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# Time for Action:

An EIA briefing on illegal logging & related trade of precious woods for CITES SC66

“We have conventions, national strategies, new laws, etcetera, but no one has actually been imprisoned for [timber] trafficking and corruption in Madagascar to date.”

Malagasy civil society  
organization representative,  
December 2015

## Introduction

The illegal harvest, trade, and export of ebonies (*Diospyros spp.*), palisanders and rosewoods (*Dalbergia spp.*) continue to devastate the unique ecosystems of Madagascar and the livelihoods of forest-dependent peoples. Despite listing of the island's populations of these species on Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) in March 2013, Madagascar has made insufficient progress on key elements of the Action Plan it agreed to under this listing.<sup>1</sup>

**EIA supports the CITES Secretariat's position for the 66th Standing Committee (SC66)<sup>2</sup> and recommends that the embargo and Action Plan be extended until at least SC67, and until concrete results are achieved on the ground.** Further, EIA calls upon the Standing Committee and Parties to take decisive measures to ensure full compliance by Madagascar, including effective law enforcement, prosecutions of high-level timber barons, effective implementation of the embargo, and conducting a credible inventory of stockpiles. **Parties should consider an immediate trade suspension of all Malagasy CITES-listed species until significant progress has been made on implementation of the Action Plan.** At this time, it would be devastating to consider an auction of existing stockpiles, reopening of trade or allowing fresh logging, all of which are part of Madagascar's submission to SC66,<sup>3</sup> and demonstrate a lack of commitment to actually stemming the flow of illegal timber and protecting these vulnerable species.

Despite a series of bans on the harvest and export of these species, which culminated in a complete ban on all harvesting in 2006<sup>4</sup> and a continual ban on exports since 2010 (see box 1), and included support by CITES members of an international embargo since 2013, illegal exports have continued and natural populations of ebonies, palisanders, and rosewoods in Madagascar are in a critical situation.<sup>5</sup> Most of the remaining specimens are located in protected areas and have been targeted by illegal loggers and traffickers.

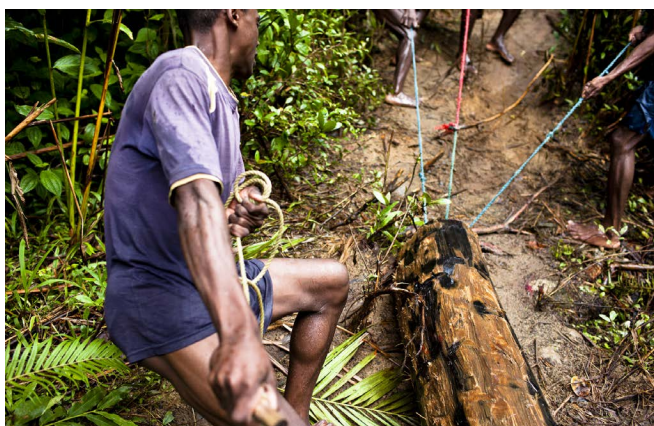
As demonstrated in this report, even with the support provided by the CITES Secretariat and the international community, neither the critical elements listed in the Action Plan nor the structural reforms of the justice system have been addressed on the ground in Madagascar. The government of Madagascar must transform its words into action before its exquisite ecosystems are irreversibly destroyed, and Parties lose faith in its genuine will to solve the current crisis.

## Inadequate stockpile audits

Timber traffickers have been using Malagasy *Dalbergia spp.* and *Diospyros spp.* stockpiles in many ways in order to get easy access to cut logs or massively launder illegally felled logs.<sup>6</sup> Adequate stockpile management and disposal, especially inventory, marking, and secured storage, is an essential first step towards legitimate trade and for this reason has been an essential part of the Action Plan. Given that no results have been publicly

produced so far by the government of Madagascar about the legal status of the stockpiles, the precautionary principle calls for considering all categories of stocks as high risk of being illegal (see Table 1) and no export should be authorized.

**Limited Coverage** The national stockpile inventory and marking operations which finally began during the second half of 2015,<sup>7</sup> have only been conducted on a fraction (less than 10%) of the domestic stockpiles. Despite the critical importance of evaluating all three categories of domestic stockpiles in order to avoid the high risk of laundering, the inventory and marking operations have primarily focused on the seized logs (and have integrated on an ad hoc basis some immediately accessible undeclared stockpiles). Reopening trade without prior comprehensive evaluation, marking, and safe storage of all three categories of stocks will incentivize new illegal cutting in protected areas.



**Unsecured Stocks** According to a comprehensive 2013 analysis, more than a third of the volume of seized precious woods are not safely stored.<sup>8</sup> The recent inventory confirmed the size of the problem. As reported by the press, during the operations in Ambilobe (Diana Region) in November 2015, of the 450 logs under the gendarmerie's responsibility, the inventory team found that 150 of them were "*bonara*", i.e. fake precious wood logs (low-value timber coated with waste oil to give them a darker color resembling that of rosewood).<sup>9</sup> Similarly alarming observations have been reported in other regions, such as Analanjirofo, Antsiranana, and SAVA.<sup>10</sup> The troubling "elasticity" of the seized stocks, or the gradually shrinking volume as a consequence of thefts and/or substitution, has also been frequently reported and recognized by the Malagasy government.<sup>11</sup>

**Operational Flaws** Various reports from EIA's sources agree that in several regions the inventory and marking operations did not follow the protocol presented in the "Use Plan" proposed in December 2014 by the Malagasy government which details how inventory, transport, and marking operations should be performed. The deficiencies reported are namely: non-use of invisible marking paint, imprecise log measurement, imprecise evaluation of log quality, unsystematic moisture tests, and non-classification and storage of the logs in stacks of homogenous quality.<sup>12</sup> Sources further reported that in some regions the military were leading the operations without the use of technical experts.<sup>13</sup> Several storage sites reportedly lacked a sufficient level of security. In several regions, including the capital Antananarivo, inventoried stocks have reportedly already been embezzled.<sup>14</sup> Finally, no information has yet been shared by Madagascar on the method followed for species identification of logs, which is a fundamental aspect of the inventory.

**Transparency Setbacks** In August 2014, the government replaced the Steering Committee, established in 2012, with an Inter-Ministerial Committee (COMIN), provided with a full-time executive secretariat responsible for overseeing the operative teams in charge of the stockpile disposal. While Malagasy civil society representatives were part of the Steering Committee established in 2012, the COMIN is only composed of ministries and administration representatives, closing the door to an important element of transparency. Three studies funded by the World Bank, which to date have not been made public, have provided Malagasy decision makers with methodological guidance and analytical information regarding stockpile disposal. Based on the available information, the Malagasy government proposed in December 2014 a "Use Plan".<sup>15</sup>

## Ineffective enforcement

Despite solemn announcements of strong enforcement measures, declarations of "war" against illegal logging, and a "zero tolerance"<sup>16</sup> policy, law enforcement remains weak and ineffective.

**Embargo only on paper** The CITES Secretariat has received information on suspected illegal shipments of timber being exported from Madagascar and on the use of fraudulent CITES permits.<sup>17</sup> Several civil society organizations have denounced the illegal trade in precious woods in 2014 and 2015.<sup>18</sup> As stated by experts funded by the World Bank in 2014: "An analysis of the rosewood trafficking dynamics conducted by the Environmental Investigation Agency (EIA) and Global Witness in 2009, affirmed by numerous other reports

### Box 1: Current legislation

**Decree 2010-141** of 24 March 2010 prohibits logging and export of rosewoods and ebonies. Operators are requested to report their inventories so that the government can assess their origin and the measures that should be applied.

**Order 2011-001** of 08 August 2011 confirms the general prohibition of all forms of production and trade in rosewood and ebony, revokes any previous export authorization (art. 3), and reaffirms the obligation for operators to report their stocks (art. 2). The decree specifies that the declarations must be submitted to the competent regional authorities within thirty days after the publication of the order (art. 2). Any prior regulation contrary to the order are repealed (art. 14).



Table 1: The stockpiles categories

	Domestic seized stocks	Domestic self-declared & unseized stocks	Domestic hidden stocks	Overseas seized stocks
<b>Volume (in m<sup>3</sup>)</b>	3,193 m <sup>3</sup> , stored in 80 sites located in 11 regions	24,813 m <sup>3</sup> scattered over 191 locations and 104 operators, according to self-declaration by alleged owners	Between 10,000 m <sup>3</sup> to more than 40,000 m <sup>3</sup> according to estimates by experts	Approximately 4,231 m <sup>3</sup> located in 6 different countries
<b>Security Level</b>	62% reportedly secured	0% secured	0% secured	Variable
<b>Illegality Risk Assessment &amp; Justification</b>	<b>High risk</b> Violation of national laws already established	<b>High risk</b> Strict harvest ban in place since 2006 (Inter-ministerial Order 16030/2006), no verification and no monitoring of these stocks to date	<b>High risk</b> Violation of the declaration requirement (Decree 2011-001)	<b>High risk</b> Clear violation of domestic export ban and international embargo (Decree 2010-141 and CITES CoP16 Decision 16.152)

Source: ELA, 2015; Madagascar, 2015a; SGA, 2014<sup>34</sup>

since then, appears to be still accurate and as relevant today as it was then.”<sup>19</sup> The World Bank’s report mentions the pillage of protected areas in 2014, where only the scale appears to differ, as the most easily accessible trees have already been logged. Madagascar’s failure to stop precious wood trafficking is also reflected in the approximate 40,000 logs seized outside of the island (China, United Republic of Tanzania, Singapore, Sri Lanka, Mozambique and most recently Hong Kong) since December 2013.<sup>20</sup>

**Enforcement failures** Current law enforcement capacity to control illegal logging and trade is extremely low in the Grande Ile.<sup>22</sup> Financial and technical resources for all agencies involved are insufficient and inadequate. The “*brigades mixtes*,” an inter-institutional enforcement team, set up in 2010 have been largely dismantled and have lacked the financial means to operate.<sup>23</sup> The system established in January 2014 to detect suspicious ships off the northeast and northwest coast of the island has only made one successful intervention.<sup>24</sup> Several ships have been detected but all of them have escaped by the time the patrol boat arrived on the scene. Moreover, the first mission of the Wildlife Incident Support Team (WIST), led by INTERPOL, in March 2015, concluded that the tenuous improvement achieved in terms of enforcement critically needed to be consolidated and extended. Despite encouragement from the CITES Secretariat, Madagascar has not yet requested a follow-up inspection operation from WIST.<sup>25</sup>

**Influence of the demand** Madagascar’s Minister of Environment recently announced that the illegal traffic of rosewood on the island is under rapid decline and will soon come to an end, as a result of the measures implemented by the government.<sup>26</sup> However, during an undercover investigation carried out in late 2015, EIA investigators collected numerous testimonies from Chinese importers, traders, and manufacturers that corroborate the persistence of illegal export in precious woods from Madagascar in 2013, 2014, and 2015.<sup>27</sup> According to Chinese businessmen, the main factor that influences the Madagascar-China illegal trade in precious woods is not the ban, of which all of them were perfectly aware, nor even the increasing scarcity of the resource, but the scale of the demand.<sup>28</sup> The recent slow-down of the Chinese economy has impacted the

overall trade in rosewood.<sup>29</sup> Decreased Chinese demand has reduced the incentives to export illegal logs from Madagascar. All interlocutors declare that this situation is a temporary downturn: as soon as the economic growth restarts, the benefits earned by breaking the Malagasy law will once again attract the traffickers.

## Biased justice system

The Malagasy justice system has failed to play its critical role in laying the foundation for functional forest governance.

**Amnesty for the traffickers** While the recently established special court against natural resource trafficking<sup>30</sup> is a potentially useful tool, its capacity to end the impunity in Madagascar remains to be proven. The President’s statement, proposing amnesty to all traffickers involved in law breaking activities perpetrated before his assumption to power, is a key example of the government’s lack of will to take strong action to address the root causes of the illegal trade.<sup>31</sup>

**Unpunished timber barons** Failure to enforce existing laws in Madagascar regarding rosewoods, ebonies, and palisanders has permitted ongoing illegal activities. Twice in 2015, alleged timber barons were brought to justice as a result of the joint efforts by civil society and the Independent Anti-Corruption Bureau (BIANCO). However, in both cases, the accused were quickly released or paroled, despite strong evidence of illegalities.<sup>32</sup> Prosecution has instead focused on a few small players.

**Civil society prosecution** In contrast to its failure to convict even one timber baron, the Malagasy government instead imprisoned Armand Marozafy, a Malagasy environmental activist and nature guide of the SAVA Region, for five months after an expeditious judgment found him guilty of defamation.<sup>33</sup> The ecotourism guide was convicted for sending an email exposing two well-known individuals allegedly linked to illegal rosewood logging. The sentencing of Mr. Marozafy not only exemplifies the double standard at work in Madagascar, it also demonstrates the deliberate attempt to silence environmental activists and to intimidate whistle-blowers.

## Recommendations

### The CITES Standing Committee should:

- Reject the results of the stockpile audit presented by Madagascar, maintain the embargo until at least SC67 and delay any decision on the matter until SC67;
- Require the establishment of a Mandated Independent Monitor (MIM) from civil society and its participation at all stages of the stockpile disposal process;
- Extend the zero quota export permits, or “embargo”, to all CITES-listed species until SC67.

### Madagascar should:

- Carry out a comprehensive inventory of all categories of domestic stocks, and set up periodic inspections (every six months) to identify losses, thefts, and errors in reporting;
- Recruit a MIM who will be authorized to review the status of the stockpile storage *in situ*, and involved in all stages of the stockpiles disposal process;
- Request the continuation of WIST operations in Madagascar;
- Reconsider the amnesty granted to rosewood traffickers before January 2014;
- Reorganize and fully fund the “brigades mixtes”;
- Systematically include palisanders species in all new regulations in order to avoid any new loophole, which would facilitate illegal logging in *Dalbergia spp.*



### International organizations should:

- Condition the contribution of new funds to Madagascar on the implementation of decisive governmental actions against corruption;
- Refrain from supporting any logging related activities before improvement in forest governance is demonstrated on the ground;
- Immediately make public relevant information and reports related to the stockpiles disposal.

### Consuming & transshipment countries should:

- Support Madagascar by preventing any imports and transshipments of precious woods of Madagascar provenance.

### Before considering auction, resumption of trade, or logging of precious woods, Madagascar must:

- » Conduct credible inventory
- » Secure domestic stockpiles
- » Prove enforcement impacts
- » Establish functional judicial system

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Photos: Front cover, Vohemar, Madagascar, August 2009 (Toby Smith)  
Inset left, Masoala National Park, Madagascar, Aug 2009 (Toby Smith)  
Back cover, Rosewood furniture in Chinese showroom, 2015 (EIA)