

Emergency in the forest

REPORT ON THE ILLEGAL FELLING OF LUMBER IN NICARAGUA

*An investigation by the Center for Communication Research (CINCO)
in association with the Center for International Policy (CIP)*



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Presentation

This report contains the principal findings of the journalistic investigation “Emergency in the Forest,” conducted over five months by a team of professionals from the Center for Communication Research (CINCO), in association with the Center for International Policy (CIP), based in Washington DC.

The research, coordinated by Carlos F. Chamorro, president of CINCO, was conducted by a team made up of Roberto Fonseca, Camilo de Castro and other journalists and researchers. It covered the territories of the Mining Triangle, Puerto Cabezas, Waspám and the Río Coco in the North Atlantic Autonomous Region (RAAN), the municipalities of the Desembocadura de Río Grande and La Cruz de Río Grande and the Río Kung Kung in the South Atlantic Autonomous Region (RAAS), as well as the department of Nueva Segovia.

It also involved an intense search for and gathering of data and documents related to the forest issue from the main governmental and nongovernmental institutions and especially interviews with the most notable representatives of the Ni-

caraguan lumber industry, who in the majority of cases granted a journalistic interview for the first time.

The report is divided into three parts to facilitate reading and to explore the findings more deeply. In the first part, you will find everything related to the issue of the economic and environmental im-

impact of the forest emergency, starting with the historical background and coming up to the Forestry State of Emergency declared in May 2006.

The second part presents, case by case, the diverse *modus operandi* of a very representative group of lumber companies that exploit the forest resource through General Management Plans, Minimum Plans or concessions by indigenous communities. Most of them operate in Nicaragua’s Caribbean region and are the object of major suspicion and accusations.

Finally, in the third part, the reader will find a summarized set of conclusions and recommendations, the latter of which are especially directed to the new authorities elected this past November 5, who must make key decisions on the forestry issue in the next five years.





I

Economic and environmental impact of the forest emergency

Background: Half a century of ravaging the forest

In 1950, a Technical Mission from the United Nations Food and Agriculture Organization (FAO) produced the first important report on Nicaragua's forest resources. The document stated that this Central American country had 6.5 million hectares of forest cover, which represented 47% of the national territory, estimated at that time at 137,000 square kilometers.

That FAO Technical Report, prepared by experts R. D. Garver and H. Recart of the US Forestry Service and the FAO, respectively, estimated that the cultivated surface amounted to only 958,000 hectares, equivalent to 7% of the national territory at the time.

A half century later, the official Nicaraguan document titled "Valoración Forestal Nicaragua 2000" (Forestry Appraisal Nicaragua 2000) estimated that Nicaragua's forested area had shrunk to 3.2 million hectares (32,000 square kilometers in the 1950-2000 period, an area much greater than the total extension of the US state of Massachusetts (20,306 square kilometers), or of Nicaragua's neighbor, El Salvador (21,040 square kilometers).

This overall deforestation figure equals an average loss of 64,000 hectares per year. At this rate, 47.35% of Nicaragua's forests have disappeared.

In turn, the surface cultivated for agricultural purposes increased to 46,935.4 square kilometers in that same half century, a figure now equal to over 36% of the national territory, compared to only 7% fifty years earlier.

Agrarian reform

Various factors are related to this frenetic advance of the agricultural frontier in the past half century. Among them are peasant migration, the agrarian reform processes of 1960-1978 and 1979-1990, the end of the armed conflict and social reinsertion of the contra and army veterans, and the lack of territorial demarcation and titling of indigenous lands in the country's Caribbean coast.

By the end of the fifties, according to the official Agricultural and Forestry Ministry (MAGFOR) document titled "Marco de Políticas de Tierras" (Land Policies Framework), a movement of landless peasants was noted, which engaged in land

“Lands in forested zones belonging to the state were given out to former contras and former army soldiers, and all they did was cut down all the trees to plant rice, beans and maize. You can see that the whole strip where those property titles began to be given out was clear-cut and what we have now is a subsistence agricultural frontier.”

Jader Guzmán, head of MAGFOR's Forest Policies Dept.

invasions as a method of struggle. In response, the then government approved the first Agrarian Reform Law in 1963.

The agrarian reform process intensified in the 1979-1990 period, with the Sandinista government. It was initiated in July 1979, with the confiscation of rural properties that had belonged to the Somoza family and its close associates. By 1990, 54.4% of the lands was in the power of the private sector and 39.8% in the hands of the so-called reformed sector (cooperatives, state companies, etc.) as a result of this land redistribution process.

It is officially estimated that the agrarian reform during the Sandinista period (1979-1990) benefited over 110,000 peasant families, which represented around 80% of those demanding lands.

Pacification

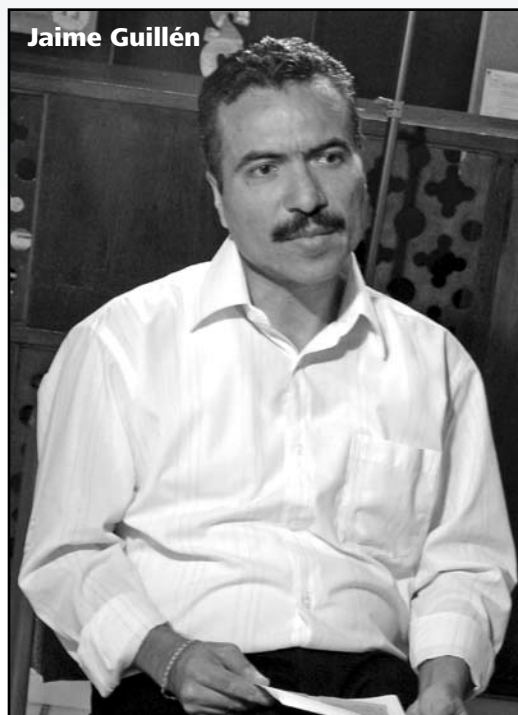
With the end of the armed conflict in 1990 resulting from the electoral victory of Violeta Barrios de Chamorro, a new land distribution process continued, now to the two bands involved in the civil war—the

former members of the Army and the Resistance (contras), to guarantee their social and productive reinsertion.

According to MAGFOR's official document, "Marco de Políticas de Tierras," the Chamorro government provided 23,069 property titles during her administration, which represented 837,947 manzanas (1 manzana = .7 hectares) and 37,690 peasant family beneficiaries.

"Each time I would see in the media that property titles were being given to those who had formerly taken up arms, it triggered a dual sentiment in me" comments Jaime Guillén, National Rainforest Coordinator, "in that I knew it would help pacify the country, but I could also see that it would provoke an environmental disaster, a genuine tragedy, in that they would destroy the forest to plant in lands not apt for agriculture."

The book, *Dinámica del sector forestal en Nicaragua: 1986-1996*, shows the negative impact on the country's forests of the agrarian re-



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form process promoted by the Sandinista government followed by the provision of land to the sectors involved in the armed conflict of the eighties and to the traditional seekers of land in the post-conflict period (1990-2001).

That book, says Jader Guzmán, head of MAGFOR's Forest Policies Dept, "shows an increase in the deforestation rate from 35,000 to 100,000 hectares a year.... Lands in forested zones belonging to the state were given out to former contras and former army soldiers, and all they did was cut down all the trees to plant rice, beans and maize. You can see that the whole strip where those property titles began to be given out was clear-cut and what we have now is a subsistence agricultural frontier."

According to the latest agricultural census, taken in 2001, there are approximately 200,000 agricultural exploitations in the country, covering an area of 6.2 million hectares. In this regard, it should be recalled that the FAO Technical Mission's report from the fifties indicated that the area cultivated totaled only 958,000 hectares.

Illegal cutting

Together with the advance of the agricultural frontier is the illegal felling of trees for lumber, especially in Nicaragua's Caribbean areas, where the forests with the greatest commercial potential are found. Those involved justify their activities on the grounds that the indigenous territories are neither demarcated nor titled officially.

"The lack of demarcation and titling of the indigenous territories has made way for the reformed sector beneficiaries and demobilized groups to be put there often by state intervention and they, like the private owners and colonizers, have pushed



the agricultural frontier further and displaced the communities from the lands occupied by their ancestors," states the official MAGFOR document, "Marco de Políticas de tierras."

It goes on to say that "a product of this weakness has been observed on the part of the colonizers and emigrant peasants, which is a significant increase in the cutting down of the forests, illegal exploitation of lumber, establishment of subsistence agricultural plots and extensive cattle raising."

According to the same document, "the agricultural frontier is still expanding rapidly and the estimated deforestation rate in the Atlantic Coast is 80,000 hectares a year, close to 2.1% of the remaining forest cover." This figure, which it calls "alarming," is based on a World Bank document.

Moreover, an Assessment of the Forestry-Lumber Cluster, promoted by the Ministry of Development, Industry and Commerce (MIFIC), claims that the “illegal cutting of lumber could be around 60% of the cutting volumes registered by IN-AFOR.”

This assessment cites another recent study by the World Bank, which estimates that the illegal cutting of lumber ranges between 30,000 and 35,000 cubic meters of broadleaf trees and around 135,000 cubic meters of conifers.

Based on these calculations it is estimated that Nicaragua suffers losses between US\$4 and 8 million in due to fiscal losses due to produced by the illegal felling of the forests.

Summary of relevant data

- In 1950, the forest cover totaled 6.4 million hectares.
- The cultivated surface was 958,600 hectares.
- The appraisal of the 2000 Forest Map confirmed that the forest cover had shrunk to 3.2 million hectares.
- In contrast, the land dedicated to agriculture increased from 7% to 36% of the national territory.
- Between 1986 and 1996, the annual deforestation rate rose from 35,000 to 100,000 hectares.
- World Bank studies estimate that the illegal felling of trees reaches 170,000 cubic meters a year in broadleaf and conifer trees.
- Based on these calculations, it is estimated that Nicaragua loses between US\$4 and 8 million due to fiscal losses produced by the illegal felling of the forests.

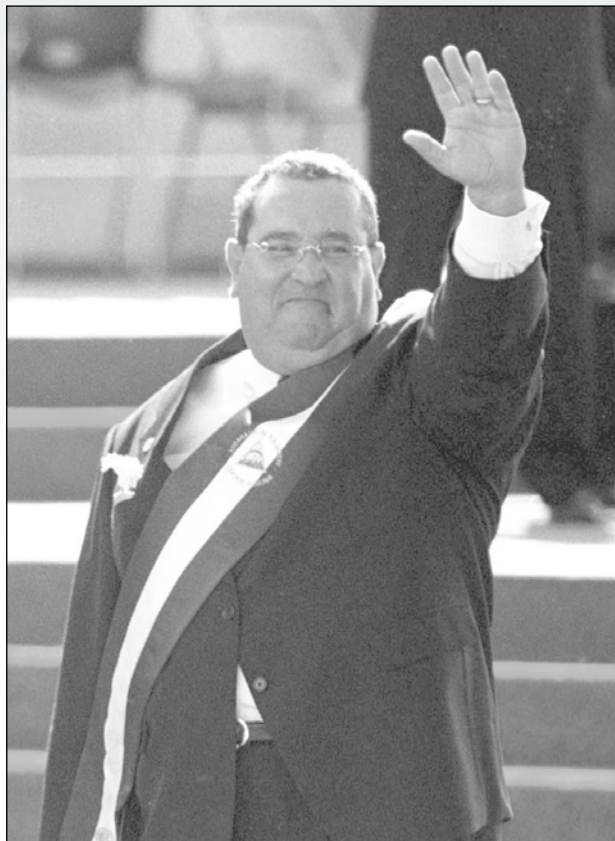


The government of Arnaldo Alemán: The time of the “fat cows”

On January 10, 1997, Arnaldo Alemán assumed the presidency of the republic for a five-year period after winning the elections the previous year. He came from having served as mayor of Managua (1990-1996), where he was pursued by recurrent accusations of corruption, favoritism and personal enrichment.

Months after taking office, President Alemán issued an Executive Decree (25-97) setting a Forestry Moratorium on the exploitation of two lumber species of high commercial value: Atlantic Mahogany (*Swietenia macrophylla*) and Royal Cedar (*Cedrela odorata*).

Nonetheless, representatives of Nicaraguan lumber businesses consulted during this research process insist that behind this decision was another: that of favoring a group of national lumber company business owners, who were at that time linked to President Alemán himself and to the



“...the objective of the forestry moratorium set by President Alemán was to push the lumber dealers out of the market and create their own company in the North Atlantic. I’m not going to give the company’s name but it is known that figures linked to President Alemán were involved, and the ships left from Puerto Cabezas (RAAN) without CITES permits or customs permits. How did they get [the lumber] into the country of destination? I have no idea.”

Oscar Sobalvarro, former leader of the Nicaraguan Resistance and now owner of the company called Maderas Preciosas de Nicaragua (Maprenic)

opposition Sandinista National Liberation Front (FSLN), with which the Nicaraguan President was engaged in discussions around common political and economic interests.

The closed season in the Alemán period

According to Oscar Sobalvarro, former leader of the Nicaraguan Resistance and now owner of the company called Maderas Preciosas de Nicaragua (Maprenic) “...the objective of the forestry moratorium set by President Alemán was to push the lumber dealers out of the market and create their own company in the North Atlantic. I’m not going to give the company’s name but it is known that figures linked to President Alemán were involved, and the ships left from Puerto Cabezas (RAAN) without CITES permits or customs permits. How did they get [the lumber] into the country of destination? I have no idea.”

“During Alemán’s closed season, around five times more was cut than was cut generally; in other words there was more depredation of the forests,” said Pedro Blandón Moreno, Manager

and legal representative of the forestry company PRADA, SA.

At the end of October 1998, while the supposed moratorium was still in effect, the country was devastated by Hurricane Mitch, which affected a large part of the national territory with torrential rains and mudslides, especially northern and Caribbean Nicaragua, where the country’s most important forested areas are. Months later, the President issued a new presidential accord, couched in the interest of helping the autonomous regions affected by Hurricane Mitch, to commercially exploit the trees downed by the natural phenomenon.

“The pressure regarding the downed lumber increased, so [the government] created a mechanism called Program of the Autonomous Regions (PRA), to be able to get the lumber out. But with that came another stratagem of the lumber dealers; they committed abuses, as can be observed in the table of exports [of milled lumber] from 2000-2001, a boom, which was linked to over-exploitation of the forestry resources,” said MAGFOR expert Jader Guzmán.

WHO’S WHO IN THE ALEMÁN ERA				
Name	Representatives	Export markets	Departure points	Products
CONSORCIO MADERERO INTERNACIONAL, S.A.	Luis E. Figueroa A.	Cuba and Spain.	El Bluff, El Rama, Las Manos and Peñas Blancas.	Milled pine, cedar, mahogany and other lumber.
MADERAS Y DERIVADOS DE NICARAGUA, S.A. (MADENSA)	Francisco Lemuz Lanuza	Dominican Republic and United States.	Peñas Blancas and Puerto Cabezas.	
PRADA, S.A.	Pedro Blandón Moreno	Costa Rica, Cuba, Dominican Republic, El Salvador, Spain, United States, Guatemala and Panama.	Guasaule, Peñas Blancas and Puerto Cabezas. Products: Plywood, milled lumber.	
CARMEN ADRIÁN UBEDA RIVERA	Carmen Adrián Ubeda Rivera.	Costa Rica (milled lumber and doors), Dominican Republic, El Salvador, Spain, United States and Mexico.	Corinto, El Rama, Guasaule, Las Manos, Peñas Blancas and Puerto Corinto.	



Lizandro D'León, Oscar Sobalvarro and Indalecio Rodríguez

Forestry aberration disguised as legality

On September 27, then Agricultural and Forestry Minister José Marengo Cardenal, a political colleague of President Arnaldo Alemán, issued Ministerial Accord No. 33-2000, titled “Legalization of integrally cut lumber.” Behind this euphemism, however, lurked the will to “legalize the illegal,” in other words to exempt the downed trees from the presumed moratorium without any authorization whatever.

“A maximum period of up to April 30, 2001, is authorized to transport the legalized lumber,”

states the Ministerial Accord. Its article 5 adds: “The unextendable period of ninety (90) calendar days is established from the time of publication of this Accord in any nationally circulating medium to inventory the illegally cut lumber.”

In effect, extraordinary exports of milled lumber, above all of broadleaf trees, were recorded in the years 2000-2001 by a small number of national lumber companies linked to sectors very close to President Alemán and to his opposition, the FSLN.

In 2000, according to official figures of the General Customs Division (DGA), four lumber dealers linked to the governing PLC and the opposition FSLN registered record exports of 23.4 million kilograms of lumber, with a total FOB value of US\$155.7 million.



Pedro Blandón

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That is ten times the FOB value of Nicaragua's average annual lumber exports.

In 2001, a year of general elections, the same lumber companies registered much lower exports, although still higher than the national average. According to DGA data, these four exporters registered a total volume of 9.2 million kilos, valued at US\$23.5 million FOB.

When comparing the 2001 figures with the official figures generated by MIFIC based on the DGA values, however, an official under-recording can be observed in Customs, since it recorded exports of only a total FOB value of US\$13.0 million.

Companies with "good connections"

The breakdown of exports for those companies in both extraordinary years is the following:

COMPANY NAME	VALOR FOB
1. PRADA, S.A.	US\$ 70.704,851.61
2. Maderas y Derivados de Nicaragua (MADENSA)	US\$ 49.719,925.73
3. Consorcio Maderero Internacional, S.A.	US\$ 30,194,317.58
4. Carmen Adrián Ubeda Rivera	US\$ 25.248,401.03

PRADA, S.A. is the company that exported the most in both years. Its representatives are Pedro Blandón Moreno, Edgar Gómez Casco, Ileana Salgado and Lesbia Blandón Moreno. The first of these, Pedro Blandón Moreno, was the alternate of Sandinista bench legislator Tomás Borge Martínez in the 2002-2006 legislative period.

In second place for the 2000-2001 exports was Maderas y Derivados de Nicaragua, S.A. (MADENSA), whose representatives are Francisco Lemuz Lanuza, Leyla Martínez Martínez and Martha Lorena Pérez Ramos. Sources from

the lumber industry also link the powerful Byron Jerez, President Alemán's former General Director of Income (DGI), who also held the diplomatic post of Honorary Consul to the Dominican Republic. The international clients of this lumber company are precisely in the Dominican Republic and the United States.

The third company that stood out in that period is Consorcio Maderero Internacional, S.A., represented by Luis E. Figueroa A, a distinguished political FSLN cadre in Region V (Boaco-Chontales) during the Sandinista government and former FSLN legislative representative.

In fourth place in the export ranking of those years is the Hermanos Ubeda company, whose legal representative is Carmen Adrián Ubeda Rivera, registered as an individual exporter. He works together with his younger brother, José Maximino Ubeda Rivera. Both say they are originally from San Rafael del Norte, from a family traditionally dedicated to the forestry sector and had returned from Costa Rica where they lived for many years and relaunched the family lumber businesses at higher levels.



The forestry sector's legal and institutional framework: INAFOR's role

In June 1998, then-President Arnoldo Alemán Lacayo ratified Law 290, “Law of Organization, Competence and Procedures of the Executive Branch,” in which is recorded the creation of the National Forestry Institute (INAFOR) as a Decentralized Entity under MAGFOR's sectoral guidance. In practice, this represents a severe limitation on influencing the country's forest policies as, according to this law, the required plans, programs, investments and budgets must be presented via MAGFOR or directly to the President of the Republic.

“[INAFOR] is a new institution, which appeared with the famous Law 290. This is a sector that is not given the importance it really has. It is an institution that was perhaps created because MARENA wanted to get rid of the responsibilities it had in this area,” comments current INAFOR Executive Director Indalecio Rodríguez.

The nascent INAFOR was not assigned funds through the General Budget of the Republic. Its institutional income to cover payroll and operational expenses came from the income brought in through the rates charged for any forestry exploitation and services it might provide for any registered individual or organization dedicated to forest activity. This distorted the forest monitoring and inspection function that INAFOR was supposed to perform.

“From 1998 to 2002, INAFOR financed itself with minimum [budgetary] resources that came from approving forestry permits, but a distortion appeared, in that the more permits it gave the faster it could cover payroll; living off the

granting of permits meant its forestry administration wasn't efficient. It was a totally inconceivable phenomenon,” explains MAGFOR's Jader Guzmán.

The system of taxes on lumber exploitation was established through Decree No. 75-99, approved by President Alemán in June 1999. To protect the Atlantic mahogany (*Swietenia macrophylla*) and royal cedar (*Cederla odorata*), this law established a 7.5% income tax retention rate on each cubic meter of logs of these two species. The base on which the retention would be applied was the average international FOB price for a cubic meter of milled lumber in tropical countries published by the International Tropical Timber Organization (ITTO).

The amount of the retentions, according to the same Executive Decree, would be deposited in the Ministry of Treasury and Public Credit (MHCP), “remaining available to INAFOR, following approval by the President of the Republic.”

Two years later, the National Assembly approved Law No. 402, “Law of Rates for Forestry Exploitation and Services,” which abolished Executive Decree 75-99. This law established that the beneficiary of a Forestry Use Permit granted by INAFOR must pay that institution a rate of C\$250 (córdobas) per cubic meter of felled log (US\$18.50) if it corresponded to species from Category A, among them royal cedar, Atlantic mahogany, pochote, lignum vitae, West Indian red ebony, walnut or Jamaican rosewood, among others.

By 2006, when the Economic Emergency Decree went into effect, followed by the Forestry Closed Season Law, INAFOR had already reg-

istered 101 sawmills, a record number. They were distributed as follows: Nueva Segovia 33, RAAN 16, Río San Juan 8, Estelí 6, Madriz 2, among others.

The forest exploitation volume that INAFOR approved also increased in the 2001-2005 period. In the four departments and autonomous regions with the greatest lumber activity, a frenetic and growing extraction was observed. In 2001, INAFOR approved a volume of 53,295 cubic meters in Nueva Segovia, RAAN, RAAS and Río San Juan. In 2005 that increased to 145,500 cubic meters in those same locales: almost three times more.

Environmental Ombudsman Lisandro D'León strongly criticizes INAFOR's institutional incapacity to control compliance with and implementation of the Use Plans. "It is an act of irresponsibility to be granting forestry use plans when you don't have the capacity to go supervise. It's like giving the lumber dealers or the forest owners a blank check. If you're going to give them permission to exploit, you have to provide follow-up to confirm whether or not the beneficiary is complying with what was established. If you don't, you're contributing to the irreversible loss of the forest," he insists.

Law 462 created the posts of Forestry Regent and Forestry Technician to "ensure implementation of the Forestry Management Plan approved by the corresponding authority in a production unit. This person, however, would be directly contracted by the person or company responsible for the management. In other words, the forestry company that this regent or technician was supposed to monitor became his or her boss. By 2005, INAFOR had registered and authorized more than 300 Forestry Regents and 130 Forestry Technicians.

"According to my criteria," says the environmental ombudsman, "these forestry regents ended up being a worse medicine than the disease. It is

assumed that they are obliged to fill out exploitation guides in the field, also marking which trees are to be cut and how it's to be done, respecting the technical norms. We, however, have seized blank guide forms from the lumbermen, and they've told us that the regent gave it to them like that, to avoid the responsibility of going out to the field."

More responsibilities, fewer resources

In September 2003, after several years of debate, negotiation and consensus, Law No. 462, "Law of Conservation, Promotion and Sustainable Development of the Forestry Sector" was approved, assigning INAFOR—still under MAGFOR's sectoral guidance—a total of 16 vital functions, among them surveillance of the sustainable exploitation of the forestry resources, approval of the Use Permits and accreditation of the Forestry Regents and Technicians, who became key actors in the new rules of the forestry game.

To exercise these functions at a national level, INAFOR was structured into 10 Forestry Districts, which in a decentralized way are responsible for the application of the forestry policy's technical norms and those of the inter-institutional coordination. The most important of these Forestry Districts are: District I (Puerto Cabezas), District II (Rosita), District III (Ocotal), District IX (Bluefields) and District X (San Carlos, Río San Juan).

In appraising the institution's weaknesses, INAFOR executive director Indalecio Rodríguez insists that "the greatest weakness is still the budgetary issue." In the General Budget of the Republic for 2003, the National Assembly earmarked C\$31.8 million for INAFOR, of which C\$23.4 million was for current expenses (particularly salaries) and C\$8.3 million for capital expenses. At the official exchange rate for that year—C\$15.10 per dollar—this was equivalent to US\$2.1 million.

INAFOR appears as a “Cinderella” compared to other decentralized entities such as INATEC, which was allocated C\$ 219.1 million, or INTA, which was allocated C\$96.7, respectively seven and three times more than the line assigned to INAFOR.

“Everybody wants to blame INAFOR and its officials [for the lack of forest surveillance] but you have to be fair in this,” insists Guzmán. “One person can’t cover 15-20,000 square kilometers without a budget and operational expenses. Not even you or I could do it. It’s impossible for a municipal delegate [of INAFOR], for example, to cover a wooded area the size of El Salvador with operational spending of only C\$1,000 a year.”

According to INAFOR’s executive director, these annual budget lines are less than half (47%) of what the institution requested to be able to operate efficiently.

Félix Hernández, INAFOR delegate in the municipality of Rosita (RAAN), confirms the weakness of the institutional control due to budgetary limitations. “Here in Rosita the problem we have as INAFOR is the illegality; the control posts in the region of Las Minas and Prinzapolka aren’t functioning... There should be one police officer, one from the army and one from INAFOR, [but] INAFOR currently has a very low budget and it provides virtually nothing to hire more personnel.”

CASES AIRED IN COURT (2003-2006)

Total cases: 38

Resolved in INAFOR’s favor: 5

Pending resolution in Supreme Court: 33



Sawmills registered in INAFOR	
2000	85
2001	70
2002	N.D.
2003	70
2004	59
2005	19
2006	101
Source: Registro Nacional Forestal, INAFOR	

Increase in lumber felling (cubic meters)	
2000	92,768,710
2001	53,295,413
2002	73,291,160
2003	65,655,814
2004	98,406,895
2005	145,500,872
Data corresponding to Nueva Segovia, RAAN, RAAS and Río San Juan, the areas with the greatest forest potential.	

Lumber seized by INAFOR (cubic meters)	
2003	862.0
2004	44.35
2005	462.4

Fines imposed by INAFOR (in C\$)	
2003	254,160.00
2004	341,165.00
2005	28,060.00
Fines amounting to C\$264,915.00 are being appealed.	

Fines imposed by INAFOR (in US\$)	
2003	3,138.40
2004	58,500.0
2005	39,206.6
Fines amounting to US\$73,000.00 are being appealed.	

INAFOR officials sanctioned	
2003	3
2004	16
2005	16



Forestry activity and foreign demand: The mahogany market

LWhat is called Atlantic mahogany (*Swietenia macrophylla*) is the species of precious wood that heads the Nicaraguan lumber trade with the greatest foreign demand, provoking greater pressure on this species.

In the mid-eighties, according to the April 2005 study titled *Diagnóstico del estado actual de la Caoba en Nicaragua* [Assessment of the current state of Mahogany in Nicaragua], mahogany is found in seven departments of the country, but after 2000 no more use permits for this species were registered in the departments of Matagalpa, Jinotega or Río San Juan, given that “the available resource is almost extinguished.”

Exploitable volumes of mahogany are still found in Closed Broadleaf Forests (BLC), which represent 44% of the country’s total wooded area, including the protected areas.

In the Atlantic region, the 2000 Forestry Map characterized three great blocs of broadleaf forest, with canopy coverage exceeding 70%. These three blocs, which include areas in conservation, amount to around 2.3 million hectares.

The municipalities with the most extensive productive forests in which mahogany is found are those of Waspám, Rosita, Prinzapolka, Bonanza and La Desembocadura de Río Grande, all municipalities located in the North and South Autonomous Regions. The above-mentioned study estimates that 77% of the closed productive forests are in these localities and that there could be close to 950,000 hectares of the closed forest type

containing potentially usable mahogany for productive purposes.

Nonetheless, this area would be reduced to 833,901 hectares, since the technical norms establish that the Minimum Cutting Diameter for mahogany is over 40 centimeters DAP and only those trees that meet this growth cycle should be extracted.

The armed conflict of the eighties took place in areas containing the most commercially valuable forest resource, thus there was no access to it in



large volumes. The volume for mahogany extraction authorized in that period thus ranged between 2,869 and 6,243 cubic meters per year. In 2003, in contrast, the volume of mahogany authorized reached 24,339 cubic meters in the country as a whole.

Furthermore, an analysis of the General Forestry Management Plans (PGMF) and Minimal Management Plans (PM) in effect from 2000 to 2003 concludes that mahogany exploitation reached 46,311 cubic meters, a bit over 50% of which is from 2003, precisely when Law 462 on Forestry Exploitation was approved.

CITES prohibition spiked foreign demand

In 2000, Nicaragua and Guatemala started proposing that mahogany be included in Appendix II of CITES, on endangered species, to prevent the exhaustion of this valuable wood. International prices for mahogany began to drop, affecting the Latin American exporting countries, but as this species became harder to acquire in the wake of its incorporation into the CITES Appendix II in 2003, they started rising again.

According to the July 2006 Tropical Timber Market report generated by the International Tropical Timber Organization (ITTO), the average price in the US market of Peruvian mahogany, which serves as a reference in the world market, rose

from US\$879 to US\$1,143 a cubic meter by the end of 2005.

By September 2006, the same milled Peruvian mahogany could be found at an average price of US\$1,800-1,850 per cubic meter. And Bolivian mahogany had risen from US\$1,300 to US\$ 1,680 per cubic meter.

“Wood is one of the most stable commodities in the world market,” explains Héctor Ramos, president of the Forestry Chamber of Nicaragua and of the Forestry Consortium of Nueva Segovia. “Wood isn’t like coffee, which brings one price one year and another, either greater or smaller one, the next. As you can see, the price of wood, whether pine or broadleaf, usually has a tendency just to rise, moderately but always upward.”

Nicaragua stands out among regional exporters

By exporting an average of 9,172 cubic meters a year between 1996 and 2002, Nicaragua took fourth place among the mahogany exporting nations of Latin America, according to the report “Racionalizando el comercio de caoba” (Rationalizing the mahogany trade), published by ITTO in October 2004. Paradoxically, that period covers the “closed season on exports” that President Arnoldo Alemán imposed on mahogany.

“Wood is one of the most stable commodities in the world market. It isn’t like coffee, which brings one price one year and another, either greater or smaller one, the next. As you can see, the price of wood, whether pine or broadleaf, usually has a tendency just to rise, moderately but always upward.”

Héctor Ramos, president of the Forestry Chamber of Nicaragua and of the Forestry Consortium of Nueva Segovia.

Brazil was the number one mahogany exporter in Latin America up to October 2004, with an annual average of 59,438 cubic meters. It is followed by Peru, with 30,346 cubic meters annually.

The world's main mahogany importers are the United States, which imported an annual average of 73,828 cubic meters between 1996 and 2002. It is followed by the Dominican Republic, with 12,068 cubic meters of milled mahogany. In third place is the United Kingdom, with an annual average of 5,029 cubic meters of imported mahogany.

The foreign markets for Nicaraguan lumber

Nicaragua, according to the governmental Export Transactions Center (CETREX), exports milled and other lumber to a group of nearly 30 countries in the world, but only a dozen of them are final markets, with purchase orders exceeding half a million dollars. The ranking, however, has been experiencing some subtle variants.

In 2001, according to the export orders authorized by CETREX, the forestry companies had in their power permits to export 67.1 million kilograms of milled lumber, with an FOB value of US\$ 21.3 million.

The primary market that year was El Salvador, to which 22.2 million kilos was exported, at an FOB value of US\$6.1 million. In second place was the United States, with 3.6 million kilograms, at an FOB value of US\$3.7 million. For comparative purposes, it should be noted that only milled pine is exported to El Salvador while mahogany and processed products of greater commercial value go to the United States.



Carmen Adrián Ubeda

Four years later, in 2005, CETREX was already reflecting a change in the final markets for milled Nicaraguan lumber. The United States became the number one foreign market by recording export permits for 3.4 million kilograms at an FOB value of US\$ 3.4 million. El Salvador fell to second place, with 15.6 million kilograms at an FOB value of US\$2.9 million.

According to the General Customs Division (DGA), a public institution that records exports per se (not only the permits), the trend in the foreign markets is similar to that reported by CETREX, although the FOB values declared by the exporters varied notably. The amounts assigned by the DGA are lower, especially when the merchandise is to be exported to Central American countries, where customs controls are not reli-

able compared to destinations such as the United States, which exercises stricter controls on the merchandise.

In contrast to the CETREX figures based on export orders, the DGA ranking of the foreign markets for milled Nicaraguan lumber in 2001 was as follows: El Salvador (US\$4.5 million), United States (US\$3.9 million), Honduras (US\$1.2 million), Spain (US\$ 834,000), Dominican Republic (US\$786,000), Cuba (US\$584,000) and Costa Rica (US\$555,000). Four years later, the final market had been reconfigured, with Spain or Cuba moving up to the first positions.

They pay a rock-bottom price

Despite the benefits from the international market due to the price rise, the lumber companies operating in Nicaragua don't transfer these benefits to the forest owners, be they farmers or indigenous communities. The latter, in particular, continue to be victims of a transaction that is unjust by all definitions.

In the case of Atlantic mahogany, the wood with the greatest international commercial value, the Ubeda Rivera brothers, for example, place the cubic meter of first-class milled wood (FAST-Select) with FSC certification at an average price of US\$1,500. Nonetheless, they pay US\$30.00 per tree of precious (red) wood to the indigenous communities where they extract the trees.

They defend this purchase price tooth and nail, despite it being obscenely low, and wouldn't dream of calling it "unfair" to the indigenous communities. "One couldn't say that it's fair or not fair; we'd have to go into details," says Carmen Adrián Ubeda Rivera, one of the largest exporters of milled mahogany and other commercially valuable species. "Many people believe that this activity is nothing more than going in and bringing the trees out; they don't understand the pro-

cess involved, or the costs incurred to extract it, process it and send it there."

The overseas mahogany purchasers

The main purchasers of Nicaraguan mahogany are in the United States and the Dominican Republic. According to the lumber dealers, the premium quality lumber, called FAST and SELECT, goes to the former. The second quality lumber is bought by the Caribbean country to supply an industry that thirsts for raw material to transform it into plywood, furniture, etc.

Lumber dealer Hernando Escobar Waldán, of Miskitu origin and one of the ten most outstanding in 2005, explains the modus operandi of this economic activity, which requires strong injections of capital. "If we're talking about middlemen, almost all of us are. I'm referring to the exporters, the machinery owners, the sawmill owners. The only ones who aren't middlemen in this case would be the land owners and the direct buyer, who would be the North American, Puerto Rican or European who comes here looking for lumber. But in this business, you have to win a lot of credibility if you want someone to finance your operation each year. Because if you ever end up on the wrong side of an internationalist [buyer] they'll never give you so much as another dirty penny. In fact, to start up a business you have to begin with local capital, and once it's sure that you're going to bring out the product, you can start looking for economic aid from your client, but that's only after you've gotten the business running, drawn up the minimum plans, gotten all the permits and other stuff that INAFOR requires with Law 462. Only then maybe they'll facilitate the money you need."

Among these clients, which are also the ones that finance the forest exploitation, extraction and export operations, are the following importing and marketing businesses:

UNITED STATES

1. Medley Hardwood Inc.*
2. Mack Cook Specialty Woods
3. Beety Lumber Co. Inc.
4. B.T.P.
5. Great Atlantic International Inc.
6. James Lewis/Irwin Brown Co. Broker
7. Capital Timber Group
8. Patriot Timber
9. Marvin Windows & Doors
10. SITCO Lumber Company
11. Noble Holding Inc.
12. Maderas Decorativas (MADECO)
13. Rex Lumbert
14. ILS Cargo Miami
15. Panalpina
16. South Florida Lumber
17. Lumber Americas LLC
18. Specialty Lumber Service Inc.

* This company has been mentioned in various reports of world environmental organizations, among them Greenpeace, as involved in the import and commercialization of lumber of illegal origin.

DOMINICAN REPUBLIC

1. Maderas Decorativas (MADECO)
2. Fuente Cigar Ltd.
3. Ferretería Ochoa
4. INDOCAMA
5. Maderas Fernández
6. Braulio Fernández

Source: CITES Permits, PIERS Reports, U.S.

The market in Honduras and El Salvador

The departments of Madriz and Nueva Segovia, which border the neighboring country of Honduras, lie almost 200 kilometers north of Managua. According to the Forestry Map, around 71,745 hectares of pine trees exist in the northern and central part of Nicaragua, of which the vast majority (88%) is found in the department of Nueva Segovia. These are the species *Pinus oocarpa* Schiede ex Schltdl.

In the 2001-2001 period, however, this department's pine forests suffered a severe plague of weevils (*Dendroctonus frontalis*), which affected over half of the woodlands, causing losses estimated at US\$95 million.

Nueva Segovia's forest industry, like that of the rest of the country, works to satisfy the needs of Salvadoran and Honduran import companies, some of which have been subjected to investigations into tax evasion or illegal felling of trees in their own countries.

According to official DGA figures for 2005, Nicaragua exported 18.6 million board feet of pine, valued at US\$3.3 million FOB. Of that amount, the Salvadoran market imported US\$1.7 million and Honduras US\$1.5 millions—over 95%.

“If we’re talking about middlemen, almost all of us are. I’m referring to the exporters, the machinery owners, the sawmill owners. The only ones who aren’t middlemen in this case would be the land owners and the direct buyer, who would be the North American, Puerto Rican or European who comes here looking for lumber. But in this business, you have to win a lot of credibility if you want someone to finance your operation each year.”

Lumber dealer Hernando Escobar Waldán, of Miskitu origin

“In the case of El Salvador, there’s demand for Nicaraguan pine in the construction and furniture industries, while in Honduras, it’s used to make the fences that separate houses in the United States, what we call ‘cat ears,’ ” explains Héctor Ramos, president of the Forestry Chamber and of the Forestry Consortium of Nueva Segovia. “We make them here then send them to Honduras, where they are passed through a dryer and then exported to the United States and Canada.”

According to our database of export permits granted by CETREX, the largest exporters to those Central American markets between 1999 and 2006 were:

- a) Maderas Segovianas, S.A. (US\$7.9 million)
- b) Industria Maderera San Martín (US\$2.1 million),
- c) Empresa Maderera Nicaragüenses, S.A. (US\$2.0 million)
- d) Agencia de Trámites de Exportación Cáceres Sánchez (US\$2.0 million)
- e) Fabio José García Lanuza (US\$1.5 million)
- f) Aracely Calixtra López (US\$980,749.57)
- g) Norma Esperanza Bautista Vargas (US\$407,166).

The ranking of the major Honduran importers

In that 2001-2006 period, the following companies rank among the major Honduran importers that buy lumber from Nicaragua:

	Company	FOB Value US\$
1.	José Lamas S.R.L.	1,350,864.20
2.	Yodeco de Honduras S.A.	1,083.788.85*
3.	Maderas y Equipos de R.L. de CV	876,969.45
4.	Mimbres de Honduras S.A.	316,143.66*
5.	Zinma Exports de R.L.	240,528.67*
6.	Serv Especializados en Maderas	194,202.49*
7.	Industrias de Madera S.A. de C.V.	188,922.72 *
8.	Canahuati Mitra, Jamal	57,613.53
9.	Tracoma S.A. de CV	36,353.29*
10.	Derivados de Maderas S.A. de C.V.	16,216.17*

*These Honduran companies record no payment of taxes for the import of Nicaraguan lumber, revealing the possibility of tax evasion in the neighboring country.



Bolaños' emergency, closed season and exports at discretion

On May 3, 2006, in a plenary session of the Council of Ministers, President Bolaños found himself obliged to turn to more efficient control measures than those already adopted by various institutions to “control the illegal cutting and extraction of forest resources in various zones of the country.”

As a consequence, he issued Decree No. 32-2006 on May 7, declaring a State of Economic Emergency for a period of 180 days as of that date in the North Atlantic Autonomous Region (RAAN), the South Atlantic Autonomous Region (RAAS), and the departments of Nueva Segovia and Río San Juan, the four forested zones with the greatest potential in the country, “due to the illegal cutting, transporting, handling, processing, warehousing, possession, exportation and commercialization of forest resources.”

The decree ordered the Army of Nicaragua and the National Police to immediately reinforce the presence and ongoing surveillance in the stated zones so that, in the decree's terms, they would proceed to retain and safeguard the forest resources being subtracted from those areas and the means used for cutting, transporting and storing them, as well as capturing and detaining the people involved in these activities.

This measure would remain in force until INAFOR's top management suspended the retention and safeguarding in accord with the results of an inter-institutional investigation to be conducted into the lumber companies operating in these locales.

The President's legal and political initiative triggered responses both pro and con. On the one side it received backing and support given the images of

destruction and deforestation of the trees in the Río Kung Kung area in the South Atlantic Autonomous Region (RAAS) that would become public within days. On the other side, however, it awakened strong criticisms and suggestions, including from sectors that defend the environment and natural resources, given that it suspended rights and guarantees established in the Constitution.

Four days after the decree was issued, Nicaraguans were horrified by the national television images coming from the Río Kung Kung. Thousands of logs of precious wood were floating over a 50-kilometer length of this river, forming a virtual aquatic carpet. The images of that ecological, environmental disaster shook the conscience of public authorities and of Nicaraguans in general.

“This is the first time in the eight years I've been working for the Environmental Ombudsman's office that I've seen a situation like this one. It is truly alarming, a situation I could catalogue in all sincerity as an environmental crime. All the biodiversity laws, forestry laws and the General Law of the Environment have been violated here, considering that indiscriminate cutting took place less than 20 meters from the river,” said Environmental Ombudsman Lisandro D'León.

“In addition, everybody could now see the amount of wood those ravagers had irresponsibly cut, justifying their actions by the minimal management plans, which have no legal underpinning...,” adds the Environmental Ombudsman during a visit to the site of the disaster. “What those irresponsible people do is go to INAFOR, request 15, 20 minimum plans and INAFOR, also irresponsibly, approves the 20 minimum management plans and doesn't come to supervise, so now we come along, and realize the genuine larceny being committed.”

RAAS: A very attractive zone

The fact that the lumber dealers involved in the Kung kung tragedy chose the forest area of the RAAS is no accident. According to the Forestry Map of Nicaragua, made by MARENA in 1995 and updated with the Nicaragua Forestry Appraisal of 2000, the South Atlantic Autonomous Region is the country's richest area in forest mass, estimated at 679,445 hectares of Open Broadleaf Forest and 921,781 hectares of Closed Broadleaf Forest. They are more extensive and more productive areas than the RAAN in that the productive volumes (trees per hectare) of mahogany and other precious species are greater.

Decree No. 50-2001, issued by then-President Arnoldo Alemán Lacayo, established the Forestry Development Policy of Nicaragua, which officially lays out for the first time that “the exploitation of natural forests will be conducted under approved and duly implemented forestry management plans.”

The database constructed for this journalistic investigation, which uses the INAFOR National Forestry Registry's official reports as one of the inputs, confirms that an excessive number of forest use permits was granted in the RAAS, and favored a group of no more than twenty lumber dealers. Between 2003 and May 2006, municipal and district INAFOR delegations gave out nearly a hundred forestry use permits to cut and extract 91,925.05 cubic meters of precious wood,

especially mahogany, for an annual average of 18,385 cubic meters.

These permits were in the following six municipalities of the RAAS:

1. La Cruz de Río Grande (56,852.3 cubic meters)
2. Desembocadura de Río Grande (15,698.5 cubic meters)
3. El Tortuguero (13,277.1 cubic meters)
4. Pearl Lagoon (3,760.8 cubic meters)
5. Kukra Hill (1,841.9 cubic meters)
6. Bocana de Paiwas (394.25 cubic meters).

Our database, prepared with official INAFOR data, also reveals that the volume of lumber extracted was increasing year by year (2000-2006), in that while 5,824.7 cubic meters were extracted in 2000, by 2005—the peak year—it reached a total volume of 33,087.9 cubic meters, six times more than five years earlier.

Analyzing the forest use permits in La Cruz de Río Grande, one of the two most exploited municipalities in the RAAS, we see that INAFOR authorities provided a total of 88 permits, of which almost 35% went to a small group of forestry companies or in the name of straw men, with the following distribution:

- 18 in the name of Cándido Miranda or dummy names (8,228.3 cubic meters)

“Our database, prepared with official INAFOR data, also reveals that the volume of lumber extracted was increasing year by year (2000-2006), in that while 5,824.7 cubic meters were extracted in 2000, by 2005—the peak year—it reached a total volume of 33,087.9 cubic meters, six times more than five years earlier.

- 14 in the name of Domingo Antenor Alvarez Angulo (10,110 cubic meters) and;
- 2 in the name of Maximino Ubeda (1,015 cubic meters).

The three add up to 19,353.7 cubic meters, which is 34% of the municipal total.

In the other most exploited municipality studied, the Desembocadura del Río Grande, 35 forestry use permits were granted between 2000 and May 2006, especially benefiting three people as well:

- Nicolás Báez, with 18 permits and 8,369.4 cubic meters
- Domingo Antenor Alvarez Angulo, with 18 permits and 3,726.7 cubic meters, and
- Xiomara Peralta, with 3 permits and 1,566.2 cubic meters.

Héctor Ramos, president of the Forestry Chamber and the Forestry Consortium of Nueva Segovia, recognizes that abuses may have been committed in adjudicating forestry use permits based on Minimum Plans (under 500 hectares) but indicates that Law 462 includes sanctions, so that they should have been applied rather than decreeing the State of Economic Emergency and following that with the Forestry Closed Season Law.



“I understand there have been irregularities and the media have probably used the term mafia to refer to these irregularities and to the people who’ve committed them in the sector. We’ve been telling the government for several years to apply Law 462, but for us as the National Forestry Chamber, approval of the State of Emergency and the Forestry Closed Season Law was a disappointment,” said Ramos.

“It took us many years to get consensus on Law 462,” he added, “and it’s one of the most modern forestry laws in Latin America, but it was tossed aside due to the government’s ineptitude, which couldn’t or didn’t want to give more resources to INAFOR or the National Police so they could apply it. We believe that the [emergency] decree, immediately followed by the moratorium law, were extreme measures and that when a government feels incapable of controlling a resource or a situation, it goes for the hardest line.”

Application of the Emergency

Weeks after the State of Emergency was decreed in the country’s forested territories, the Inter-institutional Commission created to ensure application and monitoring of this measure presented a Compliance Report to the executive branch revealing serious new irregularities by lumber companies with use permits prepared by the Forest Regents and approved by INAFOR.

“...in which the main evidence found irregularities that, according to the existing laws (462, 217 and administrative technical norms), are considered mild, serious or very serious infractions.” These are:

- Misuse of the Minimum Plan of Forest Use to evade the environmental impact evaluation.
- Inappropriate use of the lumber guides.
- Incomplete records that the companies must keep.
- Excess lumber cut without authorization.
- Utilization of the rivers as a means to transport lumber, causing contamination.

- More trees cut per hectare than were authorized.
- The slope levels for the cutting of trees were not respected.
- The Forestry Regent's failure to fulfill his/her functions.
- Incapacity by INAFOR and MARENA to conduct periodic controls of the authorized permits and companies.
- Involvement of INAFOR and to a lesser degree of MARENA officials in corrupt activities.

Of the 63 companies and plans reviewed, according to Law 462, 217 and Technical Administrative Norms, 12 had mild infractions, 15 serious ones, 25 very serious ones and 11 remain to be typified. Over 100 administrative and penal suits promoted by INAFOR, MARENA and the Environmental Ombudsman's Office are currently being processed against violators of the natural resources and environment. Some mid-level INAFOR officials involved in the irregularities were fired but not tried.

In addition, between May 3 and June 6, in compliance with Decree 32-2006, 16,162 logs, 944 pieces of milled lumber and 591,687 board feet were seized, while the documentation presented by the lumber companies owners or representatives were checked. If in order, permission was given for their commercialization.

On May 20, 2006, the Special Law on Crimes against the Environment and Natural Resources went into effect. "The expectation was created that environmental crimes would be punished with this law. So far there's no knowledge of individuals or companies having been sanctioned by effect of this law," charges the Centro Humboldt.

Impact of the Economic Emergency

From May 10 to 28, 2006, according to Centro Humboldt, Decree 32-2006 had a positive effect, paralyzing the lumber traffic in the four regions mentioned above. Later, however, the INAFOR executive director's office began to release detained lumber,

permit the movement of milled lumber and even authorize the export of lumber shipments that supposedly had everything in order.

"At the beginning [of the emergency] we were a bit drastic, but later we rationalized the decisions a little and decided that those cases where all their management plans had been duly implemented and they had their lumber at the port, in customs, and had obtained all the various permits would be allowed to follow their course, but only those that were already in customs," said INAFOR Executive Director Indalecio Rodríguez.

From January to June of this year, the DGA officially reported that Nicaragua exported US\$790,278 of milled lumber, a figure well below what the US customs authorities recorded. Their reports reveal that lumber shipments amounting to US\$2.2 million were imported from Nicaragua, over three times the FOB value declared in our country. This US\$1.5 million difference is an indication of both the illegal cutting in Nicaragua and the tax evasion by lumber companies involved in the export of milled lumber.

In the first half of this year, reports from the US Port Service (PIERS) confirmed that 85 shipments of lumber came into US seaports from Nicaragua, with a total volume of 1,794 tons and a total value estimated at US\$2.2 million.

Of this total, 34 shipments entered the United States in May, June and July, despite the fact that the State of Emergency Decree was in effect in Nicaragua at that time, having been applied for a period of 180 days starting on May 3.

Barely 25 of all the lumber shipments from Nicaragua were clearly identified as mahogany, the species most demanded in the United States and with the highest commercial value. This is considered "normal practice" by some lumber processing companies, to avoid a higher tax rate and also the CITES certification that the CITES-Nicaragua office must extend to be able to export this endangered species of wood.



II

Case analyses: The lumber companies' *modus operandi*

The disaster in the Río Kung Kung

Domingo Antenor Alvarez Angulo was one of a handful of major beneficiaries of forestry use permits granted in the past five years, and is one of the lumber dealers involved in the Kung Kung tragedy. According to our database he has registry number 2943, under the category of exporter. His RUC number is 104541275, accrediting him as a natural company with the General Customs Division (DGA). He owns the El Guapinol Sawmill, located at kilometer 144 of the highway between Juigalpa and El Rama.

CETREX has granted him permits to export lumber and derivatives between 2001 and 2006 valued at US\$1.9 million FOB, according to our database. He exports to Costa Rica, the Dominican Republic and the United States. The most frequently used departure ports are Guasaule, Las Manos, Peñas Blancas and El Rama, depending on the market exported to.

According to the procedure established in Law 462 (Law of Conservation, Promotion and Sustainable Development of the Forestry Sector), in force since November 2003, and in its Regulations (Decree No. 73-2003), the regents are in charge of drawing up each forestry exploitation permit and then guaranteeing its implementation. In the case of Domingo Antenor Alvarez Angulo, the regent, who signs off as H. Gámez, regent of Río Grande, No. 1704, authorized his permits from No. 06430 to 06437, to exploit the forest located in

the sites of Wankarlaya and Bratará, in the municipality of the Desembocadura del Río Grande, RAAS.

The ironic aspect of these official documents, however, lies in one curious detail: all were signed by the regent in the city of Bluefields, on December 14, 2005, yet paradoxically all were paid off on December 5, 2005, nearly ten days earlier, in the tax offices of Juigalpa, Chontales. In other words, he paid the corresponding taxes on an amount of lumber that the regent had yet to approve.

In May 2006, an Inter-institutional Committee to Monitor and Evaluate Lumber Companies and Management Plans visited the RAAS to follow up on the Economic Emergency Decree. Among the sites was Kung Kungcito, under the administration of Antenor Alvarez. According to the report, a series of irregularities, anomalies and violations of the forestry laws and regulations were detected, some of which are cited below:



Domingo Alvarez

a) The majority of the mahogany was below the Minimum Cutting Diameter (50 cm, NTON 2004).

b) Clear-cutting in an area of approximately 10 hectares in front of the camp, where it is presumed that basic grains would be planted, in soil not apt for agriculture.

c) The cutting of 349 trees of different species not included in the exploitation plans was detected.

d) Logs with other marks, belonging to Mr. Rigoberto

“They have to value it, they’re shared responsibilities of INAFOR and my forestry engineer; I’m not responsible for whether they cut one, two, three or five trees illegally.... So I sought protection in the court, to get out of INAFOR’s grip, because INAFOR is acting very devilishly against the lumber dealers.”

A judicial appeal and a suspended auction

Domingo Antenor Alvarez Angulo did indeed file a Writ of Protection with the Appeals Court, Managua District, Civil Hall No. One, demanding suspension of the confiscation of the 1,614 mahogany and 79 cedar logs found in the lumberyard known as Kung Kungcito. He filed it on September 25, 2006, at 11:59 a.m. (one minute before the Appeals Court closed) and it was upheld by the members of Hall No. One four hours later, forcing cancellation of the auction of the seized lumber, which was to be held the following day in the El Corintillo sector of El Rama, in the area of the Port Authority of Nicaragua. The president of this hall is Judge Roberto Borge Tapia.



The total volume of the lumber to be auctioned, distributed into 17 lots, was 1,687,592 cubic meters of mahogany and 1,852,483 cubic meters of cedar. The total base price for the auction was US\$770,759.96. Around 13 people interested in participating had gone to the auction, among them some representatives of lumber companies registered in INAFOR.

Finally, on October 31, 2006, INAFOR reported in an official note that Mrs. Xiomara Peralta, another lumber dealer involved in the Kung Kung disaster,

showed up at the Nimasa Sawmill in El Rama that day, together with Judge Carlos Gaitán, to forcibly remove 178 mahogany logs and part of the milled lumber found stored in that locale.

Judge Gaitán, with the legal figure of “Judicial Sequester or Embargo,” transferred the lumber from where it had been safeguarded to the Al-mendro Sawmill, which is the property of Mr. Róger Herrera, yet another of those involved in the Kung Kung disaster. Paradoxically, the Forestry Closed Season Law prohibited the judicial system’s use of this judicial measure to recover the seized lumber.

These events, argued INAFOR in its press release, violated the Forestry Closed Season Law (Law 585), whose article 9, paragraph 2 states: “The judicial authorities of the country may not make use of sequester or embargo or other similar judicial figures for the purpose of liberating the sanctions imposed on the violator. Failure by the judiciary to comply will be considered a prevarication and sanctioned in conformity with what is established in the Penal Code.”

In addition, art. 14 of the Environmental Crimes Law (Law 559) condemns those acts, sanctioning the officials and barring them from any public office for two years.

INAFOR called on the Supreme Court of Justice to respond belligerently to the writs of protection holding up the forestry processes, and also to avoid any continuation of these reprehensible acts. It is still waiting for an official position from the justices of the Supreme Court, the highest court in the land.

A questioned concession in Karawala: the case of the Ubeda Brothers

On May 23, 2006, in the Second Ordinary Session of the new Autonomous Regional Council of the South Atlantic (CRAAS), which took office on the 4th of that same month, the plenary voted unanimously to suspend and annul the presumed 10-year forestry concession of 22 hectares in the sector of Karawala, in the Desembocadura del Río Grande, RAAS in favor of Maximino Ubeda Rivera (who prefers to be called “Max”). With this, a concession laced with signs of irregularities and influence peddling was revoked.

The beginning: they request permission for a sawmill

Chronologically, the history of this case started on March 19, 2005, with the minutes of a Council of Elders session in the Desembocadura de Río Grande. The document, signed by six people, among them the FSLN mayor of that municipality, Lesly Carlin Downs, gives Mr. Maximino Ubeda Rivera authorization for “the installation of a stationary sawmill in a 6- hectare area to process broadleaf and conifer lumber for a ten-year period.” Four people signed for the indigenous authorities.

The document includes the “commitments” assumed by the company in exchange for this authorization. “...the lumber company pledges to submit 10,000 (ten thousand) feet of processed lumber to the municipal mayor’s office.” The municipal government in this remote

region of the RAAS was won by the Sandinista National Liberation Front (FSLN) in the municipal elections of November 7, 2004. This party controls municipal power there, as not only the mayor but also the deputy mayor and two Council members (with their alternates) belong to that political grouping. Its local opposition is the indigenous regional party, which also has two Council members (with their alternates).

Days later, on April 1, the municipal government of the Desembocadura de Río Grande granted Mr. Ubeda Rivera a Municipal Registration allowing him to install and operate the Stationary/Mobile Sawmill (now with both characteristics) for a one-year period, which would expire on March 31, 2006. The document states that it would have a production capacity of 10,000 feet a day for conifers and 5,000 feet a day for broadleaf trees.



Carmen and Maximino Ubeda.

An irregular forestry concession

Months later, on August 17, 2005, with Messrs. Rendell Hebbert and Lesly Carlin Downs, respectively representing regional and municipal authorities, serving as witnesses, Document No. 158, a forestry concession of 22,000 hectares for a space of ten years renewable in the zone of Karawala, De-

sembocadura de Río Grande, was signed before the lawyer Bernard Brown Medina, in Bluefields. Also for the installation of the sawmill. The beneficiaries are José Maximino Ubeda Rivera and his brother, Carmen Adrián. The decision supposedly obeys the

mandate of the Communal Assembly, held on June 13 of the same year.

Finally, on December 22, 2005, two days before Christmas, with the central government and the state on vacation, CRAAS President Rayfield Hodgson and First Secretary Rendell Hebbert issued a resolution granting Maximino Ubeda “Environmental Permission for the Project called Aserradero San Roque.”



Lourdes Aguilar



Lesly Downs

Nonetheless, the investigations conducted in INAFOR’s National Forestry Registry reveal that a total of 19 sawmills were registered, with operating permits, all over the country in 2005. None of them were in the RAAS under the name of San Roque, or with the surnames Ubeda Rivera. Nor does the San Roque milling operation, operating in Karawala by that date, appear registered among the 65 sawmills operating with permits in 2006. The only one registered is the Las Banderas sawmill, under code no. 10070006, in the name of Carmen Adrián Ubeda Rivera, the older brother. The registration date is January 17, 2006.

Furthermore, no PGMF is registered with INAFOR authorization among the records of General Forest Management Plans (PGMF) registered in INAFOR between 2004 and 2006 (May 15), even though Law 462 clearly establishes that a PGMF must be formulated in areas of over 500 hectares and it must contain an Environmental Impact Study. Not until February 28, 2006, did an informal invitation, signed by Colman Gómez López, INAFOR Municipal Delegate for the Desembocadura de Río Grande, RAAS, begin to be distributed for any interested person to attend a Public Hearing on the General Forestry Management Plan for the concession to Máximo Ubeda and Adrián Ubeda Rivera. Their regent, Damaris Oporta, would make the presentation. The date of the hearing was March 2, 2006, and the place was the Aserradero San Roque, Karawala.

On February 5, 2006, Francisco Abel Centeno, a Yatama member and until that day member and secretary of the Municipal Council of Río Grande, issued a Municipal Certification stating that “the Municipal Council has not ENDORSED the concession granted to the Hermanos Ubeda lumber company in our indigenous territory; we have only held one work session, and up to now we have not taken any resolution.” Following that letter, Mr. Centeno states that Mayor Downs fired him as Municipal Council secretary.

In an interview granted to the investigative team, Mr. Centeno reaffirmed his refusal, together with that of the Municipal Council and the indigenous community of Karawala. “...the community members are not in agreement in approving those concessions, so I was one hundred percent opposed in that aspect. At that time I was secretary [of the Municipal Council] and needed to sign the certificate, so they took [the document] to Managua and falsified that signature.... They expelled me and put another,” said the Council member, elected in the 2004 municipal elections.

RAAS Regional Council revokes authorization

For her part, the South Atlantic Autonomous Regional Council president, Mrs. Lourdes Aguilar, confirmed that in the second ordinary session of that body of local power, it voted unanimously (47 votes)

against the supposed 10-year forestry concession to the Ubeda Rivera brothers for 22,000 hectares.

“Abnormalities were found, it was seen that [the process] was corrupted, that it didn’t meet the environmental requirements for a concession of that magnitude for precious wood in the region,” she stated in a televised interview. “...the decision was made to revoke the resolution, because it was damaging the region’s image and harming the customary rights of the people of the Desembocadura de Río Grande, and because there were already many demands by community members, leaders, *síndicos* [community leader in charge of environmental issues] and community judges that the concession was doing a lot of damage to the community and shouldn’t continue irrationally exploiting the resource, in that case precious wood.”

The CRAAS president stresses the deception. “Resolution 11822-2005, which was approved only by votes of the Board of Directors, isn’t a resolution to grant lumber exploitation; it’s a resolution that approves an environmental permit to install a sawmill, precisely the San Roque sawmill.... Mr. Max Ubeda based himself on and used that resolution to install a sawmill and present it to the community as if it were a permit for a lumber concession. So he’s very wily; he tricked the community. The sawmill was set up, but alongside that he began exploiting lumber irrationally without a permit. The law states that any concession has to be approved by the Region Council plenary, not by a board, so there were also problems within the Regional Council, because it was a decision of only 7 people, not 47, which is the Regional Council plenary.”

Aguilar acknowledges the existence of unsubstantiated versions that there were under-the-table “negotiations” (payments) with regional authorities who finished their term last May 4, but she said an investigation underway still has no probatory elements on that aspect.

The lumber owner’s version

Mr. José Maximino Ubeda, the lumber dealer, roundly denied any anomalies or irregularities in the

concession process, and assured that they had the support of the indigenous communities and their authorities. “It was the community that gave me the concession, not the Regional Council; it doesn’t have authority to grant such a concession.... What the Regional Council approved for me is the General Management Plan’s environmental impact. We paid our taxes and then they start with the problem. I can show you that I have over a thousand signatures from the communities.” According to his calculations, 80% of the communities agree that they should stay in Karawala and continue operating.

Ubeda also rejected the accusations of Karawala’s former Municipal Council secretary. “...I was at that meeting [on May 28, 2005], when they all said yes, and all signed; later they convinced two [Council members] and they began to say no [among them Abel Centeno]. They are only two and the others are four.”

In his opinion, the RAAS Regional Council must reverse its decision to revoke the Karawala concession, since his company has complied with the laws and is working the forestry resource in a sustained manner, based on the Stewardship Council (FSC) certification, which it possesses as a lumber company that complies with the norms and standards.

“The Karawala lumber is certified, because it is sustainable and is demonstrated,” says Carmen Adrián Ubeda Rivera for his part. Their company, Hermanos Ubeda, has Chain of Custody certification CSS-COC-00415, issued by the FSC on April 19, 2002. It expires on April 19, 2007.

Finally, Karawala Mayor Lesly Carlin Downs came out in favor of the RAAS Regional Council reversing itself and renewing the forestry concession to Maximino Ubeda Rivera, given that the forests are certified, the sawmill generates jobs as well as income for the municipal government via its taxes and the community is the real owner of the forest resource and the majority is in favor of the Ubeda brothers staying.

MAPRENIC (Santo Domingo) company in the RAAN: favoritism by INAFOR?

On May 15-23, following up on the State of Economic Emergency, an Inter-institutional Commission did an on-site inspection and evaluation of the Lakia Tara development pole and of the community of Wisconsin, in the municipality of Waspám Río Coco, RAAN, where minimum forestry plans of indigenous collectives were being implemented and also where the Santo Domingo company was operating. This company belongs to lumber dealer Oscar Sobalvarro, known also as “Comandante Rubén,” which was his nom de guerre in the ranks of the Nicaraguan Resistance.

After finishing its work, the Inter-Institutional Commission, which had divided into two working groups, issued a 15-page Technical Field Inspection Report, which contained serious comments about the operation of the Santo Domingo lumber company, which was working in the community of Wisconsin.

Among the principal irregularities and violations of the judicial framework in effect and of the Technical Norms (NTON) that govern the Sustainable Management of the Broadleaf and Conifer Rainforests and Forestry Plantations, were that:

- a) Santo Domingo did not have an operating permit issued by the North Atlantic Autonomous Regional Council.
- b) The mountain encampment lacked basic sanitary conditions and was found in bad condition.
- c) The Management Plan for Solid, Liquid and Toxic Wastes provided by MARENA was not being followed.

- d) No occupational security measures were being implemented with its workers.
- e) The logs found in the permanent lumberyard did not have the corresponding codification established in the administrative dispositions.
- f) Mahogany logs with dimensions below the permissible cutting diameter (50 cm DPA) were found, which were not recorded in the company’s income book.

In the official document titled “Informe Cumplimiento Medidas Emergencia Económica,” the Inter-Institutional Commission members, who included INAFOR Executive Director Indalecio Rodríguez, state that the Santo Domingo company and the General Forestry Management Plan committed “grave” infractions of the forestry legislation and “very grave” ones of Nicaragua’s environmental legislation. For the first group of violations, the judicial framework contemplates fines of between US\$500 and US\$5,000.

Oscar Sobalvarro, owner of the Santo Domingo sawmill and implementer of an indigenous concession of 12,000 hectares, rejects the report’s results, questioning the composition and professional capacity of the Technical Mission and arguing that there was a misunderstanding and confusion about the logs they measured below the technical cutting norm. “...there were technicians there who weren’t from the area; they grabbed any old technician,” he said, adding, “what does a soldier from the army know about forestry issues, what does the Environmental Ombudsman know about lumber questions?”

Regarding the trees, this was his defense: “Alongside Santo Domingo was another company called Maderas Girón, and it was the one that moved lumber and committed violations.”

He said that a second Technical Mission came back to Wisconsin, Waspám, RAAN, to inspect Santo Domingo's work, but this time it was made up only of INAFOR professionals and technicians, whose identities we could not corroborate with INAFOR or with Sobalvarro himself, as none of them submitted a copy of that second report.

"It was another commission and the only thing it could find there was that some 20 trees with a smaller diameter had been cut, but they didn't

Resistance and argued in favor of a third Technical Mission.

"We're going to have to make a third visit, because there are two reports that contradict each other.... I know him from the time when he was a Resistance commando, when he joined the civil insurrection that occurred in the eighties.... I've had to sign sanctions that were applied to Sobalvarro, so he can see that friendship doesn't matter to me when you have to apply a sanction, independent of who it is," said the INAFOR executive director.



Oscar Sobalvarro

have anything to do with Santo Domingo. They belonged to the owner of the plot, of the forest. So things were cleared up and they cleared us of all responsibility," said Sobalvarro.

INAFOR denies favoritism

INAFOR Executive Director Indalecio Rodríguez confirmed both that a second technical mission had been sent and the completely different conclusion, exempting Santo Domingo of any violation. He assured that it wasn't an issue of "favoritism" toward his ex-colleague in arms in the Nicaraguan

"Oscar Sobalvarro has been sanctioned like three times; there are the fines," he insisted. "He has about three fines if I remember rightly. I haven't favored him; he's had the same options that the others did; you can rest assured that I haven't favored him in any way, absolutely not in anything. In fact his lumber has been auctioned; there are the files."

In this regard, it should be noted that the INAFOR records contain a document titled "Resoluciones, multas y decomisos de vehículos en apelación a la fecha" (Resolutions, fines and confiscations of vehicles under appeal to date), which states that 9,984 cubic meters of cedar were seized from Oscar Sobalvarro, according to INAFOR Administrative Resolution No. 48-2005. This is the only sanction detected.

Despite having reviewed the records of INAFOR's National Forestry Registry from 2000 to 2006, Santo Domingo curiously does not appear to be registered in the municipality of Waspám, RAAN with an operating permit. Nor is a General Forestry Management Plan (PGMF) registered, even though Law 462 requires that one be formulated and subjected to consultation when the areas to be exploited exceed 500 hectares.

There are 12,000 hectares in Sobalvarro's case, granted by old combatants of Yatama, an armed indigenous organization fighting against the Sandinistas in the eighties. According to our database, what are registered are eight forest exploitation permits to cut and extract 1,947.9 cubic meters in Waspám between 2004 and 2005.

"We're with an operation in the Wisconsin area under a 12,000-hectare concession we have with a community of former Yatama combatants who gave it to us. I'm a former Resistance combatant and no one wanted to come into that zone to invest in lumber, but there was a friendly relationship since they were Yatama fighters and we were the only ones who decided to go invest there.... We've done everything according to the law, fulfilling all the legal requisites."

That sense of a socially and environmentally responsible business is not, however, shared by Waspám's current mayor, Cornelio Alfonso Tebas, who also comes from the Yatama ranks. "...the Santo Domingo company has now been operating for years, taking out lumber from the smallest trees to the biggest ones. This man [Oscar Sobalvarro] has been set up here since the previous government [of President Alemán, 1997-2001]. When I came in, I analyzed, I saw the place, I saw how he's destroying everything, and there's no benefit for the people; the people don't have anything," he said.

In addition to the mayor of Waspám, the professionals and technicians of the community of Santa Fé, Río Coco, RAAN, have also been watching Santo Domingo's behavior. "After we won our penal suit against the Maderas Girón company (of Guatemalan origins), we're going to proceed against the Santo Domingocompanies. It's a pending [judicial] fight, because the state [of Nicaragua] granted lands and communal land titles to a group of former Yatama

fighters," precisely where MAPRENIC has the concession.

Sobalvarro says he has been working almost 12 years as a lumber dealer, first at the head of a corporation, Nicamadera, S.A., together with other partners, and now as Maderas Preciosas de Nicaragua (MAPRENIC).

In addition to operating with the indigenous concession in the Wisconsin sector of the RAAN, Sobalvarro says he has simultaneous ones in the South Atlantic, with a sawmill in El Rama and forests in the sector of la Cruz de Río Grande. "Mahogany is the most desired species in the international market; it's the one whose price is constantly moving, growing, because it's becoming increasingly scarce."

According to our database, MAPRENIC or Oscar Sobalvarro have negotiated and obtained more than 40 CITES permits between 2004 and 2006, for a total volume of 1,321.6 cubic meters of mahogany. For its part, CETREX registers it as a "large exporter"—among the 20 strongest in the country—with a total volume of 1.9 million kilos of lumber exported and declared values of US\$ 2.9 million.

In the elections held on November 5, 2006, Sobalvarro was elected alternate National Assembly representative for the Nationalist Liberal Alliance (ALN), which ran Eduardo Montealegre as its presidential candidate. The INAFOR Executive Director previously commented that Sobalvarro should resign his lumber activity now that he's an alternate legislator. "I believe that [Sobalvarro] should now separate himself from that activity if he's going to run for legislative office," said the INAFOR executive director, who was also elected as a legislative representative for the ALN, the same political alliance as Sobalvarro.

PRADA, S.A.: a certified company with a dubious record

Mr. Pedro Blandón Moreno, owner of the lumber company called PRADA, S.A. is a powerful lumber dealer who did not renounce any privileges for the five years (2002-2006) he served as alternate to Sandinista legislator Tomás Borge Martínez, founder and vice president of the Sandinista National Liberation Front. He did not do so even though, according to Blandón, it resulted in more problems than benefits, among which, he said, was being in the sites of the INAFOR executive director.

“I belong to the Sandinista Front and Indalecio [Rodríguez] is from the radical Right, so he’s had problems with us; he’s tried to make life impossible, but we’ve gotten them [the sanctions and fines] all thrown out because they have no legal basis. We’ve never paid any fines, right up to today,” he said with a certain arrogant air. In this regard, it should be noted that the legislative representatives as well as their alternates enjoy immunity in the exercise of this popularly elected post.

The latest incident between PRADA and INAFOR, which well reflects this business attitude of “rebellion” and refusal to respect INAFOR dispositions despite it being the regulating body for lumber activity in Nicaragua, was recorded on May 21, 2005, when PRADA, S.A. was moving 87 bundles of lumber from the municipal-

ity of Rosita to Puerto Cabezas (Bilwi), to export them from there to Cuba.

The officials in an INAFOR control post asked the drivers for the documents needed for the cartage and later export, but they were only carrying remittances from PRADA in favor of its client MATCO. Given this anomaly, the regional INAFOR authorities allowed the trucks to go into the city so they could appear before INAFOR’s Delegation I, but the drivers, went straight through to the port area grounds of the ENAP wharf.

The authorities opted to inspect the cargo there, and given the lack of documentation decided on the cautionary measure of retaining the shipment and filing an administrative process. This decision was communicated to the PRADA owners, who in turn proceeded to file a particular penal accusation against the INAFOR Municipal Delegate in the RAAN, Miriam Rojas, for the alleged crimes of

ABUSE OF AUTHORITY, DAMAGES AND GRIEVANCES and ILLICIT ASSOCIATION TO COMMIT A CRIME. At the request of the INAFOR director, two top-level officials of the Attorney General’s Office went to Puerto Cabezas to analyze the accusation against the INAFOR official.

The officials of the Attorney General’s Office determined that “... the attempted penal actions do not enjoy legal pretext and instead are translated into baseless and mal-intentioned actions, since the INAFOR delegate



has acted in accord with the law in the exercise of her post, by retaining eight trucks of lumber that were exported to the Republic of Cuba, defending the transfer and loading of the product aboard the ship with spurious and illegal documents.” They added that they had “strong presumptions” that the INAFOR delegate in Rosita cooperated with PRADA, S.A. to get the lumber out of the country.

On May 26, 2005, in a completely different, non-belligerent attitude, the Municipal INAFOR delegation issued Administrative Resolution No. 13-2005-DDFI, which resolves that PRADA’s infraction is “mild” and thus merits only an admonition. It also orders the release of the lumber for export.

Who ordered the detained lumber released for shipment? “We don’t discard that with these [judicial] actions, there’s a desire to infuse terror, fear and uncertainty in the officials who are fighting illegality. Nonetheless, it’s an absurd and rash judgment [against Miriam Rojas, ex-INAFOR delegate of Puerto Cabezas]; no court or judge is going to find against the official, because she simply fulfilled her duty,” commented Environmental Ombudsman Lisandro D’León.

Meanwhile, the lumber shipment destined for Cuba in the name of a client of PRADA, S.A., sailed in a ship with a Panamanian flag, which stayed a few days docked in Puerto Cabezas. For the Environmental Ombudsman, the 87 bundles of lumber should never have left the country.



Pedro Blandón Moreno

“The lumber was illegal, as demonstrated in the administrative process, so the fact that they released it, let it go, was a violation of the law,” added the Environmental Ombudsman. “The port authorities said they received orders. I’d really like to know who gave that order.”

Weeks later, on June 20, 2005, the INAFOR executive director, basing himself on what is established in Law 462, issued a statement on an appeal filed by the legal representative of PRADA, S.A. against Administrative Resolution

13-2005 DDFI, which “admonished it” for the incident of the lumber sent to Havana.

In INAFOR’s new Administrative Resolution (DE 35-2005), the INAFOR director enumerates a large number of failings and violations—grave and very grave—committed by PRADA in this case and orders the lumber company sanctioned with a US\$10,000 fine “for Illegal Traffic of Forestry Resources.”

PRADA rejects the fine and turns to the Supreme Court

PRADA’s executive director, businessman-legislator Pedro Blandón Moreno, firmly rejected the fine, however. He refused to pay it and filed a Writ of Protection against Administrative Resolution DE 35-2005 with the Supreme Court of Justice itself, which is controlled by justices from his party, the FSLN, and from the PLC.

Convinced that he was going to “win” legally, he would then “sue the state” for the extra expenses incurred by the permanence of the ship “Daniel

Atar” in Puerto Cabezas for a week. “We’re not going to pay ten thousand dollars. We’re going to the court here, we’re in the [Supreme] Court and it’s going to issue a decision at the proper time. If it’s favorable, as we believe, we’re going to sue the state for the losses we’ve incurred,” threatened Blandón Moreno.

“...[INAFOR] is a political and also criminal institute. You can’t work, so we’ve stopped working this year, we’ve worked very little, just like last year, and the partners have left Nicaragua. I’m almost alone, because they’ve seen the criminal way they work,” insisted Blandón Moreno.

Nonetheless, official figures of the General Customs Division (DGA) confirm that this “business inactivity” isn’t quite right, since it registered total exports of US\$385,000 in 2005 (although it is indeed less than in previous years) and this year, 2006, it had shipments worth US\$72,097—the last of them in June, when the State of Economic Emergency was in effect.

For their part, the environmental ombudsman and the INAFOR executive director have a negative image of PRADA, S.A., a company that paradoxically displays an FSC certification (code SW-FM/COC-271), extended for the 9,232-hectare forestry concession starting on June 15, 2003 and good until June 14, 2008.

“PRADA has been sanctioned several times, three or four times; some even by the Supreme Court, which ruled against them,” said Indalecio Rodríguez. “I don’t consider it satisfactory for such an important business to commit so many

irregularities against the norms it’s obliged to respect.”

A very lucrative business

PRADA, S.A. (El Cascal-Layasiksa) has installed a plywood processing company in the municipality of Rosita, in what is called the RAAN’s “Mining Triangle.” Blandón Moreno says it produces an average of 4,000 cubic meters of soft plywood, i.e. of Ceibo, Guanacaste, Cedar, Palo de agua, Jiñocuago. He denies working with mahogany. He also claims that his main market is national (50% of the production) and that the rest is distributed in El Salvador, Costa Rica, Guatemala and Mexico.

In the export category, according to the database constructed for this investigation, CETREX has granted him export permits for milled lumber and derivatives between 2001 and 2005 totaling 2.7 million kilos and US\$2.4 million. It also records furniture and other exports between 1999 and 2003 at 2.0 million kilos and US\$851,009. Among the markets that Blandón Moreno did not mention, but that appear in the data base are Cuba, Dominican Republic, Spain and the United States.

These CETREX figures, however, are well below the record exported by PRADA, in that official figures from the DGA show that in 2000 alone, it exported 6.4 million kilos, totaling US\$51.9 million. A year later, PRADA registered US\$18.7 million, bringing the two-year total to over US\$70 million. These were the his electoral campaign year and the first year of his election as alternate national legislator on the FSLN bench.

Pine in Nueva Segovia: abuse by regents, lumber dealers and INAFOR officials

Around 71,745 hectares of pine forests exist in the central and north part of Nicaragua, according to the Forestry Map, of which the vast majority (88%) are located in the department of Nueva Segovia, which borders Honduras.

Nueva Segovia is one of the country's regions in which the pine forests are suffering the greatest pressure from an aggressive, backward, first-generation lumber industry dedicated above all to extracting the resource to sell it to the sawmills. The sawmills in turn export it to neighboring countries such as Honduras and El Salvador, which have technified industries of second and third level transformation, providing it greater value added. In 2005, according to official DGA figures, 18.6 million board feet of pine were exported with an FOB value of US\$3.3 million. The number one market is El Salvador, which imported 10.3 million board feet of Nicaraguan pine, followed by Honduras with 8.2 million board feet.

In 2000, for example, 85 sawmills were registered in Nicaragua as operating with INAFOR permits, of which 18 were located in Nueva Segovia, in the municipalities of Ciudad Antigua, Jalapa, Macuelizo, Mozonte, Ocotal and San Fernando. Six years later, in 2006, 33 of the total of 65 sawmills operating with INAFOR permits were located in Nueva Segovia.

With respect to the forestry exploitation permits for cutting pines, our database indicates that permits were granted for the extraction of 40,530 cubic meters in 2000, a figure that fell well short of the 70,162 cubic meters extracted in 2005. This represents a tremendous pressure, if we recall that the area was reduced by over half due to the weevil plague and forest fires.

"In the end the weevil destroyed half of Nueva Segovia's forests," says Ramos. "The medicine was hard [the complete felling of the trees affected], but if that wood hadn't been felled, it probably would have affected much more than half, so that was the cost of saving the rest of the forest. That was the period in which the rules of the forestry game were liberalized, but since then, forestry management has returned through the General Forestry Management Plans (PGMF), which dictate how much one can cut each year, according to the growth of the forest itself."

The case of the regents

With respect to the PGMFs, INAFOR has inventoried 201 authorizations in its National Forestry Registry, corresponding to a total area of 12,084 hectares. Of those authorizations, 170 are located in the department of Nueva Segovia, which indicates the pressure on the resource and the forestry aptitude of its soils. All PGMFs are formulated by forestry regents, people trained by INAFOR in the use and management of the forestry resources, and their annual operational plans must be approved and monitored by the municipal INAFOR delegates. Nonetheless, this chain of control has not functioned effectively.

"It was thought that the [illegal felling] was going to be solved by creating the regents, but save honorable exceptions, the regents have been a disaster," says INAFOR Executive Director Indalecio Rodríguez. "They were given the responsibility of a notary; they had to swear to what they received, to guard all the official documents of the forestry sector, the security guides; but that didn't happen. They acquired more management plans than they could super-

vise; some didn't even go to the field. That is one of our greatest weaknesses, the figure of the regent didn't live up to the expectations we had about their professional behavior."

The opinion of Environmental Ombudsman Lisandro D'León is very similar. "The forest regents, according to my criteria, ended up being a medicine that was worse than the illness. One assumes that they're obliged to fill out the exploitation guide on the ground, also pointing out which trees are to be cut and how to do it respecting the technical norms. But we've seized guide blanks from the lumbermen, which they tell us the regent gave them like that to avoid the responsibility of going to the field."

A surprising operation

From September 5 to 7 of this year, three months after Law 585 (Law of Closed Season on Cutting, Exploiting and Commercializing the Forest Resource) went into force, the Environmental Ombudsman's Office, MARENA and the National Army, undertook a surprise operation in various points of Nueva Segovia and Madriz to prove the degree of compliance with article No. 1, part of which states: "A restricted zone of fifteen (15) kilometers will be established from the national border toward the interior of the country in which forest exploitation of all species will be prohibited and which will remain under surveillance and control by the Army of Nicaragua in coordination with the competent authorities."

Various irregularities and violations of the laws, above all of Law 585, were detected in the joint operation, with various flatbeds loaded with pine logs being hauled without legal documentation, and with completely blank Forestry Guides No.



Róger López Midence

058613 and 058614, issued by regent Teodoro Ramos, code no. RFT 0192, of Dipilto, Madriz.

Also seized was a Forestry Use Permit in the name of Mr. Róger López Midence, of the municipality of San Fernando. It was good until June 2, 2006, but was extended to September 30 of this same year by the INAFOR delegate of that municipality. Law 462 establishes the possibility of renewing unexecuted

use permits for the space of a year.

The forestry activity in Nueva Segovia is largely conducted in municipalities and communities located within what is called the Dipilto-Jalapa Natural Reserve, under protection.

"The protected area in Nueva Segovia covers 41,200 hectares and encompasses the municipalities of Dipilto, Mozonte, Jalapa and San Fernando," explains Martha Virginia Rubio, the MARENA delegate in that department. "We, as the Ministry of the Environment, have two park guards and three technicians to cover the Reserve; we do what we can and will continue doing it."

"In the operation, they found different trucks (around six), coming out of the Reserve, which is within the 15 kilometers of the Forestry Closed Season Law. So we have to review what permits they have, the legality of the lumber, to see whether its confiscation is merited or not."

Héctor Ramos, of the Nueva Segovia Forestry Consortium, estimates that the forestry industry of that department generates around 3,000 direct jobs and

some 15,000 to 18,000 indirect ones throughout the forestry chain, from those who fell and extract the resource to the loaders and shippers.

“What we want from them is that they honor the norms,” says MARENA’s departmental delegate. “We’re not saying they shouldn’t work the forest, but that they have to comply with the norms and do so responsibly to reduce the negative impact on our main sources of water. In Nueva Segovia, let me tell you, we already have 80 communities in the municipality of Jalapa that lack water, without mentioning the municipal departmental capital of Ocotal, which is beginning to suffer serious water problems, because the Río Dipilto, its main source of supply, is getting increasingly shallow.”

On the border with Honduras

Róger López Midence, owner of the wooded site known as “El Encanto,” located at least two kilometers from the borderline, feels that he’s up against the wall with the new Forestry Closed Season Law. He has a forestry use permit (No. 1612) to extract 1,464 trees (1,620.5 cubic meters) and claims that he has only been able to take out 1,200 cubic meters, a shortfall of 400 cubic meters on which he paid taxes last year.

“We’ve been working this property for 40 years, except for the war years, when we had to leave because it was all mined,” says Mr. López Midence. “In our property we have some 400 manzanas [1 manzana = .7 hectares] of pine forest and some 45 hectares under conservation. We work with management plans, contract a regent, pay our taxes and comply with what they order us to do. This [closed season] law is doing us a lot of harm; it was passed without any technical consultation in areas like these, where the department’s forestry sector is close to the border. There are some 40,000-50,000 hectares of forests, so what are we going to do, how are we going to live?”

Another lumberman affected during the forestry operation is José Andrés Castillo Urbina,

who identifies himself as a forest owner and also a lumber transporter. One of his trucks, a blue Mack truck, was detained with a load of pine and put at the order of MARENA.

“We’ve made five trips with this truck and all the loads come—with their bill of lading, their permit, their transfer sheet—from a place authorized by MARENA and INAFOR, which are the forestry sector’s regulatory bodies. But now they come from Managua and go over the head of the departmental authorities. They’ve given the permits here, so if the law has been violated, the first to have done so are the officials from the authorizing bodies,” he says angrily, waiting for them to release his truck.

“I’m the owner of the San Andrés forest, located in the municipality of San Fernando, and I have authorization to cut 629 cubic meters, but after the Emergency Decree came out and then the Closed Season law, they suspended it, and still haven’t given us any answer. I haven’t brought out even half of the lumber, my permit is frozen, they have us against a wall, and we have commitments with the companies and with the banks themselves. If they’re going to let us work, then let us get on with it; and if they’re going to stop us, then do it definitively,” he says, his anger rising.

For Ramos, of the Forestry Consortium of Nueva Segovia, a Salomonic solution would be to review each case of the beneficiaries of forest use permits one by one, and reward those who have shown themselves to be responsible and punish those who have demonstrated irresponsibility.

“We’ve analyzed the legal framework—both the Emergency Decree and the Forestry Closed Season Law—with our team of advisers and our proposals are aimed at getting them to free up the management plans that have been proven successful because of the way they’ve been handled. We’re also proposing that more resources be assigned to INAFOR and that the state pay the regents, so that their boss is the government and not the lumber dealers.”



III

Conclusions and Recommendations

Conclusions

- 1 Nicaragua has lost around 3.2 million hectares of forest in half a century (1950-2000) as a result of an array of factors, among them the strong advance of the agricultural frontier, indiscriminate and illegal cutting, agrarian reform processes, the postwar reinsertion process and the lack of demarcation and titling of the indigenous lands.
- 2 World Bank or Lumber-Furniture Cluster studies calculated that between 50% and 60% of the milled lumber exported from Nicaragua comes from illegal felling. It is also estimated that the country loses around US\$8 million annually in taxes due to the fiscal evasion accompanying this illegal felling.
- 3 The forestry moratorium decreed by President Arnoldo Alemán during his term (1997-2001) not only failed completely but also fostered a judicial-forestry aberration: the legalization of all illegally felled and cut lumber between 1997 and 2000, following the payment of low fines and sanctions.
- 4 As a result of this aberration, the DGA shows record figures for the export of milled lumber by a small group of lumber companies linked to the then governing party (PLC) and the opposition FSLN. Those exports exceed US\$100 million, a figure that represents ten times the average annual exports. In the interest of transparency and truth, it is important for the country to review the forestry use permits of that period (1997-2000) more intensively, particularly the FOB value they declared in their exports and in the taxes these companies paid. In our investigation, multiple efforts were made to uncover these points for that period, but the institutions linked to customs and taxes (DGA and DGI) refused to provide the pertinent information, claiming that it violated the current legal framework. That period thus remains shrouded in secrecy.
- 5 It is also important to look deeper into the link between the lumber companies that exported from Nicaragua in that 1997-2000 period and their foreign buyers, especially in the United States, Dominican Republic, Honduras, El Salvador and Costa Rica. There are indications of influence peddling, corruption, etc.
- 6 The legislative branch has provided the country a modern legal framework in the forestry sphere, according to the experts, especially with the approval and putting into force of Law 462, the Forestry Exploitation Law, but ironically it did not assign an operational budget to INAFOR between 1998 and 2003, leaving the lead forestry institution toothless and obliging it to generate its income from services provided to the lumber companies and lumbermen, which lends itself to irregularities, violations of ethics, complicity, etc.
- 7 INAFOR was assigned 16 functions linked to the forestry sector, but ironically it continues to be a third-level institution, in that it retains its category as a decentralized entity under the sectoral supervision of MAGFOR. That institutional disparagement is also reflected in the annual allocation of resources via the national budget, which is less than half of what it requests to be able to operate as a guiding institution of the forestry sector.
- 8 In contrast with the inoperativeness of the state's regulatory entities, the lumber companies have mammoth budgets that allow them to exercise strong influence on local authorities, indigenous communities and government officials. The lumber companies impose their rules of the game at an advantage, while the state entities—INAFOR and MARENA—do not exercise adequate surveillance of the forests.

- 9 INAFOR is obliged to review in detail and with a critical sense the weaknesses revealed in each link of the chain related to the forestry sector, from the registration process of the lumber companies to the exportation of the product. It must take a firm stand regarding the authorized Minimum Plans, the registered regents, the General Management Plans, etc.
- 10 The export activity is thus generating even greater earnings and profits, but it does not benefit either the communities or the forest owners, since the lumber dealers only pay them between \$30 and \$50 per tree while they receive US\$1,500 per cubic meter of certified mahogany.
- 11 Among the companies that buy milled Nicaraguan lumber in the United States, Dominican Republic and Honduras are those identified as having been involved in the import of illegally cut wood on other occasions, or else have a record of tax evasion in their countries of origin.
- 12 The forestry regent endorse the illegality. According to Law 462, the function of the regents is to ensure that the forestry management fulfills all the technical norms. But the regents are almost always more committed to the businesses that pay their salaries than to the sustainable development of the forests. There is thus consensus that the regents ended up being much more harmful than the disease, so an exhaustive review of the behavior of each of them is proposed, with suspension of those involved in irregularities, a reform of the law so that the companies do not continue paying them, and the development of a diploma course in technical and professional training.
- 13 The extraction of lumber is often authorized by the indigenous communities which, given their conditions of poverty, find themselves forced to sell their forests. But according to what could be documented in the communities of the Desembocadura de Río Grande (RAAS), as well as in the communities of Wisconsin and La Esperanza in the RAAN, the agreements with the lumber details have left little or no benefit for the community members.
- 14 The Economic Emergency Decree issued by President Enrique Bolaños Geyer on May 3, 2006, had a very positive impact in the ensuing two or three weeks, by completely halting all activity linked to the forestry sector. But afterward, due to pressures, claims, criticisms, lobbying and the rest, the INAFOR authorities permitted the hauling, embarking and even exportation of lumber that had been held. According to monitoring by the Centro Humboldt, the lumber traffic doubled between June, July and August 2006 in four lumber control posts in the North Atlantic, even though the State of Emergency was in effect.
- 15 Not all lumber companies operate illegally, but an inspection made after the Emergency in dozens of forest companies in Nueva Segovia, Río San Juan and the South and North Atlantic Autonomous Regions produced alarming results. Of 63 companies and management plans reviewed in May 2006, 52 had not complied with the National Forestry Institute's technical norms and 40% of them had committed "very grave" infractions.
- 16 INAFOR has not been able to auction off the lumber confiscated in Río Kung Kung—a total of 3,540 cubic meters of mahogany and cedar because the lumber dealers involved in that environmental tragedy have turned to the judicial branch, controlled by the FSLN-PLC political parties, and the Appeals Courts have upheld them. In addition, there are local judges who have acted in favor of the lumbermen and even recovered seized lumber. Ironically, the Supreme Court of Justice, the country's maximum tribunal, has not taken any stand regarding these events that have merited such strong criticism by the media.
- 17 The authorities initiated over 100 administrative and criminal processes against violators of the laws, among them public officials, lumber dealers and forestry regents or tech-

nicians, but no important progress has been made in this sphere due to the lack of coordination and of political will by the related institutions (Attorney General's Office, PGR, INAFOR).

18 Independent audits in Nueva Segovia conducted by the international organization Global Witness confirm that in this region of the country—supposedly the most ordered and with the greatest forestry experience—there is also a lack of proper follow-up, monitoring, surveillance and inspection of the Exploitation Plans by local INAFOR authorities and the regents in charge.

19 The individuals and registered companies in the forestry sector that have committed irregularities and been fined by INAFOR continue to ignore the payment of thousands of córdobas and dollars in fines because they are protected by the appeals courts or by the Supreme Court itself. This means that the country cannot even recover part of the losses caused by the illegal felling.

20 The next National Assembly, which will begin its work in January 2007, will have to resolve the national dilemma related to the forestry sector. Will it keep the Forestry Closed Season Law in effect despite its gaps, loopholes and inconsistencies? Or will it reform Law 462, of Forestry Exploitation? The latter seems to have more supporters among the sectors involved in this economic sector, including public officials of MAGFOR, lumber dealers and experts from international institutions. In their judgment, the law is very young and deserves to be reviewed, identifying the weaknesses and holes, then reformed, strengthened and put into practice.

21 The lumber companies that prepaid their taxes related to lumber exploitation for 2006 and were affected first by the Emergency Decree then by the Forestry Closed Season Law are demanding that the state return that money so they can recapitalize, as in some cases they paid thousands of dollars on lumber that they could not extract, market or export.

22 The lumber company representatives believe that very few will manage to survive in the new rules of the game imposed by the Economic Emergency Decree and the Forestry Closed Season Law; the majority will disappear due to lack of enough capital to operate as a company of second transformation. They argue that the purchase of equipment and machinery for industrial processing demands major investments, thousands upon thousands of dollars, and very few will be able to redefine their operations now that they are decapitalized and not creditworthy to the banking entities.

23 With the end of the rainy season, the lumber dealers are preparing to return to the forest and repeat the new cutting cycle. Despite the emergency, the forestry issue was absent from the electoral campaign. In January 2007 the new President and legislative authorities who will rule the destiny of the country will take office. The adoption of corrective measures and a national strategy to give value to the forest and stimulate sustainable forestry development will depend on them. But without political will, the cycle of environmental destruction will be repeated yet again.

Recommendations

- 1 Open a broad public debate in which all sectors involved in the forestry situation participate to continue analyzing the emergency the forestry resources are experiencing and reach national consensus regarding the present and future of the Forestry Closed Season Law and Forestry Exploitation Law. The new executive and legislative authorities should promote and participate in this debate, as should authorities of the Environmental Ombudsman's Office, the Public Prosecutor's Environmental Office, the Autonomous Regional Governments, the forestry industry, indigenous communities and civil society organizations.
- 2 Reform or suspend the Forestry Closed Season Law, considering that such promulgated moratoriums have historically not functioned, and to the contrary have subjected the forestry resources to greater pressures.
- 3 Review and reform the Forestry Exploitation Law, Law 462, around the following points:
 - a) Regulation of the Minimum Plans
 - b) Payment of the regents by the lumber dealers
 - c) Greater control over the sawmills to prevent illegal trafficking and avoid fiscal fraud
 - d) Periodic audits, preferably independent ones, of the forestry concessions, General Management plans, INAFOR Delegations, etc.
 - e) Exhaustive review of the criteria and the functions and responsibilities of the Forestry Regents and Forestry Technicians.
 - f) Misconduct and sanctions
 - g) Role of INAFOR
 - h) Administrative procedures regarding the forestry industry
- 4 Review and reform Law 290, on Organization of the State, and the role of the National Forestry Institute's subordination and autonomous entity.
- 5 Raise its rank, provide it a minimum budget with constitutional rank and return its decision-making capacity on forestry issues, cut off in the wake of the Emergency Decree.
- 5 Organize an Inter-institutional Commission headed by the Environmental Ombudsmen's Office and the Public Prosecutor's Office to investigate in depth the "boom" of exported milled lumber during the 1999-2001 period to corroborate whether or not there are indications or evidence of possible fraud or tax evasion by the lumber companies. If irregularities are proven, apply the laws and publicly report on the commission's findings.
- 6 Exhaustively review the weaknesses of INAFOR's National Forestry Registry System and adopt internal institutions that ensure the gathering and handling of complete, exhaustive, recent information regarding the lumber companies, concessions, approved exploitation plans, sanctions imposed, fines, etc.
- 7 Speed up the titling process for the communal indigenous territories, which is where the great majority of forests of high commercial potential are located. Also create the framework that regulates the exploitation of the forests of the agricultural frontier under schemes of community forestry or mixed schemes with certified companies.
- 8 Confirm a temporary specific closed season for mahogany and almond, while a technical evaluation of their status is being made.
- 9 Ensure that a new Forestry Inventory is conducted, to help determine the status of the forestry resources in Nicaragua.
- 10 Promote a framework of incentives and subsidies that can help exporters of milled lum-

ber make the leap to the export of lumber or sub-products with value added, seeing to their technological conversion and the search for new foreign markets.

- 11 Ensure that the judicial branch immediately issues an opinion, honoring the law, about the suits filed by the lumber dealers whose lumber was seized and is waiting to be auctioned, to set a precedent and allow the country to recover a small portion of the environmental disaster caused in the zone of Kung Kung and Kungcito.
- 12 Also ensure that the judicial branch rules on all writs of protection filed by the lumber companies against the sanctions or fines imposed by the executive direction of IN-AFOR.
- 13 That the Environmental Office of both the Attorney General's and Public Prosecutor's Offices review the cases and the charges of violation of the forestry and environmental laws that are in their power, and proceed to work together in favor of the application of the laws.
- 14 Study the Final Report on the fulfillment and results of the Emergency Decree imposed last May, which was to be in effect for a period of 180 days. In that lapse an exhaustive on-site investigation was to be done of the concessions and how the forestry companies were operating.
- 15 Ensure that INAFOR officials and regents involved directly or indirectly in the irregular concessions and exploitation of minimum plans are not relocated in either the IN-AFOR delegations or its central offices.
- 16 Transparently explain to public opinion the whereabouts of all logs seized by the Inter-institutional Commission at the beginning of the Economic Emergency in May 2006. Release an updated inventory, compared with



the initial figure, and in case of loss or disappearance, open an official investigation into the issue.

- 17 Create a program within the same Institute that fosters the sustainable forest exploitation of the Atlantic Coast and other wooded areas of the agricultural frontier under community forestry schemes.
- 18 Activate a plan in Las Segovias that ensures good management practices and promotes the recovery of areas degraded by fire, weevils and bad forestry practices.
- 19 Finish establishing the mechanisms to make access to discount systems for existing environmental services.
- 20 Analyze the particular situation of Las Segovias, a department with a forestry tradition on which the Forestry Closed Season Law imposed new rules of the game without previously consulting the stakeholders. Reopen the issue and seek consensual solutions.
- 21 Review and strengthen the system of permits, control and surveillance granted by the CITES authority in Nicaragua. It is in charge of granting export permits for mahogany, among other precious species, without having either enough mechanisms

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