}.



Above: Extract from verdict of *MEF vs. Thu Nam, Badady, Malohely*²⁷
 - stating acquittal due to benefit of doubt

The independence of the judiciary in Antalaha is perceived by some as highly vulnerable, given the power exerted by the traders in several instances, such as the January looting and burning of Forestry Administration offices (see above) and the recent demonstrations against forest law enforcement in Antalaha (see 5.1.2 below). The Global Witness/EIA investigation also found that residents of SAVA Region expressed fear of intimidation and physical violence by the traders in retaliation for providing the investigation team with information. Investigators also heard repeated – though unsubstantiated – allegations of collusion between court officials, lawyers, traders and local forestry officials.

4.2 Zones of harvest and points of exit

The primary harvest areas are the two national parks in the SAVA Region and the forests bordering these areas. The Mananara Biosphere Reserve in the Analanjirovo region was not visited by the team but numerous informal and official reports point to the Mananara North area as the third hotspot of illegal logging of precious wood.

Whereas the 2004 cyclone greatly escalated logging, mainly in Marojejy National Park and in the Ampenafena area to the north, 2009 has seen a dramatic invasion not only in Marojejy but also in the forests of the Masoala National Park and the Mananara Biosphere Reserve. As previously stated, the illegal activities in Marojejy National Park were halted through a joint “cleaning” exercise staged by law-enforcement agencies and the army in March and April 2009.

Wood is transported to Antalaha by road and by sea. From there, it is transported to the port of Vohémar, some 140km, by road. Wood produced in the Mananara Biosphere Reserve is transported by sea to the port of Tamatave (Toamasina), which is Madagascar’s primary port and with direct shipping link to major international markets.

^{viii} Remark of a senior member of the Antalaha judiciary who talked to the investigation team at this stage



Photo 3: Planks in container at Vohémar



Photo 4: Logs in container at Vohémar

In 2009, eight container ships left Vohémar carrying a total of 19,730 logs and 50,584 planks in 324 containers authorised by MEF (see Annex 9)^{ix}. This amounts to about 9,700 tonnes of rosewood. Assuming an average diameter of 0.35 metres and a length of 2 metres, an average of 144 logs fit into one 20-foot/30 tonne container; this estimation was confirmed by the inspection of containers by the investigation team in the port of Vohémar (see photos above).

Export from Vohémar 2009 (according to shipping documents)		
Number of containers	Total logs	Total planks
324	19,730	50,584

The diameters of the logs vary between 15 and 40cm. If an average of 35cm is assumed, a log would have a volume of 0.19m³ with an average weight of 0.21 tonnes. The size of the planks varies widely in accordance with the varied nature of the logs, as observed during the inspection (see photo above); according to the cargo manifests of the 2009 shipments obtained by Global Witness/EIA, the number of whole logs per container ranged between 30 and 274, whereas containers filled with planks carried between 49 and 1,055 planks per container. This wide range of sizes indicates the indiscriminate felling of rosewood trees of any age and size as well as the rough transformation into planks without any standardised size.

4.3 Destination and buyers of precious wood

China

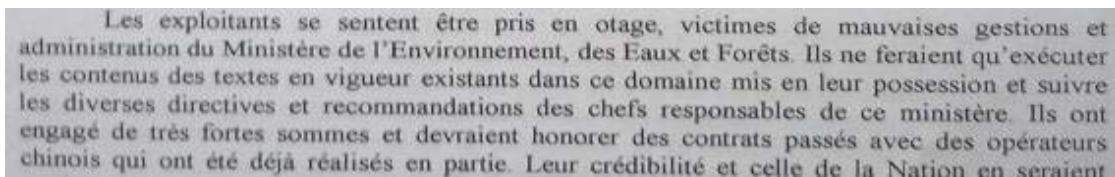
Virtually all rosewood exported from the SAVA Region is sold to Chinese import companies. The deep red fine hardwoods of different species of the genus *Dalbergia* – known as “rosewood” - have been associated with ornate carvings of traditional Chinese instruments and furniture since the Ming Dynasty. With the exhaustion of most rosewood stands in China, and even in neighbouring countries such as Burma, Chinese timber importers have begun aggressively to source rosewood from Madagascar, to feed a growing domestic appetite for high-end Imperial-style furniture.

The high premium placed by Chinese buyers on traditional Chinese craftsmanship has hindered the development of a domestic rosewood manufacturing industry in Madagascar. The potential effect of this preference on the economics of the rosewood trade in Madagascar is significant, as the prices for finished rosewood items on the Chinese retail furniture market are dramatically higher than those for raw

^{ix} Calculations made by EIA/Global Witness based on the Export Permits issued by DREF ; copies of all export permits are held by EIA/Global Witness

timber. A large armoire might retail for €15,000 – 20,000, while the raw timber used in its construction would be sold to Chinese importers for €600 – 800. Attempts by Chinese companies to establish factories in Madagascar have not met with much success. Local businessmen involved in these attempts attributed their failure to a lack of skilled labour in the SAVA Region and a Chinese preference for locally produced crafts.

Another factor inhibiting the development of a local precious wood-products industry is the widespread confusion and ignorance regarding the legality of extraction and export of precious wood from the SAVA Region, detailed in sections 3.1 and 3.2 above. While exports of non-finished precious wood have theoretically been banned since 2002, operators in the SAVA Region expressed confusion over the current state of the ban. Some believed the ban applied to all exports of rosewood, and some believed only unfinished products could be legally exported – uncertainty caused by the fact that numerous exceptional authorisations to export raw timber have been issued. The similarly unpredictable nature of enforcement makes exporters reluctant to retain the wood for any amount of time longer than that necessary to export it in unfinished form (see scanned text below).



Les exploitants se sentent être pris en otage, victimes de mauvaises gestions et administration du Ministère de l'Environnement, des Eaux et Forêts. Ils ne feraient qu'exécuter les contenus des textes en vigueur existants dans ce domaine mis en leur possession et suivre les diverses directives et recommandations des chefs responsables de ce ministère. Ils ont engagé de très fortes sommes et devraient honorer des contrats passés avec des opérateurs chinois qui ont été déjà réalisés en partie. Leur crédibilité et celle de la Nation en seraient

Above: Extracts from *Rapport sur la suite de l'enquête effectuée par la Task Force sur l'exploitation de bois précieux dans la région SAVA* – stating that the exporters are paying huge sums and have to honour contracts signed with Chinese importers but feel to be taken hostage by, and victims of bad management and administration by MEF

Rosewood exports to China from the SAVA Region are unquestionably substantial in terms of quantity and value, but it is difficult to ascertain clear trends over the past decade. This is due to the stop-and-start nature of the trade, in which supplies are hoarded until permission is received for export or supplies can be exported clandestinely. As a result, any growth in exports over a given period typically represents a decline in law-enforcement activity and the release of the current stock to meet a pent-up demand, rather than a real-time response to a surge in demand from importing countries.

In terms of volume, most Chinese rosewood importers are based in the south of China, with provinces like Guangdong, Hunan, and Guangzhou taking the lion's share of the trade along with Shanghai and Hong Kong. While some such timber imports constitute direct sourcing by furniture and craft manufacturers, most importers appear to be general trading firms, which sell the merchandise on to sawmills and manufacturers in their regions.

Invoices from importers show that during the most intense period of timber extraction from Madagascar in 2009, following the political crisis in January of that year, nearly 7,000 tonnes of rosewood, valued at about €16 million, left the port of Vohémar bound exclusively for China. The reported prices of these exports (€2,000/cubic metre) are uniform over the period, but reported imports into China show much greater variation in price, ranging from \$1,000 to \$3,000 per cubic metre. Given the unreliability of documentation provided to authorities by exporters and the possibility of false cargo declarations these inconsistencies are unsurprising.

In its 2008 *Trade Policy Review*²⁸, the World Trade Organisation (WTO) states the export volume of rosewood from Madagascar for 2006 as “338.42m³”, with a value of MGA 831,653,168 (USD 414,376) and taxes levied of MGA 12,481,754 (USD 6,219). Assuming an average volume of 0.19m³ per rosewood log (0.35 x 0.35 x 2m), this figure represents roughly 1,800 logs, which would have left the country in 10-15 containers (each 6m x 2.4m x 2.4m, or 30 tonnes).

Europe

A small proportion of the precious wood exported from Vohémar is exported in semi-finished form to Europe for use in craft furniture and musical instruments. In January to April of 2009, direct shipments to Europe represented 1.5% of total exports (by weight), with the remainder going to China. These exports are composed of species other than rosewood – namely *ebony*, *palissandre*, *faho*, and

andrapotsy. The Global Witness/EIA investigation has thus far not been able to review export records from the port of Tamatave.

5. IN THE FIELD – MISSION OBSERVATIONS AND FINDINGS

5.1 Activities within protected areas

Marojejy National Park

Pillaging in Marojejy began in early 2009 and lasted for months. Park rangers were forced to leave their posts, and the park was officially closed. The eco-tourism on which the park and the surrounding population depend heavily^x stopped entirely. The investigation team established that logging and transport activities in Marojejy National Park have ceased in the Mandena region, and have not re-emerged, following “cleaning-up” exercises carried out jointly by the Gendarmerie, the police, the military, and the Forestry Administration, as well as educational sessions with the affected populations in March and April 2009. Interviews with locals in the village of Mandena revealed that the village’s lack of communication infrastructure poses a severe obstacle to initiating law-enforcement activities in the event of renewed park invasion by illegal loggers.

The team recorded and geo-referenced 12 rosewood tree stumps in the park, originating from illegal logging activities in the months before the above-mentioned law enforcement operations. An investigation carried out by the park management in April 2009 recorded 127 rosewood tree stumps in the north and northeast of the Park (see Annex 10). Unconfirmed reports received during the mission suggested that logging activities were ongoing in the north of the Park, in the vicinity of Andrahanjo village, and outside the Park in the Ampenafena area.



Photo 5: Rosewood stump in Marojejy NP



Photo 6: Abandoned rosewood logs in Marojejy NP

Masoala National Park

Based on information received about intensive logging activities and an earlier evaluation mission by the Park management (see below), the investigation focused on the northeast part of the park. The team immediately identified two different areas of intensive logging activities. Rosewood was observed being transported 15-20 km from the interior of the park by small boats outside the villages of Ambalabe and Antjahamarina (see Fig. 3). The team recorded intensive river transport and loading of wood onto tractor-trailers.

At the second location, makeshift eating places and stores had been set up by travelling vendors. One of the vendors interviewed complained of poor business “because the people transporting and charging the wood haven’t got enough money”. This remark illustrated the comments of head of neighbouring Ambohitralana village, who remarked that about 500 of the over 1,000 people who had invaded the park since March 2009 had left for Antalaha in the week preceding the team’s arrival because they had not been paid. These people had allegedly threatened the collectors who hired them with burning their homes

^x The villages in the buffer zone receive 50% of the entrance fee (*Doit de paiement d’entrée*, or DPE)

if the collectors continued to withhold payment. However, despite their disquiet, a lack of economic opportunities seems to drive a number of young unemployed or underemployed persons to accept meagre partial payments for their work.



Figure 3: Transport routes from the forest in the Northeast of Masoala NP to the coast areas



Photo 7: Ambala landing point



Photo 8: Antjahamarina landing point

The week after the team's visit to the park, a demonstration was held in Antalaha. This was against the Forestry Administration, which had seized a boat carrying illegal rosewood – a redirection of the labourers' anger towards the government that demonstrates the influence of the timber barons in local communities and over the people working to fill their stockpiles.

An assessment mission carried out by authorities in Masoala National Park from 2-9 March 2009 discovered a total of 13 rosewood tree stumps, 1,892 logs of rosewood, 99 logging camps, and 131 of the estimated 1,000 persons working in the forest (see Annexes 2a and 2b).

Several patrols, jointly conducted by the Gendarmerie and agents of the park administration between April and mid-July 2009, discovered a total of 20 new rosewood tree stumps, 1,014 rosewood logs, 142 logging camps, and 95 workers (see Annex 11).

Article 30 of the regulation for the exploitation of the Malagasy forests²⁹ stipulates in paragraph 3 that "the logs from the moment of [the tree] been felled and sawn into logs must bear at both ends a marking hammer or paint imprint, the operation's site number, the tree number, and number of the log". Article 37 prescribes that "all wood leaving the operation site must bear at both ends an imprint of the marking hammer of the operator and that of the forestry official which will determine official receipt of the product".

It should be noted that the vast majority of wood inspected by the mission has had no such legally required markings indicating the origin of wood.

5.2 Observations on the road

The road linking Antjahamarina with Antalaha is nearly impassable, due to degradation caused by the frequent transport of rosewood over the last six months. Timber is therefore transported on a different road, through the village of Ambinanyramambo, where the wood has to be ferried across another river. In order to avoid these logistical problems, wood is also transported directly to Antalaha by boat, where it is unloaded on the beach of Sahanta, some 20km south of the town.

En route to the Park, on 18 August 2009, the investigation team observed two tractors, at 1440hrs and 1510hrs (registration plates 7583DB and 3580DB), passing the spot where the team had stopped to inspect wood being carried onto the beach from two boats moored close to the shore (*MS Gidi* and *MS Felestine*).

The tractors, the drivers of which claimed that the vehicles belonged to the company of Roger Thu Nam, carried 30 and 24 logs of rosewood respectively. Some kilometres further down the road, the team stopped a shared taxi (*taxi brousse*) carrying 12 logs, barely hidden under a tarpaulin. The driver claimed that Mme. Patricia Soa was the owner of the wood. However, these claims could not be substantiated by the investigation team. On the way back from the forest, the team observed three more minivans with logs on their way to Antalaha, again in broad daylight.



Photo 9: Road between Antjahamarina and Ambalabe



Photo 10: Taxi brousse carrying rosewood



Photo 11: Landing of rosewood at Sahanta beach



Photo 12: Pickup with rosewood, south of Antalaha



Photos 13, 14: Tractors transporting rosewood to Mahatsara, Antalaha

None of the authorisations to transport wood required by law (Article 40, Decree 98-782) could be produced by the drivers of the observed vehicles.

The team hired two boats to reach the area of logging activities in the Masoala National Park, in order to observe the transport of rosewood, evidence of which had been found at the locations mentioned above. On the five-hour journey upriver, 42 boats were counted, each carrying an average of five logs of varying sizes.



Photos 15, 16: Boats transporting rosewood from Masoala NP to Antjahamarina

5.3 In the villages

The village of Antanandavaheli lies about four kilometres downriver outside the eastern boundaries of Masoala National Park. The Community President, Mr Iasipoly Tsizanamy, informed the team that rosewood logging had taken place in the area in 1999, 2001-2002, 2004-2005, and 2006. Because of the logging ban, some stock was subsequently abandoned.

In March 2009, a large number of sub-collectors had invaded the forests near the village to remove old stock and to cut down new trees. According to Mr Tsizanamy and other sources, most of the people contracted by these sub-collectors are from other parts of SAVA Region, mainly the District of Antalaha. The team conducted interviews with various workers that confirmed this information. The team also met several secondary school students from Antalaha and Maroantsetra who went into the forest to do this work in order to earn tuition money.



Photos 17, 18 “Casinos” and forest workers in the village of Antanandavaheli

Antanandavaheli has subsequently seen an influx of more than 800 people. A number of itinerant merchants have settled temporarily in the village; small temporary restaurants are run by businesspeople from Antalaha, and at least three “casinos” are frequented by the village youth from morning to late evening. At the onset of logging activities, an understanding of the risk of sexually transmitted diseases through the introduction of prostitution inspired the local HIV/AIDS association to carry out an awareness raising campaign.

5.4 Logging and transport in the forest

Logging

Logging of the rosewood trees is carried out by teams of two to three people. Logging, de-barking and cutting one tree into 2m logs takes an average of one day. Loggers are paid MGA 10,000 (ca. USD 5) per day – about the cost of one and a half bottles of beer in Antanandavaheli, where loggers make weekly or biweekly trips to buy necessities and collect their salary.



Photos 19, 20: Cutting and debarking of rosewood in Masoala NP

The logs average 2m in length, with a diameter of 25 to 35cm, a volume of $0.10 - 0.19\text{m}^3$, and a weight of roughly 0.11 – 0.21 tonnes. The investigation team observed and recorded how the logs are dragged by teams of four to six people through dense bush and steep, rocky terrain to a stream, from where they are transported to Antanandavaheli by raft. According to information given by the head of the village of Antanandavaheli, about 50 young men of his village work as “draggers” (*débardeurs*), receiving MGA 10,000 per day for their work.



Photo 21: Workers returning to the forest



Photo 22: Injured worker carried out of the forest

Transport by raft

The team further observed and recorded how one to three logs of rosewood (which is too dense to float) are transported on each raft. These craft are constructed from a light wood species (*Dombeya sp.*)³⁰, and usually carry three to five times as many light-wood logs as rosewood logs. This “raft wood” is likely to come from the riverside, meaning that its extraction is likely to cause erosion and silting of the streams, which are already very shallow. Based on the investigation team’s record of transport activities on the river and at the two landing points observed, it was estimated that 70 to 100 trees per day were being cut in each of the two zones, in order to make rafts to float rosewood^{xi}.



Photo 23: Light-wood logs (“floaters”)



Photo 24: Rose wood raft



Photos 25, 26: Transport of rosewood using rafts, floater logs

Since all logs are transported by raft, it is safe to estimate that 200 - 400 secondary trees were being cut each day in the Park, depending on the trees’ individual sizes.

^{xi} The calculation is based on the average boat load of 5 logs for an average of 40 boats per day and an average of 4 logs cut from one tree

The reports obtained regarding activities in the Mananara Biosphere Reserve indicate a similar scale of pillage. Raft transport is carried out by 30 or so young men from local villages, and another 50 from outside, who earn MGA 10,000 per log. The journey, through shallow waters and difficult rapids, lasts an average of one day.

Transport by boats

The logs arriving in the evening at Antanandavaheli are loaded into boats the following morning, by men who come from the villages downriver. Depending on the size of the logs, an average of five logs is transported roughly 25km to Antjahamarina, in about 40 boats per day. The boatmen are paid MGA 20,000 – 25,000 for transporting four to five logs for about five hours.

As with the previously-mentioned motorized vehicles stopped on the road, none of the legally required transport authorisation could be produced by those piloting the boats when they were interrogated, either on leaving the forests or on arrival at the landing points.

The last stages of the journey to the depots (both open and hidden) of the Antalaha exporters are carried out by local men on the riverbanks at Antjahamarina and Ambalabe. Groups of four to seven men load an average of 20 logs onto tractor-trailers or minivans, and are paid an average of MGA 40,000 per group per day, a daily salary of around MGA 6,000-10,000 per person.



Photos 27, 28: Loading boats with rosewood logs



Photos 29, 30: Transport of rosewood logs by boat

In summary, the average daily income for all those employed in the heavy, often dangerous work – from logging, through dragging, rafting and transporting by boat, to loading the heavy logs onto trailers – is

about MGA 6-10,000. This buys less than two bottles of beer in the remote forest villages, or roughly two meals in the town of Antalaha

Based on the interviews with workers and sub-collectors conducted by the investigation team, the personnel costs for harvesting illegal rosewood in the SAVA Region are as laid out in the table below:

Stage	Number of persons	Price	Number of logs	Expenses/ log [MGA]	Sub-total [MGA]
Logging	2	10,000/day, log	3	10 000	
Dragging	4 - 10	10,000/person/day		70 000	80 000
Raft: number of floating logs	4	10,000/log		10 000	
Transport by raft	1	10,000/log	1	10 000	
Transport by boat	1	25,000/trip	5	5 000	25 000
Loading	4 - 7	40,000/team	20	2 000	
Transport by coastal boat		1,100,000/trip	40	27 500	
Transport tractor / taxi*		1,000,000/trip	30	33 333	62 833
TOTAL / log (average: 200kg)					167 833
TOTAL / t					839 165

*Other information: 275,000/tractor (30 logs)

5.5 Storage: the sand pit

Timber collected and/or produced in the forest is transported either to open yards in various parts of the SAVA Region – mainly in Antalaha and Vohémar and their environs – or to creative hiding places concealed from the authorities’ sporadic inspections. Reportedly, rosewood is hidden beneath vanilla in storerooms, buried in gardens, under houses and on the beaches around Antahala, or stored in riverbeds. Mr Thu Nam was recently caught by a Task Force inspection in Antalaha in the course of burying freshly-cut rosewood under a house on his property. The case was closed through out-of-court settlement (see above under 4.1.2 “Judiciary”). It is not known to the investigation team whether these stocks were inventoried as part of the above-mentioned exercises to assess “stocks in towns”; as mentioned earlier for the wood transported from the forests, legally required markings of inventoried cut wood with paint or forest hammers were also not observed by the investigation team on logs stored in the open stockpiles visited in Antahala, Ampenafena and Vohemar³¹.

A December 2008 study by the International Resources Group consulting company, conducted on behalf of the US Agency for International Development (USAID), revealed that “in Antalaha the application of the (traceability) system is blocked... the data of the wood stocks are not captured in the database of DREEFT nor [are they] transmitted to DGEF. Moreover, the actors in the Region follow a different methodology [to that which is legally required] in the marking of the wood stocks.”³² According to Article 37 of Decree 13855/2001, however, all non-marked products are to be considered as of criminal origin, and are to be seized (see the text box below). Furthermore, according to Article 40 of Decree 98-782, “all transport of forest resources without the requested marking is prohibited”. The lack of markings on wood found far from the harvest site therefore means that it must be considered illegal.

All wood leaving the operation site must bear at both ends an imprint of the marking hammer of the operator and that of the forestry official which will determine official receipt of the product.

The products must be officially received by the local forest administration agent or his representative in the log depot to be designed by him.

All products that are not marked accordingly will be considered as of criminal origin, and seized without anticipation of prosecution under Decree No.98/782 of 16.09.98 regulating logging operations in application of Law 97/017 of 08 08 97

Above: Article 37 of Decree 13855/2001



Photo 31: Timber 'collector' Thu Nam's depot, Antalaha



Photo 32: Thu Nam stockpile, Tsarahita/Ampenafena



Photo 33: Unmarked logs in timber yard in Vohémar



Photo 34: Concealed stock

At none of the locations that they visited were the Global Witness/EIA team able to get hold of a stock inventory or stock management record. One week after the team visited one of the depots of Roger Thu Nam's company in Tsarahita, Ampenafena, the MEF representative in Ampenafena (Chef de Triage) provided a list of the company's stocks in the vicinity; however, the document had been written the day before it was delivered to the Global Witness/EIA team (see Annex 12). On the way from Antalaha to Sambava, on 22 August at 1300hrs, the team observed a truck transporting 34 logs of rosewood. According to the driver, he was on his way to the depot of Christian Claude Bezokiny, which is located 44.6km south of Sambava. However, this claim could not be substantiated by the investigation team.

It is hard to imagine where in the region the large amount of rosewood cut since March 2009 is actually being stored. Given the vast amount of rosewood removed daily from at least three hotspots in the region, and the limited capacity of the ports in the SAVA Region to export it, it is possible that some of the wood is being ferried to small ships moored offshore, for further transport of the timber to the regional container hubs of Mauritius or Mayotte. Reliable reports from MNP and other sources indicate that the timber originating from the Mananara Biosphere Reserve appears to be being transported to the port of Tamatave, some 300km south of the Reserve.



Photo 35: Truck transporting rosewood north of Antalaha

5.6 Landing in the ports: the case of Vohémar

Uproar over uncontrolled illegal logging led to the closure of the port of Vohémar on 18 April 2009 by the concerned authorities. After an alleged intervention the next day by wood traders at the central government in Antananarivo, the port was re-opened on 20 April³³. The seven holders of the wood that remained in the 176 containers “quarantined” when the port was closed on order of the minister in charge of forests were nevertheless given an exceptional permit to export them against payment of a penalty of MGA 72 million (about US\$ 35,500)³⁴.



Photo 36: The port of Vohémar

The deadline to pay the fine by 15 August was only met by one trader (see Annex 13); however the container had not left the port by the time of writing. Despite the other traders also failing to meet the deadline, their wood was not seized by the Forestry Administration (and at time of writing still has not been seized); in clear violation of both the legal regulations in force in Madagascar and the exceptional order mandating its seizure should the deadline for payment not be met.

5.7 Role of financial institutions and shipping companies

Financial institutions

While there is little foreign involvement at operational level in the extraction of precious wood from Madagascar, foreign actors play important roles in facilitating the export of timber to consumer countries, through finance and logistics. Timber exporters in the SAVA Region typically obtain some of the initial financing for their operations from external buyers — sometimes as much as 50%, depending on the length and closeness of the relationship between exporters and importers. Further financing is obtained from the Antalaha branch offices of Malagasy banks.

The banks involved in financing exports of precious timber from the SAVA Region channel foreign capital to the timber trade. In 2009, all declared exports from the SAVA Region were financed by either BFV-Société Générale, a Malagasy subsidiary of the French bank Société Générale (45% of loans by value) or the Bank of Africa, a subsidiary of the multinational Bank of Africa Group (55% of loans). Although exporters interact primarily with account managers at the branch offices, all loans involving exports or foreign currencies are approved at headquarters level in Antananarivo.

The EIA/Global Witness team established that a significant lack of oversight exists in the regulation of this financing. Malagasy law requires that the foreign exchange proceeds of export transactions be repatriated within six months to the bank that participated in the initial export financing. The applicable fines for failing to comply with this procedure are steep — up to 100% of the value of the exports can be seized by the state. The “primary banks” — those that participate in financing the deal — are responsible for reporting export transactions involving foreign currency to the *Service de Change* of the Ministry of Finance, which is then charged with monitoring the movement of funds into the exporters’ accounts and ensuring repatriation of foreign currency, or else levying a fine on the exporter.

The *Service de Change* is ill equipped in terms of both resources and legal authority to detect and punish violations of foreign exchange repatriation regulations. The *Service* relies on the primary banks to provide details on each export, but the documents the team could obtain show that this information is not standardized in any way: some export records provided by banks contain statements and invoices, while others are only brief, handwritten notes. Furthermore, the *Service* appears to have no means of verifying that it has received a complete record of the exports received from the banks, even though Malagasy law provides for fines to be levied against banks that fail to report exports in a timely manner. The investigation also revealed that since 2009, banks have ceased to provide any details or hard copies of documents, instead sending only occasional, terse emails. Despite the large quantity of precious woods exported from SAVA Region in 2009, an audit of the records of the *Service* showed that the relevant banks did not report a single export of precious wood during this period.

Even if this monitoring process were fully functional, and documents were received in a timely manner that allowed the *Service* to certify that funds are not properly being repatriated, the *Service* lacks enforcement mechanisms. Exporters pay little attention to fines, as the *Service* does not take measures to freeze or seize assets in the event of non-payment. A senior official at the *Service* reported that these fines are generally considered “laughable”, and that some exporters simply refused to pay when informed that they would be fined. Other exporters agreed to follow the law, only promising the official that the funds would be wired out of the country the following day.

This apparent gap in oversight provides considerable latitude for exporters to engage in money laundering by misrepresenting the value and frequency of their exports. Given the significant inconsistencies between reported Malagasy exports and Chinese import records, it is very likely that this is taking place.

Shipping companies

As there is no deep-water port in the SAVA Region capable of handling the ships that can make the direct journey to China or Europe, all exports of precious wood from the port of Vohémar are transshipped through higher-capacity ports in Madagascar, such as Tamatave, or through Indian Ocean ports in neighbouring countries, including Longoni, Mayotte (an overseas territory of France) and Port St. Louis in Mauritius.

Shipping companies engaged in the transport of precious wood from Vohémar are exclusively foreign-owned. United Africa Feeder Line (UAFL), based in Mauritius, was responsible for 80% of timber exports by weight from January to April 2009, while Delmas Shipping of Le Havre, France, a subsidiary of CGA-CGM Group, transported the remaining 20%. While writing the report, the Global Witness/EIA team received information that the third shipping company serving Madagascar’s ports, Safmarine Container Lines N.V., a Belgian subsidiary of the Danish company A.P. Moller-Maersk Group, was also involved in attempting to export the timber still being stored in the port of Vohémar. However, this claim could not be substantiated. In addition, in early October one shipment was carried out without authorisation by the customs, and the ship was re-directed to the port of Tamatave³⁵. However, at the time of writing it is not known which shipping company was involved in this event.

Documentation provided by shipping companies and exporters to customs officials is limited, inhibiting monitoring or control of exports once they leave Malagasy ports. Manifests presented to officials frequently omit the fact that all shipments leaving Vohémar are transshipped prior to reaching their final destination, instead listing only the final destination of the cargo. The identity of the shipping companies ultimately responsible for transporting merchandise to the country of destination is therefore not known to authorities, meaning that illegally exported timber cannot be easily recalled after it reaches the port of first transshipment (which may not even be declared in customs manifests). As one former timber trader put it: “once the ship leaves Vohémar, the wood [belongs to the buyers]”.

6. EXTERNAL FUNDING CONTEXT

After the political crisis in January 2009, key international donors, including the World Bank and USAID, suspended most aid to Madagascar, freezing several programmes. These frozen programmes included capacity building for forestry and park officials, implementing a chain-of-custody and tracking system for timber harvests, and providing general funds to the MEF. The effect of the suspension of aid

was compounded by economic and political factors that simultaneously incentivized the extraction of wood and removed barriers to illicit extraction or export of previously controlled timber.

According to MEF officials, the suspension created significant shortfalls in the MEF operating budget, restricting it to 10% of its previous size and requiring the suspension of all but a few essential operations. Operations of “mixed patrols” composed of police, gendarmes, and park agents were halted due to funding shortages, leaving already-vulnerable parks exposed to unrestrained pillaging. A lack of armed law-enforcement officials to accompany park agents on their patrols may have exposed them to violence by illegal loggers or others involved in the trade; violent attacks on park agents were documented in Mananara Biosphere Reserve and Masoala National Park in August 2009. The absence of these patrols forced law-enforcement authorities into an entirely reactive state; agents were sent to seize illegal wood, disperse loggers, or intervene in national parks only after illegal activity had been reported.

Despite requests to USAID and the World Bank from international environmental organisations active in Madagascar, such as WWF, Conservation International, and the Wildlife Conservation Society, bilateral and multilateral aid agencies have insisted that withholding aid remains the only means of pressuring the current Malagasy government to hold new elections. The US Assistant Secretary of State for African Affairs, Johnnie Carson, argued that “it is critical for those currently holding power to receive a strong and unambiguous message from the international community that their actions were illegal and that we cannot maintain a business-as-usual relationship”, despite the “negative consequences for some groups and individuals”³⁶. To date, aid remains frozen.

7. IMPACT: ECOLOGY, TOURISM, LOCAL PEOPLE, WILDLIFE

The illegal logging of rosewood in the national parks and protected areas of the SAVA Region has direct negative impacts on the environment and the biodiversity of the parks, as indicated in section 5.4 above.

Primatologist Erik R. Patel states that: *In addition to depriving the government of Madagascar of millions of dollars of taxable revenue, illegal logging of precious wood can also have severe impacts on both the forest and indigenous peoples. Although selective logging results in less absolute forest loss than clear cutting, it is often accompanied by substantial peripheral damage such as decreases in genetic diversity (Gillies 1999) and increases in the susceptibility of the impacted areas to burning (Cochrane and Schultze 1998; Cowlshaw and Dunbar 2000).*

Elsewhere in Madagascar, polycyclic selective logging such as that described in this report has resulted in documented long-term ecological consequences. Impacts include invasions by persistent, dominant, non-native plant species (Brown and Gurevitch 2004), impaired faunal habitat (Ganzhorn et al. 1990), and a diminution of endemic mammalian species richness (Stephenson 1993). According to Dr. Frank Hawkins, formerly Technical Director of Conservation International in Madagascar: “...the secondary impacts of [precious wood] logging are much more important than the logging... the forest dries out and is vulnerable to fire. People come in and hunt the animals. Very often, the forest ends up disappearing completely” (Cocks 2005). Although slight habitat disturbance within Marojejy National Park has been described (Goodman 2000; Duckworth et al. 1995), the extent of habitat disturbance due to precious wood logging described in this report far exceeds that described in previous reports³⁷.

Conservation International recently reported that loggers in the forests are hunting wildlife, including endangered lemurs, for immediate consumption³⁸. Although the investigation mission could not establish evidence of a trade in bush meat, hunting for personal consumption by a workforce numbering in the thousands would pose a serious threat to endangered species.

Illegal logging activities have far-reaching negative impacts on the lives of local people. Young villagers begin to expect to earn permanent weekly salaries, instead of depending on the seasonal and unpredictable income derived from farming, a preferable variety of income given the pressure of commodity prices in the wake of the global economic crisis. The temptations of an easier life in the towns will certainly also be felt by the young women who are approached by the migrant workers. As a consequence, the threat of migration of young villagers into urban centres in search of waged employment poses an immediate threat to the agricultural production capacity of the remaining families, and consequently to food availability and income. The interviews done by the team strongly indicate that the SAVA Region risks following the negative example of many countries, with high rates of informal

natural resource extraction, trends of rapid migration into production centres, resulting in rural food shortages and the spread of crime and sexually transmitted diseases, including HIV.

The unauthorized logging of precious wood not only deprives the Government of Madagascar and the local administrations of taxable revenues that could be gained by establishing a legal timber production sector, but also seriously affects the tourism industry. The National Parks of Marojejy and Masoala have seen dramatic declines in the number of visitors – particularly important as entrance fees constitute an important source of income for the park management personnel. Visitors to the parks also engage the services of guides, porters, and cooks, and pay for food, lodging, and transportation. s 50% of these fees are distributed to management committees of the villages in the parks’ buffer zones, they could also present a significant source of income for the communities³⁹. The Global Witness/EIA team was not able to establish concrete and reliable figures of the relevant lost revenues; an economic assessment will be done during the second phase of the investigation.

8. CONCLUSIONS

The unauthorized logging of rosewood trees is a criminal offence in Madagascar, as stipulated in Inter-ministerial Order 16030/2006, and as observed in SAVA Region it also violates Order 12704/2000, which prohibits all extraction of wood resources in “sensitive zones, including protected areas” and their peripheral zones.

From the field observations in the Masoala National Park and reliable information about similar illegal activities in the Mananara Biosphere Reserve, the investigation team estimates that between 100 – 200 rosewood trees (as a conservative estimation) are felled and transported per day. This amounts to an average of about 30 – 115m³ of illegally harvested rosewood per day which, given the current price of rosewood in China of about US\$3,000 – 4,000 per m³, is worth between US\$88,000 and US\$460,000 per day.

The Global Witness/EIA investigation team observed intensive transport of rosewood in broad daylight, on roads policed by Gendarmerie posts both south and north of the town of Antalaha. This indicates at the very least serious negligence on the part of law enforcement authorities, if not active collusion with traffickers of illegal wood. The investigation team also observed serious failures by the administration to control both harvesting activities in the forests – as confirmed by interviews undertaken with the migrant workers in the forest – and the transport of logs to the coast and to Antalaha.

The transport of illegally produced rosewood logs observed by the team, carried out without authorisation and legally required transport documents, violates the provisions of Article 40 of Decree 98-782, which prescribes the seizure of the vehicle and wood as an immediate measure. The fact that no such law enforcement activity is being carried out seems to indicate collusion of law enforcement agencies with traffickers. The freezing of funds by the international donor community in the wake of the political crisis in Madagascar also contributes to reduced functioning of law enforcement in the SAVA Region and throughout Madagascar.

While traders may claim that some of the transported wood should be designated “cyclone wood” (*bois cycloné*), observations in the forest and the freshness of wood in transit strongly suggest this designation is false. Or as the management of the Masoala National Park concluded that *“the authorisations to sell the ‘old stocks’ of woods that were officially cut a long time ago have resulted in new logging, which is moreover focusing on rosewood in the National Park. This thus helps [creating] a ‘revolving door’ cycle, since more than five years”*⁴⁰.

Wood removed from the forest must be properly marked by both the forest operator and by a Forestry Administration official; failure to do so renders the wood illegal under Article 37 of Decree 13855/2001. The team observed no such markings, and local Forestry Administration officials confirmed that this procedure is never followed. The unmarked wood stored in stockpiles in the SAVA Region and in containers in the port of Vohémar must therefore be considered as illegal.

The fact that no inventories exist of wood currently stored in locations other than a few open yards in the towns of Antalaha, Sambava, Ampenafena and Vohémar means that it is impossible to monitor or verify the origin of wood claimed to originate from collection permits issued in 2004. Furthermore, traders do

not account for incoming or outgoing timber flow to or from these stockpiles. A rough comparison of stocks recorded in 2005, 2007 and 2008-9 seems to confirm the statements of international NGOs operating in Madagascar to the effect that these are “elastic stocks”, being replenished the moment timber is taken out for “exceptional export”.

The issuance of “exceptional export permits” is in breach of existing law and regulations – namely Inter-ministerial Order 16030/2006, which prohibits the extraction of ebony and rosewood. The same Order, however, permits the export of existing stocks of ebony, rosewood and palissandre as a finished product if it was collected with of a valid permit before 2006. The stipulation that only “finished” wood be permitted for export to clear existing stocks is repeated by Inter-ministerial Order 10885/2007 of 03 July 2007, which otherwise prohibits export of any wood from natural forests in raw or semi-finished form. Likewise, issuance of Inter-ministerial Order 003/2009 permitting the export of precious wood in raw form is in clear breach of the overarching regulations in force.

The imposition by the concerned ministries of a penalty of MGA 72 million per container of rosewood that is exceptionally authorised for export officially confirms the illegality of that wood. The restoration of these illegal woods into the possession of the traders responsible for its illegal acquisition after payment of a settlement constitutes a serious violation of the law in force – namely, Order 60-128 of 3 October 1960, and Order 13892 of 25 October 1986. It is the belief of EIA and Global Witness that the traders’ ability to obtain exceptional permits, issued in violation of national laws that remain in force is a dubious attempt at legalisation that does not obviate the original illegal act.

Granting authorisation to Antalaha traders to export an additional 25 containers each upon payment of the same sum, despite the fact that there is neither a record of existing rosewood in their possession nor any valid inventory in place risks encouraging even more illegal logging in the forests and protected areas of the SAVA Region. By failing to identify the origin of the wood or to provide an official inventory of wood already stored, this special authorisation facilitates the laundering of illegal timber. In addition, repeated exceptional authorisations nurture the hope that there always will be another new exceptional authorisation in the near future, which encourages the speculative financing of logging in forests.

Besides the legal issues concerning the restitution of illegal timber, it also represents a serious financial loss for the State and MEF. Both are in need of the funds that could be raised through the sale of seized illegal timber, in order to finance control activities and improvement of forest management and rural development in the SAVA Region. Toutefois, la vente de bois confisqué ne devrait pas être continuée par la suite de la vente des stocks actuels moins à perpétuer le cycle actuel de l’abattage illégal et la vente de ces produits.

It is the conclusion of this mission that all timber awaiting export or already having been exported since 2006 was cut or collected, transported and stored in violation of the regulations in force in the Malagasy forest sector. By giving yet another authorisation, as per Decree 38244/2009, to export the illegally restituted wood the State will lose even more of the much-needed revenues it has already lost through this practice, as well as continue to undermine its own rule of law and enforcement efforts. The people and landscape of SAVA deserve a better development model than illegal resource extraction. Realizing this future will require the combined investment of the government of Madagascar, the international donor community and the private sector.

9. RECOMMENDATIONS

With regard to the results of the first phase of the investigation into the illegal exploitation and trafficking of precious woods in Madagascar, the Global Witness/EIA investigative team gives the following recommendations:

Immediate measures

Generally: To immediately cease the extractation of precious woods in the entire country and end the illegal export of precious woods.

- The Ministry responsible for forests should
 - in collaboration with the gendarmerie, the national police and customs, seize all stocks of wood in towns and the countryside and place it under guard of a task force composed of representatives of the relevant ministries (Forestry, Finance, Justice, Territorial Management), law enforcement forces, customs, regional administration, affected communities and civil society
 - seize all precious woods in bulk and in containers which are stored in the country's ports, namely Vohémar, Tamatave, Mahajanga
 - suspend all extraction and export agreements, as well as accreditation of forest sector operators in the Sava Region
 - maintain the export ban on precious woods in all forms until a controlled forest exploitation management is in place and to promulgate an overriding decree which confirms that all exceptional export authorisations granted since the export ban came into effect in 2002 were issued in an illegal way (*ultra vires*) and are therefore invalid
 - initiate the necessary procedures to register *Dalbergia spp.* and *Diospyros spp.* on CITES Annexe III in order to allow better tracking of these species in international trade
 - designate an agent to liaise with foreign law enforcement forces and assist in their efforts in combating illegal wood imports
 - continue to actively support Global Witness/EIA in their investigation following the phase completed in Madagascar
- A task force composed of representatives of the Ministry in charge of forests, law enforcement forces, customs, regional administrations, affected communities, and civil society should
 - inventory all stocks of precious wood seized in towns and the countryside
 - create aerial and maritime surveillance along the coast of the Sava Region in order to stop boats transporting precious woods to ships in the open sea
 - strengthen the activities of mixed patrols (composed of control agents of MEF, MNP, police, gendarmerie) in order to stop the ground transport of wood to the country's ports and points of embarkation along the coast of the Sava region
 - reinforce the mixed patrols in the national parks and protected areas
 - use most suitable means of communication (radio, public meetings) to inform local populations about the government's efforts in the fight against the illegal trafficking of precious woods, reaffirming the illegality of harvesting precious woods

- The Ministry of Finance, jointly with the Ministry in charge of forests, should on behalf of the Malagasy government
 - sell the seized wood in a process supervised by an independent international auditor, representatives of the international community and the civil society
 - mount a thorough investigation to establish a list of all actors, Malagasy and foreign, who have previously profited from the illicit wood trade, and to prevent them from participating in the sale of seized wood
 - destroy all stocks of precious wood that are not contained in the latest inventories, and to maintain the policy of destruction of all seized wood, in order to send a clear signal that it will be impossible to profit from the illicit trade in the future
 - establish a special fund for the proceeds from the sale of the seized wood, supervised by a management committee composed of representatives of the relevant ministries (Forests, Finance, Economy, Justice, Territorial Management), civil society, donors and an independent international observer; designate the fund's objectives as to support the management of the national parks, the control of illicit trade in precious wood and rural development in areas affected by the illegal trade

Medium-term measures

Generally: Improve good governance in the forest sector, strengthen the protection of National Parks and protected areas, and take measures to end the international trade in precious woods originating from Madagascar

At the national level

The Government should

- in order to bring to justice those individuals who play a central role in the illegal extraction and trade in precious woods from Madagascar, work in close cooperation with the law enforcement organisations and the judiciary powers of key consumer countries in applying the laws that prohibit the import of wood produced or marketed illegally. This includes the United-States (through the "Lacey Act") and possibly the European Union (through of future legislation).

The Parliament should

- change the status of ONESF to transform it into a public organisation in order to ensure its independence from the Ministry in charge of forests, probably by bringing it under the authority of parliament
- change the status of BIANCO to transform it into a public organisation in order to ensure its independence from the Prime Minister's Office, probably by bringing it under the authority of parliament
- ensure that agents of ONESF are free from possible repercussions by politically powerful people who have committed forest crimes
- create a committee to coordinate the investigation and litigation of forestry crime cases
- pass legislation which punishes and dissuades the purchase, sale, export and import of illegally exploited forestry products

The Ministry in charge of forests should

- put into force those texts already developed, in particular the « Projet de textes relatifs aux titres de prélèvements des produits forestiers » (“Development of texts concerning forest products harvesting titles”) and the « Projet de loi relative à la répression des infractions à la législation forestière » (“Development of a law governing the repression of violations of forest legislation”)
- revise the legal texts regarding extraction, trade, and export of precious wood
- recruit and train forest control personnel on national and regional levels
- put into place a tracking system as described in the study on the establishment of a permits and forest products traceability system undertaken in January-February 2007
- put into place an effective chain-of-custody control system of the sort already developed in collaboration with the donors supporting the Malagasy government
- install an independent forest monitor in support of the forest administration aiming to improve transparency and good governance
- establish a task force at the regional level to patrol and enforce the law in the national parks and protected areas and their surroundings, composed of agents of the Ministry in charge of forests, the gendarmerie, the national police and representatives of affected communities and civil society
- publish a list of legal cases, containing the individuals responsible, the damages done and the fines requested or imposed
- educate and raise awareness among the population and regional and local officials about the negative impact of illegal logging of precious woods

The Ministry of Justice should

- create a special tribunal in Antananarivo to ensure follow-up of litigation cases in the forest sector in order to prevent interference by influential suspects
- ensure the prompt follow-up of all new and pending cases concerning precious woods
- provide the Ministry in charge of forests with a team of high-profile lawyers to prepare cases and to represent the Ministry in courts

The Ministry of Finance should

- establish an accountancy and transparency system for the collection and (re-)distribution of royalties and taxes derived from the forest sector
- publish annually a list of revenues, transactions and proceeds from the sale of seized wood as well as how the raised funds have been used, in national newspapers and on its website
- finance through the special fund (from proceeds from the sale of the seized wood) recruitment and training of forest administration agents, the material establishment of a chain-of-custody control system, forest control agents as well as rural development projects in the zones affected by illegal logging
- determine what happened to the proceeds of the sale of the wood seized in November 2008 and publish the findings

The ONESF should

- increase the organisation’s manpower and train them in the methodology and techniques of independent forest monitoring
- ensure that the names of those responsible for infractions are listed in the agents’ monitoring and investigation reports
- collaborate with other law enforcement and anti-corruption organisations, namely the DCAI, the “Department of Legal Affairs and Fight against Corruption of Customs” and BIANCO

At the regional level

The Ministry in charge of forests should

- affirm the invalidity of all salvage and collection permits issued by regional authorities (DREF, decentralised administration)
- involve local communities in the management of forests

At the international level

- National intelligence services should launch investigations into the international traffic of illegal wood and laundering of money stemming from this trade, and collaborate with investigations launched by foreign and international law enforcement services
- The Government of Madagascar in collaboration with the government agencies of consumer countries should carry out awareness raising campaigns among buyers and consumers of Malagasy precious woods in consumer countries
- The Government of Madagascar should formally contact relevant countries involved in the transportation, transformation, and consumption of Malagasy precious woods; including Mauritius, China, Germany, other European Union countries, and the US to request cooperation to halt the trade in illegally sourced wood
- The Government of Madagascar should issue specific requests to countries receiving illegal Malagasy woods in raw form or as finished products to pass legislation akin to the US Lacey Act amendment, prohibiting the import of illegally sourced wood, and to support the Malagasy efforts to stop illegal wood trade

Other actors

Countries involved in the traffic (transport, transformation, and consumption) of illegal wood from Madagascar should

- ban the import of illegally sourced wood, akin to the procedures of the US Lacey Act amendment, and strengthen requirements for importers to perform due diligence on the origin and legality of their purchases
- assist the Malagasy authorities in their efforts to track and seize illegal wood exports, and to repatriate the laundered proceeds of illicit timber trafficking

Donors and diplomatic missions of partner countries to Madagascar should

- cooperate with the Chinese government in the development of a strategy to raise awareness among Chinese wood importers and manufacturers about the risks and impacts of the import and trade of Malagasy precious woods
- assist the Ministry in charge of forests to put into place a tracking and a chain-of-custody system, to train its agents and to improve their technical capacities
- organise joint training workshops for forest control agents from Madagascar and donor countries
- support the decentralised public administration institutions in implementing rural development projects
- assist the Malagasy government to establish a maritime surveillance and control system
- restore conservation support funding, but only upon the adoption of substantive measures to combat the trade in illegal wood, including those recommended above

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- Annex 1: Inter-ministerial Order 16030-2006 concerning the modalities of exploitation, commercialisation of ebony, rosewood and pallisandre. 04 September 2006
- Annex 2a: Salava Haja, Directeur de Parc, 9 avril 2009, *L'exploitation illicite du bois de rose dans le Parc National de Masoala : Un pillage sans précédent depuis la création du parc*
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- Annex 12: Chef de Triage d'Ampenafena, 19 August 2009, *Stocks de bois de rose de M. Thu Nam*
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- Annex 14: Inter-ministerial Orders 38244/2009 and 38409/2009, Notes to operators 029 and 030/09/MEF/SG/DGF/DVRN

FOOTNOTES

- ¹ Ltn-Cln Rasoloson Fanomezana Roger, member of Task Force, *Rapport sur la suite de l'enquête effectuée par la Task Force sur l'exploitation de bois précieux dans la région SAVA*, No. 209-COM/4-DSR/PJ, 05.04.08 ; submitted to the General de Brigade, Commandant de la Gendarmerie Nationale; transmitted to Minister in charge of forests by the Minister of National Defence by letter No. 195/MDN/CAB
- ² World Bank, 20 April 2004, EPIII Project Appraisal Paper
- ³ http://www.winrock.org/fnrm/factnet/factpub/FACTSH/D_latifolia.html
- ⁴ Joint UNEP/OCHA Environment Unit, *Rapid Environmental Assessment - Cyclones and flooding in Madagascar*, p. 9
- ⁵ Salava Haja, Directeur de Parc, 9 avril 2009, *L'exploitation illicite du bois de rose dans le Parc National de Masoala: Un pillage sans précédent depuis la création du parc*
- ⁶ Art 1 : l'exploitation du bois d'ébène et du bois de rose est interdite
Art 2 : tout stock non justifié fera l'objet d'une poursuite judiciaire. Les produits sont saisis et confisqués au profit de l'Etat (Forêts) et vendus
Art 3 : tout stock constitué à partir d'un permis valide ; doit faire l'objet de déclaration ; contrôle effectuée par le MEF.
Art 4 : circulation et commercialisation accompagnés des pièces réglementaires
Art 5 : exportation des produits (bois de rose, d'ébène et de palissandre) n'est autorisée que sous forme finis
Art 6 : produit fini : bois façonné, transformé pour une utilisation définitive sans aucune modification supplémentaire (y compris liste des produits prenants)
- ⁷ Comité Ad'hoc d'inventaire, Décembre 2008, *Rapport d'inventaire des stocks des bois précieux « en ville » dans la Région SAVA*
- ⁸ RAMBELOSON François Richard et AZIHAR Hugues Saed, 20 July 2009, *Situation de l'enquête et investigation de bois de rose déposés au port de Vohémar*
- ⁹ Ordonnance No. 60-128 du 03 octobre fixant la procédure applicable à la répression des infractions à la législation forestière, de la chasse, de la pêche et de la protection de la nature ; Arrêté 13.892 du 25 octobre 1986
- ¹⁰ See also Annex 12, CCPTF-Groupe Gouvernance, Octobre 2009, *Analyse de l'arrêté interministériel N°38244*
- ¹¹ Andriatahina Manantsoa Manantsoa, Rakotondrabe François Bernard. ONESF, Mission dans la SAVA du 18 au 21 Juillet 2009
- ¹² Comité Ad'hoc d'inventaire, Décembre 2008, *Rapport d'inventaire des stocks des bois précieux « en ville » dans la Région SAVA*
- ¹³ Dossier No.688-RP/08/IP/No.06/IP/CO/j4/08, Cour d'Appel de Mahajanga, Tribunal de Premier Instance d'Antalaha, Jugement No. 3434 du 20 octobre 2008 ; Dossier No. 1547-RP/08/IS, Cour d'Appel de Mahajanga, Tribunal de Premier Instance d'Antalaha, Jugement No.2616 du 28 juillet 2008 ; Dossier No. 1646-RP/08/IS, Cour d'Appel de Mahajanga, Tribunal de Premier Instance d'Antalaha, Jugement No. 2617 ; Dossier No. 3433-RP/08/CD, Cour d'Appel de Mahajanga, Tribunal de Premier Instance d'Antalaha, Jugement No.3815
- ¹⁴ Ltn-Cln Rasoloson Fanomezana Roger, member of Task Force, No. 209-COM/4-DSR/PJ, 05.04.08, *Rapport sur la suite de l'enquête effectuée par la Task Force sur l'exploitation de bois précieux dans la région SAVA* ; submitted to the General de Brigade, Commandant de la Gendarmerie Nationale ; transmitted to Minister in charge of forests by the Minister of National Defence by letter No. 195/MDN/CAB
- ¹⁵ Univers Maoré Numéro 13, Juin 2009
- ¹⁶ *Procès verbal de réunion sur le contrôle forestier Antalaha*, 26 August 2009 (see Annex 4)
- ¹⁷ SALAVA Haja, Directeur de parc Masoala, Compte rendu sur l'évolution de la « situation du bois de rose » au niveau du parc national Masoala ; page 2
- ¹⁸ Ltn-Cln Rasoloson Fanomezana Roger, member of Task Force, No. 209-COM/4-DSR/PJ, 05.04.08, *Rapport sur la suite de l'enquête effectuée par la Task Force sur l'exploitation de bois précieux dans la région SAVA* ; submitted to the General de Brigade, Commandant de la Gendarmerie Nationale ; transmitted to Minister in charge of forests by the Minister of National Defence by letter No. 195/MDN/CAB
- ¹⁹ Government Communiqué of 20 January 2009
- ²⁰ Directeur de Région SAVA, *Procès verbal sur le contrôle forestier Antalaha*
- ²¹ Dossier No. 3433-RP/08/CD, Court d'Appel de Mahajanga, Tribunal de Premier Instance d'Antahaal, Jugement No. 3815 du 17 Novembre 2008
- ²² Dossier No. 1547-RTP/08/IS, Court d'Appel de Mahajanga, Tribunal de Premier Instance d'Antalaha, Jugement No. 2616 du 28 juillet 2008
- ²³ Cour d'appel de Mahajanga, Arrêt No. 150 du 21 avril 2009, Dossier No. 04/206/COR/09
- ²⁴ Dossiers No.688-RP/08/IP/No.06/IP/CO/j4/08, Cour d'Appel de Mahajanga, Tribunal de Premier Instance d'Antalaha, Jugement No. 3434 du 20 octobre 2008 ; Dossier No. 1547-RP/08/IS, Cour d'Appel de Mahajanga, Tribunal de Premier Instance d'Antalaha, Jugement No.2616 du 28 juillet 2008 ; Dossier No. 1646-RP/08/IS,

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- ²⁵ See RAMBELOSON François Richard et AZIHAR Hugues Saed, 20 July 2009, *Situation de l'enquête et investigation de bois de rose déposés au port de Vohémar*
- ²⁶ Dossier No. 1547-RP/08/18, Cour d'Appel de Mahajanga, Tribunal de Premier Instance, Jugement No. 2616 du 28 juillet 2008. MinPub/MEEF vs. Ranjanoro
- ²⁷ Dossier No. 1646-RP/08/18, Cour d'Appel de Mahajanga, Tribunal de Premier Instance, Jugement No. 2617 du 28 juillet 2008. MinPub/CIREEF vs. Thunam, Badady, Malohely
- ²⁸ OCM, Trade Policy Review - WT/TPR/S/197/Rev.1; Trade Policy Review Body - Trade Policy Review - Report by the Secretariat - Madagascar – Revision; 28/05/2008; http://www.wto.org/english/tratop_e/tpr_e/tp_rep_e.htm#bycountry
- ²⁹ Cahier de charges type de clauses générales et particulières de l'exploitation des forêts malagasy, approuvé par l'Arrêté 13 855/2001 du Ministre des eaux et forêts en date du 13 novembre 2001
- ³⁰ See also Salava Haja, Directeur de Parc, 9 avril 2009, *L'exploitation illicite du bois de rose dans le Parc National de Masoala : Un pillage sans précédent depuis la création du parc*
- ³¹ Order 13855/2001, Art. 37 : « Tout bois sortant de l'exploitation doit porter aux deux bouts l'empreinte du marteau spécial de l'exploitant d'une part et celle du marteau forestier qui aura effectué la réception des produits d'autre part. »
- ³² International Resources Group (IRG), December 2008, *Appui à l'extension du système de tracabilité des bois à Madagascar* ; page 4. « ... (à Antalaha l'application du système est bloquée (...), les données sur ces stocks de bois ne sont pas saisies dans la base de données de la DREFT ni transmises à la DGEF. De plus, les acteurs de la région poursuivent une méthodologie différente dans le marquage des bois en stock.) »
- ³³ TRAFFIC Bulletin Vol. 22 No. 2 (2009), page 49
- ³⁴ Conseil de Ministres, 22 Juillet 2009; see *Les Nouvelles de Madagascar*, 30 juillet 2009, Bois précieux à Vohémar - 72 millions d'ariary d'amende par container (<http://www.les-nouvelles.com/>)
- ³⁵ Courrier de Madagsacra, 09 octobre 2009, Toamasina : 91 conteneurs de bois de rose saisis (<http://www.courriermada.com/spip.php?article2077>)
- ³⁶ Johnnie Carson, Letter to Russell Mittermeier (Conservation International), undated
- ³⁷ Erik R. Patel, Logging of Rare Rosewood and Palisandre (Dalbergia spp.) within Marojejy National Park, Madagascar. In: *Madagascar Conservation & Development* , Volume 2, December 2007, page 11ff <http://news.mongabay.com/2009/0820-lemurs.html>
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- ³⁹ See also Hervé BAKARIZAFY, Directeur du Parc Marojejy, *Rapport sur exploitation illicite de bois de rose dans le Parc Marojejy*, 4 mai 2009
- ⁴⁰ Salava Haja, Directeur de Parc, 9 avril 2009, *L'exploitation illicite du bois de rose dans le Parc National de Masoala : Un pillage sans précédent depuis la création du parc*