



NÚCLEO DE DIREITOS INDÍGENAS

INSTITUTO SOCIOAMBIENTAL	
Data	1/1/91
Cod.	01000091

To: International Hardwood Products Association
Mr. Frank Sheridan, President

Dear Mr. Frank Sheridan,

As members of non-governmental organizations dedicated to the defense of Indigenous rights and participants of a coalition of over 70 Brazilian NGOs that are engaged in a campaign against the illegal extraction of mahogany from Indigenous and other forest areas in the Amazon, we need to inform the International Hardwood Products Association that:

1. The Araweté/Igarapé Ipixuna, Apyterewa and Trincheira Bacajá Indigenous areas, located in south Pará, are being devastated by employees of the logging companies PERACHI, MAGINCO and IMPAR, which are illegally cutting mahogany within the limits of these Indigenous territories.

2. These Indigenous areas are officially identified and delimited by administrative acts of the president of FUNAI (Federal Agency for Indigenous affairs) and of the minister of Justice. These acts have already been published in the official press (Diário Oficial da União), in accordance with Brazilian law.

3. According to the Brazilian Forest Code (Law number 4.771, of 15/September/1965, article 3, paragraph 2), all forests existent in Indigenous lands are subject to "permanent preservation". The Brazilian Constitution also declares (article 231, paragraph 6) that all acts involving the occupation or possession of Indigenous lands, or the exploitation of natural resources existent in the soil, rivers and lakes of their territories are null and void, and have no legal force.

4. Despite these legal provisions, the logging companies PERACHI, MAGINCO and IMPAR have been extracting mahogany and other hardwood species from Indigenous reserves since 1985.

5. Alarmed by the devastating impacts of these illegal activities in the Amazon, the Nucleus for Indigenous Rights filed a judicial lawsuit against PERACHI, MAGINCO and IMPAR, FUNAI, IBAMA, and the Federal State (União Federal).



NÚCLEO DE DIREITOS INDÍGENAS

6. Federal Judge Selene Maria de Almeida, of the 4th Federal Court in Brasília, granted the preliminary injunction requested by NDI, and ordered, on January 15th, 93, that these logging companies take all their equipments, installations and employees out of the Indigenous reserves.

The judicial decision expressly recognized the illegal extraction of mahogany from Indigenous reserves, carried out by logging companies Perachi, Maginco and Impar. Judge Selene de Almeida based her decision on unquestionable evidence presented by Nucleus for Indigenous Rights.

7. Judge Almeida also determined the immediate interdiction of access to the illegal roads opened by logging companies in Indigenous territories, and that Funai and Ibama establish permanent checkpoints in the places where the roads opened by logging companies invade Indigenous territories, in order to prevent the entrance of any unauthorized people or vehicles.

8. The main request made by NDI in this lawsuit, however, is that the logging companies be obliged to pay for all costs and expenses with the elaboration and execution of an environmental recovery plan for the Indigenous areas that they have devastated.

9. The Federal Attorneys Office (Procuradoria Geral da República) - which, according to the Brazilian Constitution (article 129, V), have the legal duty of defending Indigenous interests before Brazilian courts - fully supported the judicial suit filed by NDI. Federal Attorneys Eugênio Aragão and José Roberto Santoro personally asked judge Almeida to grant the preliminary injunction against logging companies of Pará.

10. FUNAI's ex-president, Sydney Possuelo, has already publicly declared that all facts presented by NDI against the loggers are absolutely true and accurate, and have strong legal basis. FUNAI attorneys have formally asked judge Almeida to become a joint plaintiff of NDI in this legal suit.

11. IBAMA has also formally recognized the veracity of all facts presented by NDI in this lawsuit. IBAMA's general attorney Ubiracy Araújo has already filed a petition stating that the environmental agency supports the lawsuit and asked judge Almeida to accept it as a joint plaintiff of NDI, against the logging companies.



NÚCLEO DE DIREITOS INDÍGENAS

12. It is important to emphasize, once again, that the judicial decision taken by judge Almeida was based in **strong and unquestionable evidence** presented by NDI, mainly official reports, records and other documents issued by FUNAI, IBAMA, and the Federal Police, that certify and describe, with detail, the illegal activities carried out by Perachi, Maginco and Impar in Indigenous territories. We also presented in court the official documents that formally recognized the limits of the Araweté, Apyterewa and Trincheira Bacajá Indigenous areas.

13. Copies of all these documents have already been sent to Rainforest Action Network. We understand that it is important that the International Hardwood Products Association have copies of these documents that NDI filed with the judicial suit, as they prove the veracity of all statements made by NDI and other Brazilian NGOs against logging companies that extract mahogany from Indigenous and other forest areas in the Amazon. Please ask Rainforest Action Network to provide you with copies of them.

14. Unfortunately, we cannot make a xerox copy of the satellite photograph that we presented with the legal suit, which was produced by the Instituto de Pesquisas Espaciais (INPE, the government agency that produces official satellite photographs). We strongly encourage the International Hardwood Products Association to obtain a satellite photograph from INPE, because it is an official and technical document that shows the devastating effects of logging activities in the Amazon forest of south Pará.

15. In addition to these official documents, NDI presented in court photographs of the Indigenous areas devastated by logging companies, press reports and an extensive report produced by another Brazilian NGO, called CEDI (Centro Ecumênico de Documentação e Informação), entitled "O Ouro Verde" das Terras dos Índios, exploração empresarial de madeira em áreas indígenas da Amazônia brasileira ("The Green Gold" of Indigenous lands, the commercial exploration of timber in Indigenous areas of the Brazilian Amazon"). Rainforest Action Network also has a copy of this extensive report, which contains detailed information about the effects of illegal logging in forest areas in the Amazon.

16. Perachi appealed from Judge Almeida's decision, and it was temporarily suspended by judge Eustáquio Silveira, who



NÚCLEO DE DIREITOS INDÍGENAS

allowed Perachi to keep its equipments and employees inside the Indigenous reserve until there is a final sentence. Nevertheless, judge Eustáquio Silveira firmly emphasized on his decision that "any exploitation of mahogany inside the Indigenous reserves is suspended", and cannot take place. He made clear that his decision ratified the preliminary injunction granted by judge Selene de Almeida in the aspect of the immediate suspension of any logging activities in the Indigenous reserves, carried out by Perachi, Maginco and Impar.

17. It is very important that the International Hardwood Products Association know that the judicial lawsuit against Perachi, Maginco and Impar is not an isolated initiative. On May 1993, NDI has filed another lawsuit against Perachi and Bannach, for their illegal activities in the Xikrim do Cateté Indigenous reserve, also in south Pará. The Xikrim do Cateté reserve has been totally devastated by the two logging companies. The lawsuit was filed before the 12th Federal Court in Brasília, and it is also based on official documents proving the illegal activities of loggers. Perachi and Bannach directors have openly recognized their activities in this Indigenous territory in administrative documents to FUNAI.

18. NDI receives, constantly, reports of FUNAI officials and of NGOs dedicated to the defense of Indigenous rights and to the protection of the environment, about illegal logging activities in other Indigenous areas in the state of Pará and in other Brazilian states, mainly Amazonas, Rondônia, Acre and Mato Grosso. We are studying legal initiatives in several other cases.

19. NDI's lawyers have already filed three judicial lawsuits against illegal loggers (Marco Bogaski, Anilton Pompermayer and Sebastião Bronski), who extract mahogany from Nambiquara areas in the State of Mato Grosso. The Federal Attorneys Office (Procuradoria da República) in Mato Grosso has also filed criminal charges against these loggers, for their violent acts and threats against Indians. Judge Maria Divina Vitória, of the First Federal Court in Cuiabá, Mato Grosso, has already determined that the Federal Police arrest logger Marco Bogaski - who is hiding from the police.

20. Finally, we must alert IHPA members that AIMEX has been openly violating the commitment it signed at the beginning of this year. The letter that some Kayapó Indians signed, asking Aimex to buy mahogany from their lands, was elaborated and written by AIMEX directors themselves, with



NÚCLEO DE DIREITOS INDÍGENAS

the obvious intent of trying to justify their illegal activities in Indigenous territories. The Indians who signed that letter were manipulated by AIMEX directors, and are exactly the ones who have been used as intermediaries in the illegal sales of mahogany.

21. Besides, IHPA must not forget that, in all lawsuits filed by NDI against logging companies, NDI lawyers acted at the request of Indigenous communities. In all our judicial initiatives, the Indigenous communities have granted powers of attorney to NDI lawyers, enabling us to take judicial action against the invaders of their lands on behalf of the them. The powers of attorney were granted to NDI by legitimate representatives of the Indian communities.

22. Considering the facts described above, and the tragic consequences of illegal logging in Indigenous reserves - genocide of Indigenous populations and devastation of the Amazon rainforest - , we strongly urge the International Hardwood Products Association to **suspend all mahogany imports from Brazil**. We understand that it is the responsibility of all parties involved and affected by the illegal trade of mahogany - and not only of Brazilian authorities and Indigenous communities - to take action against the irresponsible, illegal and imoral practices of loggers based in the Brazilian Amazon rainforest.

We would appreciate receiving a response to this letter. Thank you very much.

Brasília, June 22nd, 1993

Juliana Santilli
Juliana Santilli

Lawyer
Núcleo de Direitos Indígenas

Marcio Santilli
Marcio Santilli
Executive Secretary
Núcleo de Direitos Indígenas

André Villas Boas
André Villas Boas

Coordinator of the "Indigenous People Program"
CEDI - Centro Ecumênico de Documentação e

Informação