

earthsight

FASHION CRIMES

The European retail giants linked to dirty Brazilian cotton



**EXCLUSIVE: THE WORLD'S
LARGEST FASHION
BRANDS ARE LINKED TO
ILLEGALITIES IN BRAZIL.**

Zara and H&M's cotton suppliers
are involved in land grabbing,
illegal deforestation and human
rights violations

**TRADITIONAL
COMMUNITIES** that have lived
in harmony with nature for centuries
have seen their lands stolen

**The tainted cotton is
certified as ethical by the
world's largest cotton
certification scheme,
Better Cotton**

FASHION CRIMES: THE EUROPEAN RETAIL GIANTS LINKED TO DIRTY BRAZILIAN COTTON

Executive Summary

For many years, the world's attention has been fixed on the terrible crimes against people and planet being ravaged in the forests of the Brazilian Amazon, to supply beef and soy. There is a growing awareness of the need to address the impacts on the Amazon of what we eat. But similar destruction in another crucial biodiversity hotspot in South America, driven by a very different commodity, has gone largely unnoticed.

South of the Amazon lies the vast Cerrado, one of the richest biomes on Earth, home to 161 species of mammal, including giant anteaters, giant armadillos, jaguars and tapir. Millions of people are also dependent on its forests and savannahs for their livelihoods. Yet the destruction being wrought in the Cerrado by industrial agriculture in recent decades has been even worse than that seen in the wet, dense forest to the north. About half of the biome's native vegetation has already been lost, mostly to make way for agribusiness expansion. And while the latest news from the Amazon is cautiously positive,¹ in the Cerrado the opposite is true. The problem is getting worse, not better: in 2023 rates of deforestation in the biome increased by 43 per cent compared to the previous year.²

EarthSight's year-long investigation reveals that corporations and consumers in Europe and North America are driving this destruction in a new way. Not by what they eat – but what they wear. EarthSight has discovered that cotton used by fast fashion behemoths H&M and Zara is linked to large-scale deforestation, land grabbing, human rights abuses and violent land conflicts in the Brazilian Cerrado.

H&M and Inditex, which owns Zara, are the world's largest clothing companies. They had combined profits of around US\$41 billion in 2022. H&M has 4,400 shops around the world while Zara and other Inditex brands – Pull&Bear, Bershka, Massimo Dutti, Stradivarius – have nearly 6,000. H&M and Zara are global leaders in the fast fashion industry, churning out numerous clothing collections each year.

Over the last decade Brazilian cotton has gained prominence in the global fashion market. The country is now the world's second largest exporter and expected to overtake the US as the number one cotton supplier by 2030. In the decade to 2023, Brazil's exports more than doubled. Almost all this cotton is grown in the Cerrado.³

But H&M and Zara do not buy this cotton directly. Like most Western fashion giants, they source their clothes largely from suppliers based in Asia. These companies transform raw cotton into the finished goods we find at clothing shops. By trawling through thousands of shipment records, our investigators found that H&M and Zara's suppliers source cotton grown in the western portion of the Brazilian state of Bahia by two of the country's largest producers: SLC Agrícola and Grupo Horita (Horita Group).

SLC and Horita's cotton production in western Bahia – a part of the Cerrado biome that has been heavily impacted by industrial-scale agribusiness – is linked to a number of illegalities.

¹ Ministério do Meio Ambiente e Mudança do Clima, 'Área sob alertas de desmatamento na Amazônia cai 50% em 2023', 14 Jan 2024, available at <https://www.gov.br/mma/pt-br/area-sob-alertas-de-desmatamento-na-amazonia-cai-50-em-2023>

² Ibid

³ Noojipady, P. *et al*, 'Forest carbon emissions from cropland expansion in the Brazilian Cerrado biome', *Environ. Res. Lett.* 12 025004, 2 Feb 2017, available at <https://iopscience.iop.org/article/10.1088/1748-9326/aa5986>

SLC – with 44,000ha of cotton plantations (equivalent to over 60,000 football pitches) in western Bahia alone – is Brazil’s largest cotton producer while Horita – which operates on at least 140,000ha of farmland in the region – is one of the top six. They are both owned by families believed to be among Brazil’s wealthiest.

The dark history of agribusiness in the Cerrado

The Horita Group and SLC Agrícola are emblematic of a broader reality of export-oriented agribusinesses inflicting harm on the Cerrado, its traditional communities and the climate.

The Cerrado, which sprawls over almost a quarter of Brazil, is home to five per cent of the world’s species and a third of Brazil’s biodiversity. But Bahia alone has lost nearly a quarter of its native Cerrado – an area the size of Wales – to agricultural expansion in recent decades. High plateaus once teeming with blue macaws and jaguars are now vast cotton and soy monocultures. Nearly a fifth of the Cerrado’s species, including the maned wolf and blue-eyed ground dove, face extinction due to habitat loss.

Local residents showed Earthsight dry riverbeds and lost springs. Agribusinesses in western Bahia extract nearly two billion litres of water per day. They pay this back by dumping 600 million litres of pesticides on the Cerrado every year.

The climate impact has been enormous: clearing Cerrado vegetation for agricultural production generates as much carbon per year as the annual emissions of 50 million cars. Cotton production has an extremely high carbon footprint compared to other commodities due to the heavy use of pesticides for its production.

Local civil society told our investigators it is hard to find a single large-scale cotton or soy farm in all of western Bahia that is not the result of land grabbing. This report will show that corruption, violence and government neglect have helped transform Bahia’s Cerrado into an unsustainable, violent agribusiness hotspot over the last 25 years.

Land grabbing, violence against traditional communities and corruption

In the municipality of Formosa do Rio Preto, Horita grows cotton, soy and other crops on a third of a mega estate called Estrondo. While different agribusinesses have plantations at Estrondo, the Horita Group – the largest landholder at the estate – has been closely linked to the violent land disputes pitting Estrondo against traditional communities that have inhabited the area since the 19th century.

Such communities, known as *geraizeiros*, have lived in harmony with nature for generations, hunting, fishing, growing traditional crops and driving cattle. They are protected by law and should have the right to their traditional lands guaranteed.

In 2018 Bahia’s attorney general found Estrondo was one of the largest areas of land grabbed in Brazilian history. Estrondo’s lands are public lands, which belong to the state of Bahia and should be environmentally protected and set aside for *geraizeiro* communities.

In the 1970s and 1980s, however, Estrondo’s owners illegally appropriated over 400,000ha of public lands covered in native Cerrado vegetation. Over half of this area has been deforested so far. More than 10 years ago *geraizeiros* started experiencing intimidation and harassment by armed men

working for Estrondo's owners and tenants. In two violent episodes in 2019, two community members were shot by Estrondo's security guards.

An ongoing lawsuit against Estrondo by Bahia's attorney general aims to recover these public lands.

In the municipality of Correntina, another case of land grabbing has afflicted the traditional community of Capão do Modesto. There, large agribusinesses have been accused of misappropriating public lands to convert them into 'legal reserves' – areas landowners must set aside for environmental preservation. But instead of setting aside part of their productive properties as legal reserves, several agribusinesses have acquired land elsewhere for this purpose. The Horita Group has a 2,169-ha property at Capão do Modesto. SLC's Paysandu farm, which grows cotton, is linked to a legal reserve at Capão do Modesto called Tabuleiro VII.

Bahia's attorney general has referred to Capão do Modesto as "one of the most serious land grabbing cases in Bahia," and requested the suspension and eventual cancellation of all land titles overlapping it. The local community has suffered harassment, surveillance, intimidation and attacks carried out by gunmen linked to the agribusinesses.

One of the owners of the Horita Group, Walter Horita, has been named as a protagonist in a shocking corruption scandal. A Federal Police investigation has revealed the widespread sale – for large sums of money – of court rulings related to land disputes in Bahia, including those affecting the Horita Group. Phone conversations wiretapped by the police reveal Horita's apparent attempts to influence judicial and political actors in Bahia, while there have also been reports of him transferring US\$1.2 million to a court official.

Illegal deforestation

Both the Horita Group and SLC Agrícola have a brazen history of illegal deforestation and environmental infractions in western Bahia.

In 2014 Bahia's environment agency found 25,153ha of illegal deforestation on Horita farms at Estrondo. In 2020 the same agency indicated it could not find permits for 11,700ha of deforestation carried out by the company between 2010 and 2018. Ibama, a federal law enforcement agency, fined Horita over 20 times between 2010 and 2019 (totalling \$4.5 million) for environmental violations.

Satellite images analysed by Earthsight reveal a Horita farm embargoed by Ibama since 2008 due to environmental infractions – a measure to shut off a piece of land from further commercial exploitation and let it regenerate – has grown cotton repeatedly since 2017, in breach of the embargo.

SLC has an equally troubling track record. Its Piratini, Palmares and Parceiro farms, all of which grow cotton, lost at least 40,000ha of native Cerrado in the last 12 years. Despite a zero-deforestation policy adopted in 2021, the company was accused of clearing 1,365ha of native vegetation at its Palmares farm in 2022.

Ibama has fined SLC over US\$250,000 since 2008 for environmental infractions in Bahia. The Norwegian pension fund divested from the firm in 2017 due to SLC's links to environmental abuses.

The role of Western consumption

Our undercover investigators posed as foreign investors to infiltrate the worlds of Brazilian agribusiness and European fashion. They pored over thousands of shipment records, company reports, suppliers' lists and websites. They discovered a stark reality: cotton tainted by deforestation, land grabbing and violence against traditional communities is ending up in the supply chains of the world's two largest fashion retail chains: Zara and H&M.

Shipment records show the Horita Group and SLC Agrícola directly exported at least 816,000 tonnes of cotton from Bahia to foreign markets between 2014 and 2023.⁴ Other sources of information suggest⁵ the true total exports of the two firms during that period was well over 1.5 million tonnes, with the difference exported via intermediaries.

We identified eight Asian clothing manufacturers using Horita and SLC cotton while at the same time supplying H&M and Zara with millions of items of finished cotton garments.

These include PT Kahatex in Indonesia, the largest buyer of Horita and SLC tainted cotton we found. H&M is the Indonesian firm's second largest customer, and has purchased millions of pairs of cotton socks, shorts and trousers from it. These items can be found at H&M stores in the US, Germany, the UK, Sweden, Netherlands, Belgium, Spain, France, Poland, Ireland, Italy, and other countries in Europe and elsewhere. Another buyer of Horita and SLC cotton is the Jamuna Group, one of Bangladesh's largest industrial conglomerates. In the year to August 2023, Zara stores in Europe sold €235 million' worth of jeans and other denim clothes, which are made with cotton, manufactured by Jamuna in Bangladesh – approximately 21,500 pairs a day. Inditex imports items made by Jamuna to Spain and the Netherlands, from where it distributes them to its Zara, Bershka and Pull&Bear stores across Europe. A Horita and SLC customer in Pakistan, Interloop, shipped some 30 million pairs of cotton socks to H&M in Germany, Sweden, USA, Belgium, Spain, UK, Italy and the Netherlands in 2023.

As part of their sustainability efforts, H&M and Zara rely on a fundamentally flawed ethical supply chain certification system called Better Cotton (BC).⁶ Most of both firms' products are made with BC-certified cotton, making them by far the world's biggest users of cotton carrying the BC seal of approval. Brazil produces the world's largest amount of Better Cotton-licensed fibre, accounting for 42 per cent of the global volume.

But Earthsight found a glaring problem with all this: the cotton we linked to land rights and environmental abuses in Bahia carried the Better Cotton label. This should not be surprising. BC has been repeatedly accused of greenwashing and criticised for failing to allow for full traceability of supply chains.

While Better Cotton is putting new standards and procedures in place, the scheme will continue to suffer from several weaknesses. Requirements for a producer to comply with local laws are excessively vague and say nothing about land ownership or land disputes. A new ban on conversion of natural ecosystems after December 2019⁷ fails to address illegal deforestation that took place prior to that date. A new traceability system being rolled out in the coming years is woefully inadequate as it only traces cotton back to the country of origin, not to individual farms. Rules on mitigating harm to indigenous and traditional peoples only apply to communities outside farm

⁴ Horita Group and SLC Agrícola's direct exports do not include cotton shipped through intermediaries, such as large commodity traders. As such, these firms' total exports are likely to be much higher. The export figures are based on Earthsight's analysis of shipment records available for Brazilian exports for the 2014-2023 period.

⁵ These include undercover meetings with some of the largest cotton producers in Bahia, comments sent to Earthsight by the Asian manufacturers, the Horita Group and SLC, and analyses of Bahia cotton production and exports carried out by Earthsight.

⁶ Better Cotton, available at <https://bettercotton.org/>

⁷ This will only come into force from 2025, one year later than originally planned.

boundaries, ignoring violations against those whose lands have been stolen. On the other hand, criteria meant to protect local communities within farm boundaries fail to demand that agribusinesses seek their full consent for projects that affect their livelihoods.

EarthSight also identified worrying problems with BC's accreditation and compliance systems. In Brazil, a national cotton producers' association (ABRAPA) is in charge of the certification programme, a serious conflict of interest. Similar issues exist in auditing processes where auditors are paid by and depend on the certified companies for their business.

H&M and Inditex currently lack the policies and tools to make up for BC's shortcomings. H&M's human rights and sustainability policies fail to address communities' rights or deforestation. Inditex's environmental commitments do not seem to extend to its cotton suppliers. Better Cotton and all the companies mentioned in the report were contacted for comment. The responses can be found throughout the report and accessed in full [here](#).

Consumer country regulation

Weak supply chain oversight, including by the leading brands, and an ineffective certification system mean regulatory action by governments and robust enforcement are needed to reform the cotton and fashion sectors. Fortunately, governments on both sides of the Atlantic are gradually realising this.

In the EU, the Corporate Sustainability Due Diligence Directive (CSDDD), if enacted, would require large companies operating in the block, such as H&M and Inditex, to identify and minimise adverse human rights and environmental impacts in their supply chains.

However, a last-minute decision by Germany to withdraw support for the CSDDD in February 2024, after it had been through negotiations between the EU Parliament and the Council of the EU, not only nearly killed it but led to a weakening of the text that severely restricted the law's applicability. Germany's U-turn – which is contrary to the EU practice – was driven by the pro-business FDP party, a minor partner in the country's governing coalition which has received funding from businesses that stand to be affected by the law. While the CSDDD is far from perfect, its passing can bring much-needed accountability to some European supply chains.

The EU Deforestation Regulation (EUDR) came into force in June 2023⁸ and demands that firms trace goods back to the land where the raw materials were produced. It requires that production not only be deforestation-free, but also legal.

The EUDR has, however, a serious limitation: it does not cover cotton or goods made with cotton.

In the UK, a new law, the Environment Act, has been enacted⁹ to regulate consumption of forest-risk commodities such as beef and soy. In the US, a draft law, the FOREST Act, has been tabled in Congress. These laws have significant limitations too. They only cover illegal deforestation¹⁰ and do not include cotton.

The US, UK and EU must ramp up their ambition. The CSDDD must be passed by the Council of the EU and the EU Parliament. EU Member States which had sought a stronger law should consider passing their own, stricter national legislation. The UK Environment Act and EUDR must include

⁸ Although companies will only have to comply with it from December 2024.

⁹ Although it has not yet taken full effect.

¹⁰ As opposed to focusing on eliminating all deforestation from supply chains as the EUDR aims to achieve.

cotton. In the US, the inclusion of cotton in the draft FOREST Act should be considered. Above all, it is essential that all these laws are properly implemented and enforced, something that is far from certain.

Action in Brazil

In Brazil, the federal government is promoting a plan, the PPCerrado, to reduce deforestation in the Cerrado. However, the plan targets illegal deforestation only and fails to address deforestation authorised by local governments, leaving the door open for unsustainable policies at the local level.

Successive Bahia governments have adopted regulations that undermine the state's constitutional provisions on environmental and traditional communities' protection. The state has failed to map all public lands in order to grant land rights to the traditional communities inhabiting them. Approval of deforestation permits has skyrocketed, with over 750,000ha authorised for clearance between 2012 and 2021.

The federal government should put in place a plan to halt all large-scale deforestation in the Cerrado, not only the illegal kind. Bahia's government should map all public lands to ensure they are preserved and that traditional communities fully enjoy their land rights. The series of setbacks in environmental policies should be reversed immediately.

What clothing retailers and the cotton sector must do

The private sector must also act.

Better Cotton must require certified farms to meaningfully seek the consent of traditional communities and indigenous peoples for all activities that affect them, whether these communities' lands are within or outside farms' boundaries. Rules on deforestation need to ban certified cotton from growing on land that was illegally deforested before December 2019. Conflicts of interest issues must be resolved by ensuring that impartial actors are in charge of certification and audits.

In addition to strengthening these standards, Better Cotton must also implement a meaningful traceability system, and ensure both are properly enforced. H&M, Zara and other big retailers must pressure it to do so. Until it does, businesses must go beyond using certification schemes to ensure their goods are ethically sourced, and must institute their own, more rigorous policies and checks.

Chapter 1: The arrival of Big Ag

A precious wilderness

Rising up at the margins of the *veredas*¹¹, tucum palm trees share space with buriti trees, attracting toucans and blue macaws in search of their round fruits. The vegetation also includes barbatimão, mangaba and sucupira trees, known to locals for their medicinal properties and used to treat everything from inflammation and infections to diabetes. Beyond the *veredas*, a mosaic of landscapes includes savannahs, wetlands, grasslands and forests.

¹¹ Marshy areas containing headwaters or springs. Veredas play a key role in the maintenance of Cerrado fauna as they serve as landing places for avifauna, as well as refuge, shelter, food source and reproduction places for terrestrial and aquatic fauna. Instituto Chico Mendes de Conservação da Biodiversidade (ICMBIO), Phytophysiology – Vereda', available at <https://www.icmbio.gov.br/projetoalapaio/en/biodiversity/phytophysiology.html?showall=&start=5>

This is the Brazilian Cerrado. Despite the immense beauty of its dramatic plateaus and lush valleys, and its importance for numerous species, the Cerrado is not as well-known as the Amazon. Sprawling over almost 25 per cent of Brazil's territory, an area the size of Mexico, it is the second largest biome in the country.¹² The Cerrado – home to five per cent of the world's species (including giant armadillos, tapir, maned wolves, jaguars, rheas and siriemas) and a third of Brazil's biodiversity¹³ – is known as a cradle of waters due to its role in replenishing several major Brazilian and South American rivers.¹⁴

The biome has lost over half its native vegetation to large-scale agriculture in recent decades.¹⁵ "It is often said that the Cerrado can be sacrificed so that agribusiness can expand without threatening the Amazon,"¹⁶ says André Sacramento, Coordinator of the Association of Rural Workers' Lawyers (AATR). He adds: "The Cerrado, however, is essential for the preservation of the Amazon itself." Indeed, important Amazon rivers (Xingu, Madeiras, Trombetas) have springs in the Cerrado.¹⁷

Within the vast area covered by the Cerrado is the western portion of the state of Bahia. *Geraizeiro* communities have inhabited western Bahia for generations.¹⁸ *Geraizeiros* live low-impact, traditional ways of life. They collect fruits and medicinal plants, grow traditional crops – such as manioc, beans and pumpkins – and drive cattle over natural grasslands.¹⁹ When wildlife was still abundant and rivers clean, they could hunt and fish.

Some of these communities have existed for over 200 years and started as an assortment of fugitive enslaved people, peasants and anyone who wanted or needed to escape mainstream society.²⁰

The communities identified as *fundo e fecho de pasto* in the municipality of Correntina, further south of Formosa do Rio Preto, have a similar way of life. In the community of Capão do Modesto around 80 families try to live as their ancestors did. Houses are not connected to the electricity grid. Spotty internet connection is only available via satellite.

In the nearby community of Pedrinhas, Bernardino Alves Barbosa, 37, attests to its longevity. "My grandfather, who died in 2021 aged 97, was born and raised here. Back in his early days, people let loose a lot of cattle. They picked pequi, cascudo, cashew, mangaba. We always lived in harmony with nature,"²¹ he says.

¹² De Santi, M., 'Cerrado é o segundo maior bioma do país, presente em 24% do território nacional', Rádio Senado, 16 May 2018, available at <https://www12.senado.leg.br/radio/1/noticia/2018/05/16/cerrado-e-o-segundo-maior-bioma-do-pais-presente-em-24-do-territorio-nacional>

¹³ WWF Brasil, 'Commemorating the Cerrado's day (11/09), the WWF-Brazil shows the big five of the biome', 10 Sep 2015, available at <https://www.wwf.org.br/?50242/The-Big-Five-of-the-Cerrado>

¹⁴ Brown, S., 'A tale of two biomes as deforestation surges in Cerrado but wanes in Amazon', Mongabay, 23 Aug 2023, available at <https://news.mongabay.com/2023/08/a-tale-of-two-biomes-as-deforestation-surges-in-cerrado-but-wanes-in-amazon/>

¹⁵ Based on Earthsight's own calculations of deforestation data made available by Brazil's National Space Research Institute (Inpe), 'Nota Técnica Prodes Cerrado 2021', table 4, 31 Dec 2021, available at <https://www.gov.br/inpe/pt-br/assuntos/ultimas-noticias/nota-tecnica-prodes-cerrado-2021>

¹⁶ Earthsight interview with André Sacramento, June 2023.

¹⁷ Lima, J.E.F.W., Silva, E.M., 'Estimativa da contribuição hídrica superficial do Cerrado para as grandes regiões hidrográficas brasileiras', ABRH, Anais do XVII Simpósio Brasileiro de Recursos Hídricos, 2007, available at www.abrhidro.org.br/SGCv3/publicacao.php?PUB=3&ID=19&SUMARIO=4580

¹⁸ Sobrinho, J.S., 'O camponês geraizeiro no Oeste da Bahia: as terras de uso comum e a propriedade capitalista da terra', Universidade de São Paulo, Departamento de Geografia, available at https://geografar.ufba.br/sites/geografar.ufba.br/files/2012_jose_de_sousa_sobrinho.pdf

¹⁹ Carvalho, I.S.H., 'A 'pecuária geraizeira' e a conservação da biodiversidade no cerrado do norte de Minas', Sustentabilidade em Debate, 2014, available at <https://core.ac.uk/download/pdf/231199141.pdf>

²⁰ Earthsight interview with local environmentalist, activist and filmmaker Marcos Rogério Beltrão dos Santos, who has studied the region's history extensively; Comissão de Direitos Humanos, Minorias e Igualdade Racial, 'Justiça baiana dá posse de 43 mil hectares para famílias de geraizeiros no oeste do estado', Câmara dos Deputados, 14 Jul 2020, available at <https://www2.camara.leg.br/atividade-legislativa/comissoes/comissoes-permanentes/cdhm/noticias/justica-baiana-da-posse-de-43-hectares-para-familias-de-geraizeiros-no-oeste-do-estado>

²¹ Earthsight interview with Bernardino Alves Barbosa, June 2023.

Dispossession and deforestation

This harmonious co-existence has come crashing down in recent decades. Since 1985 Bahia has lost nearly a quarter of its original 9 million hectares (ha) of Cerrado to industrial agriculture.²² Aggressive agribusiness expansion is leading to habitat loss that threatens the survival of a fifth of the Cerrado's species, including the maned wolf and giant armadillo.²³ Traditional communities and wildlife are under pressure from plantation encroachment, unsustainable water extraction and pesticide contamination.

Major Cerrado rivers are expected to see their water levels drop by a third by 2050 due mostly to deforestation and overexploitation, especially by thirsty cotton monocultures.²⁴ Cotton uses more toxic pesticides than any other crop, causing pollution of soil and water sources.²⁵ Added to these environmental impacts is the fact that cotton and textile production are notorious for their high levels of greenhouse gas emissions.²⁶ Some estimates say the global clothing industry has a similar carbon footprint to that of all EU Member States combined.²⁷

A ruinous mix of state policy, corruption, greed, violence and impunity has opened up western Bahia to the unstoppable advance of industrial-scale agribusiness founded on the blatant theft of public lands, dispossession of traditional communities, and heart-wrenching deforestation.

In the late 1970s land grabbers saw a golden opportunity in western Bahia, historically seen as 'idle land'.²⁸ The then military dictatorship was eager to promote the agricultural 'development' of vast expanses of Brazil's territory to, among other things, stop real or imagined 'communist cells' from establishing themselves in remote regions.²⁹ The environmental, human and legal costs of such a policy were overlooked or trivialised.

Through fraudulent schemes, land grabbers began illegally privatising hundreds of thousands of hectares of public lands – which belong to the state and people of Bahia – including those which had been under traditional communities' collective use.³⁰

Under pressure from violent land grabbers, many families were forced to flee. "When the land grabber arrived, he would sometimes win over the locals by paying them a pittance for the land. But

²² Instituto Mãos da Terra (Imaterra), 'Desvendando as ASV no Cerrado Baiano', Jul 2022, available at <https://www.imaterra.org/c%C3%B3pia-supress%C3%A3o-de-vegeta%C3%A7%C3%A3o-nativa>; G1, 'Região Oeste da Bahia tem maior área de preservação do bioma cerrado em todo o estado, aponta pesquisa', 23 Sep 2018, available at <https://g1.globo.com/ba/bahia/noticia/2018/09/23/regiao-oeste-da-bahia-tem-maior-area-de-preservacao-do-bioma-cerrado-em-todo-o-estado-aponta-pesquisa.ghtml>

²³ Belandi, C., 'IBGE atualiza estatísticas das espécies ameaçadas de extinção nos biomas brasileiros', Instituto Brasileiro de Geografia e Estatística (IBGE), 24 May 2023, available at <https://agenciadenoticias.ibge.gov.br/agencia-noticias/2012-agencia-de-noticias/noticias/36972-ibge-atualiza-estatisticas-das-especies-ameacadas-de-extincao-nos-biomas-brasileiros>

²⁴ Instituto Sociedade, População e Natureza (ISPAN), 'Cerrado pode perder um terço da água, aponta estudo', 10 Nov 2022, available at <https://ispan.org.br/cerrado-pode-perder-um-terco-da-agua-aponta-estudo/>

²⁵ Gaberell L. and Viret G., 'Pesticide giants make billions from bee-harming and carcinogenic chemicals', Public Eye, 20 Feb 2020, available at <https://www.publiceye.ch/en/topics/pesticides/pesticide-giants-make-billions-from-bee-harming-and-carcinogenic-chemicals>

²⁶ Environmental Justice Foundation (EJF), 'Clothes and climate: is cotton best?', Oct 2020, available at <https://ejfoundation.org/news-media/clothes-and-climate-is-cotton-best>

²⁷ Environmental Audit Committee, 'Fixing fashion: clothing consumption and sustainability', UK Parliament, chapter 3, 19 Feb 2019, available at <https://publications.parliament.uk/pa/cm201719/cmselect/cmenvaud/1952/report-files/195202.htm>

²⁸ Lima, M.S.T., 'A devastação do Cerrado segue sendo ignorada pela sociedade', Le Monde Diplomatique Brasil, 10 Sep 2019, available at <https://diplomatique.org.br/a-devastacao-do-cerrado-segue-sendo-ignorada-pela-sociedade/>

²⁹ Earthsight interview with local environmentalist, activist and filmmaker Marcos Rogério Beltrão dos Santos, who has studied the region's history extensively.

³⁰ Associação de Advogados/as de Trabalhadores/as Rurais (AATR), 'Na Fronteira da Illegalidade: Desmatamento e Grilagem no Matopiba', 2021, p. 16, available at https://f72a317a-de62-4659-a775-7e86e2421917.filesusr.com/ugd/90fabf_904c1fc80ef64b04bd895c4959055366.pdf

often he would simply hire a gunman, burn down houses or threaten and kill residents before taking over the area,"³¹ says environmentalist and local activist Marcos Rogério Beltrão dos Santos.

The first land grabbers paved the way for later waves of fraudsters and agribusinesses with few qualms about transforming stolen public lands teeming with wildlife into vast monocultures.³²

Prodecer, a 'development' programme that received nearly US\$700 million in funds from the Japanese government between 1985 and 1990,³³ helped agribusinesses acquire low-cost arable land and access modern cultivation techniques, especially for soy production. Cotton, which is now grown in rotation with soy by most of the largest agricultural groups in the region, was introduced around the turn of the 20th to the 21st century.³⁴

Both the federal and the state governments' fervour for agribusiness expansion was abetted by Bahia's neglect of its responsibilities towards the environment and traditional communities. Under Bahia's 1989 Constitution, the state government had three years to map all public lands and ensure they were preserved, and that communities were granted rights to their traditional territories.³⁵ To date, this process has not been completed.

"If the government were to reclaim all public lands in western Bahia there wouldn't be any farms left because they were all fraudulently titled," adds dos Santos.³⁶ The state's omission also violates Convention 169 of the International Labour Organisation, to which Brazil is a signatory.³⁷ When it comes to environmental stewardship, Bahia's government has condoned the worst abuses and allowed the Cerrado to be carved up by agribusinesses.³⁸

Handcrafted by local residents for generations and sold in urban centres, products such as pequi pulp, buriti oil and tucum ropes have become scarce with the disappearance of native species. "My grandmother, my aunts and I used to pick tucum in the hills to make rope. It was like a palm tree. When deforestation arrived, the tucum palms were gone, nobody finds them anymore"³⁹ says Catarina Lopes Leite, 63, a resident of the Cachoeira community in Formosa do Rio Preto.

The two cotton giants eating up the Cerrado

³¹ Earthsight interview with Marcos Rogério Beltrão dos Santos, June 2023.

³² Associação de Advogados/as de Trabalhadores/as Rurais (AATR), 'Na Fronteira da Ilegalidade: Desmatamento e Grilagem no Matopiba', 2021, p. 32, available at https://f72a317a-de62-4659-a775-7e86e2421917.filesusr.com/ugd/90fabf_904c1fc80ef64b04bd895c4959055366.pdf

³³ Dos Santos, C.C.M., 'Programa de Cooperação Nipo-Brasileira para o Desenvolvimento dos Cerrados – Proceder: um espectro ainda ronda os cerrados brasileiros', Revista ESA, 2018, available at <https://revistaesa.com/ojs/index.php/esa/article/download/802/454/2280>

³⁴ Spinola, V., 'Desafios ao fortalecimento da cadeia do algodão: o caso da Região Oeste', Desenbahia, 2006, available at <https://www.desenbahia.ba.gov.br/wp-content/uploads/2020/10/b1879eb7c9c64b7bbcdc5f2342c62cde.pdf>

³⁵ Bahia's 1989 Constitution guarantees traditional communities rights through article 178.

³⁶ Earthsight interview with Marcos Rogério Beltrão dos Santos, June 2023.

³⁷ International Labour Organisation (ILO) Convention 169 highlights the important relationship between traditional peoples and the territory they occupy. Article 14 states that "Governments shall take steps as necessary to identify the lands which the peoples concerned traditionally occupy, and to guarantee effective protection of their rights of ownership and possession." It also says that "Adequate procedures shall be established within the national legal system to resolve land claims by the peoples concerned." ILO, 'Convention C169 - Indigenous and Tribal Peoples Convention', 1989, available at https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C169

³⁸ According to Margareth Maia, director of the Instituto Mãos da Terra (Imaterra), by ignoring environmental legislation, the government of Bahia has turned deforestation into a state policy. Maia says that almost 100% of the deforestation carried out in the state has been authorised by the state government; Quadros, V., 'Agronegócio desmatou "51 mil campos de futebol" de vegetação nativa no cerrado baiano', Instituto Humanitas Unisinos, 8 Aug 2022, available at <https://www.ihu.unisinos.br/categorias/621020-agronegocio-desmatou-51-mil-campos-de-futebol-de-vegetacao-nativa-no-cerrado-baiano>

³⁹ Earthsight interview with Catarina Lopes Leite, June 2023.

For this report, Earthsight chose to focus on two case studies of land grabbing and deforestation in western Bahia, one in the north and one in the south, and two agribusiness giants responsible for them. The cases are Estrondo and Capão do Modesto, or Capão for short. The companies are Grupo Horita (Horita Group) and SLC Agrícola.

Horita and SLC's actions in western Bahia are not isolated cases. They are typical of the export-oriented industrial-scale agribusinesses that are devastating the Cerrado and its traditional communities. A study has found that, in 2020, 99 per cent of deforestation in the Cerrado was illegal, destruction caused by large-scale landowners representing only one per cent of all rural properties.⁴⁰ Lucrative land speculation, state failure to demarcate and protect public lands, and the Bahia government's almost unconditional support for agribusiness expansion have resulted in widespread land grabbing and vegetation loss.⁴¹

Lopes Leite's village of Cachoeira and six other communities are clustered together in 82,000ha of land, a small fraction of the hundreds of thousands of hectares they occupied until only four decades ago. A large part of their traditional land has been grabbed by the enormous agribusiness estate whose full name is Agronegócio Condomínio Cachoeira do Estrondo.⁴² Dozens of agribusinesses now grow soybeans, cotton and corn on a high plateau, known as *chapada*, that was once a forest and the hunting grounds of *geraizeiro* communities.

The estate currently extends for 320,000ha,⁴³ an area almost four times the size of New York City.⁴⁴ It covers not only the deforested *chapada* but also the surrounding low valleys still inhabited by the *geraizeiro* communities. Implicated in illegal deforestation, armed violence, corruption, and labour conditions analogous to slavery, the project has been named among Brazil's most notorious cases of land grabbing.^{45,46}

The largest cotton and soy producer at Estrondo is the Horita Group.⁴⁷ Originally from Paraná state in southern Brazil, the brothers Walter, Ricardo and Wilson Horita arrived in Bahia in 1984. After initially acquiring 1,200ha of farmland, today the Horita Group owns at least 140,000ha of land spread over six municipalities in western Bahia.⁴⁸

⁴⁰ Moreira, A., 'Destrução e doença: o que o agro planta no Cerrado', O Joio e o Trigo, 22 Mar 2022, available at <https://ojoioetrigo.com.br/2022/03/destruicao-e-doenca-o-que-o-agro-planta-no-cerrado/>

⁴¹ Associação de Advogados/as de Trabalhadores/as Rurais (AATR), 'Na fronteira da (i)legalidade: Desmatamento e grilagem no Matopiba, Nov 2021, available at <https://www.matopibagrilagem.org/>; Paes, C. F., 'Com desmatamento no Cerrado em alta, governo revela como quer frear a destruição', Agência Pública, 29 Nov 2023, available at <https://apublica.org/nota/com-desmatamento-no-cerrado-em-alta-governo-revela-como-quer-frear-a-destruicao/>

⁴² Agronegócio Estrondo, available at <https://agronegocioestrondo.com.br/>

⁴³ There are several discrepancies regarding the size of Estrondo. The first registration of the property, from 1981, indicates that the estate occupied 405,000 hectares. The public civil inquiry by Bahia's Public Prosecutor's Office states the area occupies 305,000ha. The area given above (an approximation of 319,763ha) is taken from the lawsuit filed by Bahia's attorney general against Estrondo. In comments sent to Earthsight, Estrondo said the estate occupies an area of 205,000ha.

⁴⁴ Prager, A. and Milhorance, F., 'Cerrado: Traditional communities accuse agribusiness of 'green land grabbing'', Mongabay, 22 Mar 2018, available at <https://news.mongabay.com/2018/03/cerrado-traditional-communities-accuse-agribusiness-of-green-land-grabbing/>

⁴⁵ Carvalho, I., 'Fazenda símbolo de grilagem sofre derrota "emblemática" e perde área para geraizeiros', Brasil de Fato, 10 Jul 2020, available at <https://www.brasildefato.com.br/2020/07/10/fazenda-simbolo-de-grilagem-sofre-derrota-emblematica-e-perde-area-para-geraizeiros>

⁴⁶ Reimberg, M., 'Fazenda Estrondo coleciona crimes trabalhistas e ambientais', Repórter Brasil, 26 Nov 2009, available at <https://reporterbrasil.org.br/2009/11/fazenda-estrondo-coleciona-crimes-trabalhistas-e-ambientais/>

⁴⁷ Paes, C. F., 'Expoentes do agronegócio são a face menos falada do esquema de venda de sentenças na Bahia', De Olho nos Ruralistas, 16 Dec 2019, available at <https://deolhonosruralistas.com.br/2019/12/16/expoentes-do-agronegocio-sao-a-face-menos-falada-do-esquema-de-venda-de-sentencas-na-bahia/>

⁴⁸ Venâncio, R. and Mesquita, A., 'Webserie Top Farmers', available at <https://plantproject.com.br/2018/01/a-marca-dos-top-farmers/>

The company is Brazil's sixth largest cotton producer⁴⁹ with an estimated output of 180,000 tonnes in the 2022-23 crop season.⁵⁰ The Horita Group exports 70 per cent of the cotton it harvests.⁵¹ The Horitas are reportedly among the wealthiest families in Brazil.⁵² They grow cotton, soy and other crops on approximately a third of Estrondo, or around 100,000ha.⁵³

The other major player in western Bahia at the centre of this investigation, SLC Agrícola, is Brazil's largest cotton producer.⁵⁴ The company arrived in the region in the early 2000s, and currently grows crops on 147,000ha in six municipalities, 44,000ha of which are cotton fields.⁵⁵

SLC is headquartered in Rio Grande do Sul, Brazil's southernmost state. It belongs to the Logemann family, one of the wealthiest in the country, with assets worth more than BRL7.2 billion (US\$1.4 billion).⁵⁶ The group, with a net income of over BRL1 billion (US\$271 million) in 2022,⁵⁷ also owns properties in five other Brazilian states, all part of the Cerrado biome.⁵⁸

SLC has been named one of the top deforesters in the Cerrado.⁵⁹ The Norwegian pension fund divested from SLC a few years ago due to the company's links to deforestation.⁶⁰ The company has been repeatedly linked by NGOs to unsustainable forest loss in Brazil.⁶¹

As this report will show, the Horita Group and SLC are linked to land grabbing and violence against the Capão do Modesto community in Correntina. Environment agencies have accused the two

⁴⁹ Duarte, I., Pakulski, L. and Couto, C., 'Grupo Horita investe para ampliar área na Bahia e ve boa safra de grãos e algodão', O Estado de São Paulo, 20 Jun 2022, available at <https://www.estadao.com.br/economia/coluna-do-broadcast-agro/coluna-broadcast-agro-grupo-horita/>

⁵⁰ Ibid

⁵¹ Ibid

⁵² Angelo, M., 'Investigação revela esquema de corrupção entre juizes e ruralistas no oeste da Bahia', Mongabay Brazil, 25 Nov 2019, available at <https://brasil.mongabay.com/2019/11/investigacao-revela-esquema-de-corrupcao-entre-juizes-e-ruralistas-no-oeste-da-bahia/>

⁵³ Based on Earthsight's research of the Horita Group's properties in western Bahia, which included consultations of rural property databases maintained by Brazil's National Institute for Colonization and Agrarian Reform, Incra (Sigef and SNCI), the Cefir (CAR) database, and notary records. See note above about the discrepancies related to Estrondo's size.

⁵⁴ Mais Soja, 'Brasil se prepara para ser o maior exportador global de algodão', 29 Nov 2022, available at <https://maissoja.com.br/brasil-se-prepara-para-ser-o-maior-exportador-global-de-algodao/>

⁵⁵ Figures provided by the company to Earthsight.

⁵⁶ UOL, 'Quem são os 10 maiores bilionários do agronegócio do Brasil?', 04 Sep 2022, available at <https://economia.uol.com.br/mais/suno/noticias/2022/09/04/quem-sao-os-10-maiores-bilionarios-do-agronegocio-do-brasil.htm>

⁵⁷ SLC Agrícola, 'Integrated Report 2022', p. 81, available at <https://www.slccagricola.com.br/en/wp-content/uploads/2023/06/sustainability-integrated-report-2022.pdf>

⁵⁸ SLC Agrícola, 'Nossas Fazendas', available at <https://www.slccagricola.com.br/nossas-fazendas/>

⁵⁹ Chain Reaction Research, 'Key Cerrado Deforesters in 2020 Linked to the Clearing of More Than 110,000 Hectares', 30 Mar 2021, available at <https://chainreactionresearch.com/report/cerrado-deforestation-2020-soy-beef/>

⁶⁰ Chain Reaction Research, 'The Chain: Norwegian Government Pension Fund's Soy Company Exclusion Linked to Deforestation, No Longer Invested in SLC Agrícola', 19 Apr 2018, available at <https://chainreactionresearch.com/the-chain-norwegian-government-pension-funds-soy-company-exclusion-linked-to-deforestation-no-longer-invested-in-slc-agricola/>; Norges Bank Investment Management, 'Responsible Investment 2017: Government Pension Fund Global', No 4, available at <https://www.nbim.no/contentassets/67c692a171fa450ca6e3e1e3a7793311/responsible-investment-2017---government-pension-fund-global.pdf>

⁶¹ Mighty Earth, 'Soy and Cattle, Report 2', Rapid Response, Jul 2019, available at https://www.mightyearth.org/wp-content/uploads/Rapid-Response_Soy-and-Cattle_Report-2.pdf; Mighty Earth, 'Soy and Cattle, Report 21', Rapid Response, Feb 2021, available at https://www.mightyearth.org/wp-content/uploads/RR_Report_2169.pdf; Chain Reaction Research, 'Foreign Farmland Investors in Brazil Linked to 423,000 Hectares of Deforestation', Dec 2018, available at <https://chainreactionresearch.com/wp-content/uploads/2018/12/Foreign-Farmland-Investors-in-Brazil-Linked-to-423000-Hectares-of-Deforestation-1.pdf>; Chain Reaction Research, 'SLC Agrícola: Planned Deforestation Could Contradict Buyers' ESG Policies', 29 Oct 2018, available at <https://chainreactionresearch.com/report/slc-agricola-planned-deforestation-could-contradict-buyers-esg-policies/>; Chain Reaction Research, 'SLC Agrícola: Cerrado Deforestation Poses Risks to Revenue and Farmland Assets', 18 Sep 2017, available at <https://chainreactionresearch.com/wp-content/uploads/2017/09/slc-agricola-company-profile-18092017-1.pdf>; Chain Reaction Research, 'The Chain: SLC Agrícola Moves Forward with Clearing 5,200 Hectares of Native Vegetation', 17 Apr 2020, available at <https://chainreactionresearch.com/the-chain-slc-agricola-moves-forward-with-clearing-5200-hectares-of-native-vegetation/>; Chain Reaction Research, 'The Chain: Wildfires Rage on SLC Agrícola Farm', 8 Oct 2020, available at <https://chainreactionresearch.com/the-chain-wildfires-rage-on-slc-agricola-farm/>

companies of illegal deforestation across western Bahia.⁶² Meanwhile, Walter Horita has even been embroiled in one of the most shocking corruption scandals in Brazil's recent history.

SLC Agrícola and the Horita Group epitomise the dire environmental and human impacts large commodity producers have had in western Bahia. The details of their misdeeds in the region should shock anyone contemplating doing business with them. Yet their cotton reaches global markets and global brands. The fashion industry is complicit in their transgressions, and is failing its responsibilities on an epic scale.

Chapter 2: Land grabbing, violence and corruption

Estrondo: the 4,000-square-kilometre land grab

"In the beginning we heard the sound of machinery. As time went by, they moved closer, expanding their crops, building headquarters and the deforestation on the *chapada* grew."⁶³ Jossone Lopes, a Cachoeira resident, remembers when the first farmers arrived. The crops and headquarters he mentions are part of what came to be called Estrondo.

It was corrupt and illegal from the start.⁶⁴

In June 1981, a company by the name of Delfin Rio purchased a property extending for 405,000 hectares (ha) in Bahia⁶⁵ – a vast tract of precious Cerrado ecosystem larger than New York's Long Island. Delfin Rio later registered the plot of land as Agronegócio Condomínio Cachoeira do Estrondo – or 'Estrondo' for short.⁶⁶ Delfin Rio's acquisition was suspect for a number of reasons. The property's land title made no reference to its original ownership⁶⁷ – something which is illegal under Brazilian law.⁶⁸ The land title number also didn't match that of the title held by the firm from which Delfin had purchased the land – a major red flag.⁶⁹

A land title number must carry over when the property changes hands.⁷⁰ Alterations to these numbers are seen as a strong indication of fraud. "This is how these fake land titles appeared in the 1970s and 80s,"⁷¹ explains André Sacramento, a lawyer with the Rural Workers' Lawyers Association (AATR). Further analysis by Bahia's Public Prosecutor's Office (MPBA) revealed other irregularities associated with the land title, including a lack of registered boundaries or size. According to MPBA, all this suggests "flagrant illegality."^{72,73}

⁶² Inema, 'Análise Espacial e Temporal de Cadastros de Imóveis Cefir - Agronegócio Condomínio Cachoeira do Estrondo', Technical Report COTIC, 13 Jul 2020, copy held by Earthsight; Ibama's Public Database, available at <https://servicos.ibama.gov.br/ctf/publico/areasembargadas/ConsultaPublicaAreasEmbargadas.php>

⁶³ Earthsight interview with Jossone Lopes, June 2023.

⁶⁴ Associação de Advogados/as de Trabalhadores/as Rurais (AATR), 'Na Fronteira da Ilegalidade: Desmatamento e Grilagem no Matopiba', 2021, p. 121, available at https://f72a317a-de62-4659-a775-7e86e2421917.filesusr.com/ugd/90fabf_904c1fc80ef64b04bd895c4959055366.pdf

⁶⁵ Bahia's State Prosecutor's Office (MPBA), 'Public Civil Inquiry (593.0.218865/2012)', Jun 2012, p. 203, copy held by Earthsight.

⁶⁶ Agronegócio Estrondo, available at <https://agronegocioestrondo.com.br/>

⁶⁷ Bahia's State Prosecutor's Office (MPBA), 'Public Civil Inquiry (593.0.218865/2012)', Jun 2012, copy held by Earthsight.

⁶⁸ Law 6.015/1973, Article 176, ii.

⁶⁹ The 405,000 hectares are the result of the joining up of eight plots of land. It is not clear whether the firm that owned the property prior to Delfin, União de Construtoras, bought the eight plots separately or as one property. At any rate, there is no record of the ownership of any of these eight properties for any period before União de Construtoras acquired the land. Bahia's State Prosecutor's Office (MPBA), 'Public Civil Inquiry (593.0.218865/2012)', Jun 2012, copy held by Earthsight.

⁷⁰ Law 6.015/1973, Article 176, ii.

⁷¹ Earthsight interview with André Sacramento, June 2023.

⁷² Bahia's State Prosecutor's Office (MPBA), 'Public Civil Inquiry (593.0.218865/2012)', Jun 2012, copy held by Earthsight.

⁷³ Bahia's State Prosecutor's Office (MPBA), 'Civil lawsuit (0000047-86.1995.8.05.0081)', 1995, p. 5, copy held by Earthsight.

Estrondo started out as a single large estate owned by Delfin Rio and a couple of other affiliated companies. However, over the years different agribusinesses have leased or bought plots of land within Estrondo, creating a complex puzzle of different actors exploiting the area. “When we talk about Estrondo, it sounds like it is just one company. That’s not the reality. Estrondo brings together dozens of properties and various commodity producers,”⁷⁴ explains public prosecutor Eduardo Bittencourt. Nonetheless, Estrondo has retained a central administrative structure in charge of running certain aspects of the whole estate. This is the ‘Estrondo’ that provided comments to Earthsight highlighted below.

Bittencourt knows Estrondo well. In 2012, MPBA launched a public civil inquiry to gather evidence on land grabbing and the conflict with local *geraizeiro* communities. “First and foremost, we want to guarantee the protection of the communities’ territories,”⁷⁵ he says.

Today, there are 365 different land titles within the estate’s now somewhat reduced size of 320,000ha.⁷⁶ One thing all these agribusinesses have in common – aside from suspect legal rights⁷⁷ – is an aggressive attitude to those whose land they have stolen.

Harassment and intimidation

More than 10 years ago communities started experiencing intimidation and harassment by armed men who allegedly worked for the farmers. On several occasions, the residents’ cattle went missing or were wounded.⁷⁸ Estrondo’s owners and tenants imposed a number of measures to heavily restrict *geraizeiros*’ movements and activities, especially cattle driving, in the valleys they inhabit: checkpoints with armed men, fences encircling communities’ houses, and deep trenches dug throughout their territories.⁷⁹ The aim was to keep *geraizeiros* out of ‘Estrondo property’.⁸⁰ Criminalisation followed. Some community members had their houses searched by the police without warrant.⁸¹ A few were detained and taken to a police station.⁸²

Estrondo’s attempts to confine the *geraizeiros* to small areas and restrict their traditional activities were not linked to a desire by the farmers to transform the communities’ valleys and *veredas* into plantations. Instead, Estrondo has long had something else in mind for these well-preserved places.

The Brazilian Forest Code requires all rural properties in the Cerrado to preserve at least 20 per cent of their total area.⁸³ These areas of protected habitat are known as legal reserves. In breach of the spirit, if not the letter, of this law, and in order to enable them to clear all their productive area, agribusinesses at the estate started assigning the communities’ valleys – which also fell within the area claimed by Estrondo – as their reserves. Estrondo has claimed more than 50,000ha of community land for such purposes.⁸⁴ This is the systematic conversion of community lands into wildlife reserves, suddenly stripping away the rights that low-impact communities have enjoyed for

⁷⁴ Earthsight interview with public prosecutor Eduardo Bittencourt, June 2023.

⁷⁵ Earthsight interview with public prosecutor Eduardo Bittencourt, June 2023.

⁷⁶ The size given here is the one acknowledged by Bahia’s attorney general in his lawsuit against Cia Melhoramentos do Oeste da Bahia e Outros (8000499-51.2018.8.05.0081), 2021, p. 6, copy held by Earthsight.

⁷⁷ Several of them make no reference to previous owners, raising suspicions about their legality. An example is Plot 92, a 1,532-ha farm which Delfin Rio acquired in 1994 after a local judge authorised its registration without proof of previous ownership. The plot eventually became Colina Paulista’s property in 1998 until it was sold to another company in 2008. In October 2014, the Horita Group acquired the property. Land title registration, ‘Matrícula 1278’, p. 5, copy held by Earthsight.

⁷⁸ Bahia’s State Prosecutor’s Office (MPBA), ‘Public Civil Inquiry (593.0.218865/2012)’, Jun 2012, copy held by Earthsight.

⁷⁹ Ibid

⁸⁰ Ibid

⁸¹ Ibid

⁸² Ibid

⁸³ Law 12.651/2012 (Brazilian Forest Code) available at https://www.planalto.gov.br/ccivil_03/_ato2011-2014/2012/lei/l12651.htm

⁸⁴ Inema, ‘Análise Espacial e Temporal de Cadastros de Imóveis CEFIR - Agronegócio Condomínio Cachoeira do Estrondo’, Technical Report COTIC, 13 Jul 2020, copy held by Earthsight.

generations. The Horita Group alone holds over 22,000ha of legal reserves at Estrondo, part of which overlaps the places inhabited by the communities.⁸⁵

The manoeuvre has been used throughout western Bahia and has become known as ‘green land grabbing’. “It is an area that, in the eyes of landowners, is preserved, ready to be converted into a legal reserve. But the communities live there,”⁸⁶ explains Sacramento. The imposition of legal reserves on their land prevents families from carrying out subsistence activities and, in the worst cases, from remaining on the land.⁸⁷ This violates their rights and threatens their existence. It also allows the agribusiness giants to clear much larger tracts of their other land than would otherwise be possible.

But the communities have fought back. In April 2017, they filed a lawsuit against Estrondo contesting its land titles and reporting the violations suffered since 2011. The following month, a judge ruled that the communities had the right to make full use of their traditional territories.⁸⁸ The following year, Bahia’s government recognised the communities’ rights over 82,775ha of land.⁸⁹ A Manhattan-sized chunk of the Long Island-sized land grab would need to be made fully available to the communities again.

The agribusinesses’ reaction was swift. Estrondo dug a 1.8-mile trench on communities’ lands to hinder residents’ and cattle movement.⁹⁰ In February 2019, community member Jossone Lopes was shot by security guards working for Estrondo. He was hit in his left leg while attempting to recover cattle confiscated by the guards, but managed to escape with the help of his companions.⁹¹ It wasn’t until December 2019 that Estrondo’s security checkpoints on the communities’ valleys were finally deactivated.

Possibly the starkest illustration of the egregiousness of land grabbing at Estrondo is the somewhat surprising fact that, after years of turning a blind eye, Bahia’s authorities have finally decided to take action. In October 2018, the attorney general’s office launched a lawsuit against Estrondo to recover the lands for the state. In a 2021 court file, the attorney general concluded that Estrondo’s land titles showed clear evidence of illegalities.⁹² Alluding to plots of land that eventually became Estrondo, he argued: “As if by magic, [the land grabbers] managed the incredible feat of transforming 36,000ha into the fantastic sum of 382,354ha.”⁹³ The lawsuit is ongoing.

⁸⁵ Ibid

⁸⁶ Earthsight interview with André Sacramento, June 2023.

⁸⁷ Communities’ members interviewed by Earthsight said that a large number of former residents had left western Bahia and moved to slums in Brasília, Brazil’s capital, and other large cities. D’Angelis Filho, J.S. and Dayrell, C.A., ‘Ataque aos Cerrados: a saga dos geraizeiros que insistem em defender o seu lugar’, Universidade Católica de Salvador, 2006, available at <https://cadernosdoceas.ucsal.br/index.php/cadernosdoceas/article/viewFile/173/153>

⁸⁸ Bahia’s High Court of Justice (TJBA), ‘Interlocutory Decision 0501082-35.2017.8.05.0022’, copy held by Earthsight.

⁸⁹ Although Bahia’s rural land agency, CDA, recognised the community’s right to occupy more than 82,000 hectares, Bahia’s high court (TJBA) still upheld the initial analysis that assigned the communities just over 43,000 hectares of land. The residents are still waiting for this decision to be reviewed. Court documents held by Earthsight.

⁹⁰ O Estado de Minas, ‘Monoculturas tomam o lugar do Cerrado e ameaçam comunidades no Nordeste’, 11 Jun 2019, available at https://www.em.com.br/app/noticia/internacional/2019/06/11/interna_internacional,1060896/monoculturas-tomam-o-lugar-do-cerrado-e-ameacam-comunidades-no-nordest.shtml

⁹¹ Associação de Advogados/as de Trabalhadores/as Rurais (AATR), ‘Em novo ataque, seguranças da fazenda Estrondo “prendem” geraizeiro de Formosa do Rio Preto (BA)’, 2019, available at https://www.facebook.com/notes/associa%C3%A7%C3%A3o-de-advogadas-de-trabalhadoras-rurais-aatrbahia/em-novo-ataque-seguran%C3%A7as-da-fazenda-estrondo-prendem-geraizeiro-de-formosa-do-r/1020263041509182/?_tn=H-R; Mongabay, ‘Video: Agricultor do Cerrado é baleado em meio à crescente conflito com agronegócio’, 5 Mar 2019, available at <https://brasil.mongabay.com/2019/03/video-agricultor-do-cerrado-e-baleado-em-meio-a-crescente-conflito-com-agronegocio/>

⁹² Bahia’s Attorney General’s Office (PGE), ‘Lawsuit against Cia Melhoramentos do Oeste da Bahia and Others (8000499-51.2018.8.05.0081)’, 2018, p. 20, copy held by Earthsight.

⁹³ Ibid

In a letter sent to Earthsight, Estrondo said the use of all the estate's land is legal and that no land grabbing has ever taken place. It further stated it has attempted to reach a "definitive, balanced and just" settlement with the communities and public prosecutors. Estrondo denied restricting communities' movements and said it opposes the use of violence. It accused community members of criminal acts against its properties and employees. It also said the estate covers an area of 205,000ha.

In comments sent to Earthsight, the Horita Group denied it owns properties within Estrondo.⁹⁴ However, satellite imagery, land titles, court documents and plenty of other evidence seen by Earthsight clearly demonstrate that the Horita Group does in fact own farms within Estrondo.⁹⁵ MPBA's public inquiry, for example, names the company among the parties seeking an agreement on the conflict. On 10 August 2022, MPBA was contacted by Horita's representatives requesting access to the inquiry.⁹⁶

With a final legal solution to Estrondo's land grabbing still elusive, prosecutor Bittencourt has coaxed the communities and farmers to negotiate a co-existence agreement.⁹⁷ This is illustrative of the state's failure to put an end to decades of land theft and ill-gotten profits.

Capão do Modesto: "One of the most serious land grabbing cases in Bahia"

At the *fundo e fecho de pasto* community of Capão do Modesto, 19 private properties overlap its 11,200ha territory.⁹⁸ Most of these plots were sold to agribusinesses – to be used as 'paper' legal reserves, enabling additional deforestation to take place elsewhere – by a poor and illiterate couple who signed the sale papers with their thumbprints.⁹⁹ Analysis produced by the Rural Workers' Lawyers Association revealed the couple had supposedly inherited 16,000ha of land in 1960, but there are no records of the deceased person's inventory or demonstrating that they were his heirs, which are legal requirements.¹⁰⁰ The analysis also showed the couple had never lived in the area. Residents at Capão do Modesto told Earthsight they suspect the couple were used as a front for a land grabbing scheme.¹⁰¹

Another red flag is the suspiciously low prices the farmers paid for the plots. In 2007 Luiz Carlos Bergamaschi, a major cotton farmer in western Bahia, current president of the Bahia Association of Cotton Producers (Abapa) and owner of 14 plots within Capão do Modesto, acquired a 90-ha property for BRL3,500 (US\$1,600).¹⁰² This amounts to less than BRL38 (US\$17) per hectare. None of his remaining 13 properties within Capão do Modesto cost him more than BRL361 (US\$166) per hectare.^{103,104} Rural properties in western Bahia were valued at between US\$2,500 and US\$4,000 per

⁹⁴ The Horita Group told Earthsight that the farms we had identified as being within Estrondo are in fact within another estate called Centúria. However, property data and satellite images obtained by Earthsight show Centúria clearly within Estrondo.

⁹⁵ For land titles, Bahia's State Prosecutor's Office (MPBA), 'Public Civil Inquiry (593.0.218865/2012)', p. 106 onwards, copy held by Earthsight.

⁹⁶ Bahia's State Prosecutor's Office, 'Public Civil Inquiry' (593.0.218865/2012)', Jun 2012, p. 16,000, copy held by Earthsight.

⁹⁷ Bahia's State Prosecutor's Office, 'Public Civil Inquiry' (593.0.218865/2012)', Jun 2012, copy held by Earthsight.

⁹⁸ Bahia's High Court of Justice (TJBA), 'Ownership repossession claim (8000574-63.2017.8.05.0069)', 2017, copy held by Earthsight.

⁹⁹ Bahia's High Court of Justice (TJBA), 'Ownership repossession claim (8000574-63.2017.8.05.0069)', 2017, p. 76, copy held by Earthsight.

¹⁰⁰ Associação de Advogados/as de Trabalhadores/as Rurais (AATR), 'Na Fronteira da Ilegalidade: Desmatamento e Grilagem no Matopiba, 2021, p. 153, available at https://f72a317a-de62-4659-a775-7e86e2421917.filesusr.com/ugd/90fabf_904c1fc80ef64b04bd895c4959055366.pdf

¹⁰¹ Earthsight interviews with communities' members, June 2023.

¹⁰² Bahia's High Court of Justice (TJBA), 'Ownership repossession claim (8000574-63.2017.8.05.0069)', 2017, pp. 200-201, copy held by Earthsight.

¹⁰³ Bahia's High Court of Justice (TJBA), 'Ownership repossession claim (8000574-63.2017.8.05.0069)', 2017, pp. 182-240, copy held by Earthsight.

¹⁰⁴ The figures in US dollars are based on the exchange rate in January 2007.

hectare at the time.¹⁰⁵ Studies have suggested that excessively low prices paid for land in Brazil may be evidence of land grabbing.¹⁰⁶

The same phenomenon of green land grabbing observed at Estrondo is what is at play at Capão do Modesto. Landowners have not acquired properties there to grow crops, but to set them aside as legal reserves for farms located elsewhere.¹⁰⁷

It is no coincidence that cotton producers are claiming areas overlapping Capão do Modesto or the communities' lands in Formosa do Rio Preto as their legal reserves. While the practice has been legal for decades, agribusinesses' ability to locate legal reserves away from their farms has gained further impetus in recent years, following changes to Brazil's Forest Code and Bahia's environmental laws.^{108,109} Large landowners throughout western Bahia have seized on this opportunity, which until very recently allowed them to completely clear their farms of native vegetation.¹¹⁰

However, experts interviewed by Earthsight are categorical about the harm this can cause: "The Cerrado is made up of several ecosystems. When farms and their legal reserves are in different areas the preservation of those ecosystems most affected by large-scale farming – which tends to be concentrated where meadows were once abundant – is hampered. Another acute problem is that much of the agribusiness activity in western Bahia is located on top of the Urucuia, Brazil's largest aquifer. If these farms' legal reserves are elsewhere, the aquifer is prevented from being replenished by the natural processes that only native vegetation can enable," explains environmentalist dos Santos.¹¹¹

Bergamaschi told Earthsight he had paid "market prices" for his properties at Capão. He denied they are illegal or linked to land grabbing, and emphasised they have all been duly registered with the relevant authorities.

Abapa's president is not the only large cotton producer to be implicated in murky land deals at Capão do Modesto. The Horita Group is also accused of green land grabbing of the community's lands.¹¹² In 2009 it acquired Fazenda Alegre, a 2,169-ha property at Capão used as legal reserve for Fazenda Sagarana, a cotton farm nearly 150km (93 miles) away.¹¹³ Sagarana itself has been caught up in wrongdoing. In 2019 Ibama embargoed over 250ha of the farm over the cultivation of transgenic cotton on the buffer zone of a conservation area (the embargo has since been lifted).¹¹⁴ The Horita Group denies that Fazenda Alegre overlaps public or traditional communities' lands.

¹⁰⁵ Amoroso, G., 'Preço da terra nunca subiu tanto no Brasil', *Veja*, 10 Feb 2008, available at <https://veja.abril.com.br/brasil/preco-da-terra-nunca-subiu-tanto-no-brasil>

¹⁰⁶ Pfenniger, K., 'In the Brazilian Amazon, land for sale on Facebook', *Le Monde*, 3 Jun 2023, available at https://www.lemonde.fr/en/environment/article/2023/06/03/in-the-brazilian-amazon-land-for-sale-on-facebook_6028971_114.html

¹⁰⁷ Teixeira, F., 'Explainer: What is "green land grabbing" and why is it surging in Brazil?', *TFR News*, 23 Nov 2021, available at <https://news.trust.org/item/20210929090849-bswj7>

¹⁰⁸ Law 12.651/2012, Article 66, paragraph 6, ii, available at https://www.planalto.gov.br/ccivil_03/ato2011-2014/2012/lei/l12651.htm

¹⁰⁹ The 2012 Forest Code allows landowners to establish legal reserves outside their properties only if those properties have not been deforested after July 2008. However, Article 3 (ii) of Inema's Ordinance n. 22078/2021, issued in 2021 (copy held by Earthsight), was more permissive by allowing landowners to relocate legal reserves outside farms' boundaries regardless of when they had cleared the areas that were supposed to be reserves within their farms. In 2022, under pressure from Bahia's State Prosecutor's Office, Inema issued Ordinance n. 27646/2022 revoking Article 3.

¹¹⁰ *Ibid*

¹¹¹ Earthsight interview with Marcos Rogério Beltrão dos Santos, September 2023.

¹¹² Bahia's High Court of Justice (TJBA), 'Ownership repossession claim 8000574-63.2017.8.05.0069', 2017, p.321, copy held by Earthsight.

¹¹³ *Ibid*

¹¹⁴ The Horita Group told Earthsight it had bought Sagarana before the creation of the conservation unit, called RESEX Recanto das Araras de Terra Ronca.

SLC is equally tangled up in accusations of land grabbing at Capão. While it does not own properties there, a plot at Capão do Modesto known as Tabuleiro VII is the legal reserve for cotton and soy farms the company leases further west.¹¹⁵

SLC denies that Tabuleiro VII is related to its leased farms.¹¹⁶ But evidence seen by Earthsight suggests otherwise. Cross-referencing data and maps provided by Brazil's Rural Environment Registry (CAR)¹¹⁷ and Bahia's environment agency (Inema)¹¹⁸ with land titles issued by Correntina's notary office¹¹⁹ reveals that Tabuleiro VII is indeed the legal reserve for at least seven farms leased by SLC in western Bahia.¹²⁰

The shady acquisition of properties at Capão by large landowners and cotton producers has been followed by violence and harassment against the community. "I've been attacked four or five times inside my own house. When a stranger arrives, I think they've come to eliminate us,"¹²¹ says Antônio dos Santos Silva, 49, president of Capão do Modesto's community association. Silva told Earthsight he is under constant surveillance by armed men on motorcycles.

In February 2017, Silva was violently attacked in Correntina.¹²² The attackers were allegedly security guards hired by farmers. Capão residents told Earthsight about episodes of intimidation, surveillance, restriction of movement, and cattle theft by gunmen.

For years Silva and other community members have been fighting a tortuous legal battle for their land rights. In November 2017, the farmers filed a lawsuit against eight Capão do Modesto residents for 'repossession' of property.¹²³ Although in January 2018, Judge Marlise Freire Alvarenga concluded that the landowners could not prove legitimate ownership of the land, in April that year she made a U-turn and accepted the landowners' claims that Capão do Modesto residents had destroyed fences and were illegally grazing cattle on their legal reserves.¹²⁴ In June 2018, however, Bahia's high court ruled in favour of Capão and stressed that traditional communities' collective ways of life are harmed by lack of access to their land.¹²⁵

The community suffered another setback in June 2019 when a high court judge, Telma Britto, accepted new complaints made by the landowners that Capão's residents had been invading their legal reserves.¹²⁶ In February 2022, a new ruling by judge Matheus Agenor Alves Santos overturned

¹¹⁵ Although SLC identifies the Paysandu property as a single farm, it is in fact made up of a series of properties leased by the group that belong to Brasil 51, an investment fund company. Notary documents analysed by Earthsight (copies held by Earthsight) confirm that the farms leased by SLC are directly related to the legal reserves located at Tabuleiro VII, in Capão do Modesto.

¹¹⁶ Letter sent to Earthsight. SLC did not provide any evidence to support its denial.

¹¹⁷ The Rural Environmental Registry, also known as CAR, is a public registry created by Brazil's Forest Code in 2012. As it is a self-declaratory system, information on the extent and boundaries of a given plot of land is provided by the landowner. A map and shapefiles of registered properties are provided by the Sicar database available at <https://www.car.gov.br/publico/imoveis/index>

¹¹⁸ Inema's Sefir database has information on all the properties that have their legal reserves, partially or totally, at Capão do Modesto. Sefir offers maps of the properties. Sistema Estadual de Informações Ambientais e de Recursos Hídricos (Seia)'s Public Database, available at <http://sistema.seia.ba.gov.br/home.xhtml>

¹¹⁹ Information obtained through Correntina's Notary office. Copies held by Earthsight.

¹²⁰ Until recently, Agro Xingu owned not only the farms leased by SLC, but also the Tabuleiro VII property in Capão do Modesto. However, the leased units that make up SLC's Fazenda Paysandu were sold in 2023 by Agro Xingu to 051 Capital, which renewed the lease with SLC. Notary documents show that Agro Xingu still owns Tabuleiro VII, in Capão do Modesto. Brazil's Forest Code allows a farm's legal reserves to be owned by a third party, which is the situation identified here. Although the leased farms belong to 051 Capital, the legal reserves (Tabuleiro VII) are currently owned by Agro Xingu.

¹²¹ Earthsight interview with Antônio dos Santos Silva, June 2023.

¹²² Bahia's High Court of Justice (TJBA), 'Ownership repossession claim (8000574-63.2017.8.05.0069)', 2017, p. 722, copy held by Earthsight.

¹²³ Bahia's High Court of Justice (TJBA), 'Ownership repossession claim (8000574-63.2017.8.05.0069)', 2017, copy held by Earthsight.

¹²⁴ Bahia's High Court of Justice (TJBA), 'Ownership repossession claim (8000574-63.2017.8.05.0069)', 2017, p. 02, copy held by Earthsight.

¹²⁵ Bahia's High Court of Justice (TJBA), 'Ownership repossession claim (8000574-63.2017.8.05.0069)', 2017, p. 912, copy held by Earthsight.

¹²⁶ Bahia's High Court of Justice (TJBA), 'Ownership repossession claim (8000574-63.2017.8.05.0069)', 2017, p. 1097, copy held by Earthsight.

Britto's decision based on the fact that the community's association had not been heard in the case. The following month, this ruling was suspended by Britto until an appeal could be heard.¹²⁷ In April 2023, judge Britto once again sided with the landowners and decided the case was not related to a land conflict, but to invasion of private property by a small group of people.¹²⁸ The community has appealed and the case is ongoing.

Parallel to this legal battle, in 2021 Bahia's rural land agency, CDA, created a special commission to assess whether the community's 11,200ha of land merited protection from farming interests. The conclusion was that it did. In March 2022, CDA recommended legal action against the landowners.¹²⁹

In December 2022, Bahia's attorney general, Sisterolli Batista, finally took up the cause and launched a lawsuit against the farmers.¹³⁰ He referred to Capão do Modesto as "one of the most serious land grabbing cases in Bahia," and requested the suspension and eventual cancellation of all land titles overlapping it.¹³¹ The attorney general also noted the context of violent acts, threats, arbitrary detentions and closure of traditional roads perpetrated against the community by armed guards hired by the farmers.¹³²

In May 2023, a judge in Correntina, Matheus Agenor Alves Santos, ordered the blocking of all land titles imposed on Capão and the suspension of landowners' lawsuits over the area.¹³³

While the decision is a victory for the community, its troubles are far from over. It is not clear whether the attorney general's lawsuit will eventually lead to the landowners relinquishing their claims over Capão do Modesto. In the meantime, Silva and his fellow Capão residents continue to live in fear of the landowners' next move and under the watchful eyes of armed thugs.

Buying their way out of trouble

Revelations that came to light in 2019 are further illustration of the egregiousness of large-scale land grabbing in western Bahia. That year the Federal Police released shocking news that a vast corruption scheme implicating dozens of businessmen, lawyers, judges, magistrates and politicians had been in operation in the state for years. Among its alleged protagonists was none other than Walter Horita.¹³⁴

The police investigation, known as Operation Far West (*Operação Faroeste*), exposed the widespread sale – for large sums of money – of court rulings related to land disputes in Bahia. The level of evidence or suspicion against Walter Horita must have been sufficiently strong to justify the police wiretapping his phone as part of its investigations.

Transcriptions of Horita's phone conversations reveal his apparent attempts to influence judicial and political actors in Salvador, Bahia's capital, in relation to the attorney general's lawsuit against either

¹²⁷ Bahia's High Court of Justice (TJBA), 'Interlocutory appeal (8007213-37.2022.8.05.000)', 2022, copy held by Earthsight.

¹²⁸ Bahia's High Court of Justice (TJBA), 'Interlocutory appeal (8007213-37.2022.8.05.000)', 2022, copy held by Earthsight.

¹²⁹ CDA also says it has found 19 land titles overlapping Capão do Modesto. Bahia's High Court of Justice (TJBA), 'Land Discrimination Process (8001328-29.2022.8.05.0069)', 2022, p. 1076, copy held by Earthsight. Through a land discrimination process, the State carries out a land registry study to "discriminate" between public and private land, which enables it to regain possession of public lands in private hands. The tenure of vacant public land occupied by traditional communities can then be formally transferred to these communities.

¹³⁰ Bahia's High Court of Justice (TJBA), 'Land Discrimination Process (8001328-29.2022.8.05.0069)', 2022, copy held by Earthsight.

¹³¹ Sisterolli Batista also called for a freeze to landowners' ability to change properties' boundaries or sell them.

¹³² Bahia's High Court of Justice (TJBA), 'Land Discrimination Process (8001328-29.2022.8.05.0069)', 2022, p. 16, copy held by Earthsight.

¹³³ First Court of Correntina, 'Decision on the Land Discrimination Process (8001328-29.2022.8.05.0069)', 2023, copy held by Earthsight.

¹³⁴ Peres, J. and Merlino, T., 'Itaú aceita como garantia terras investigadas por grilagem do grupo Horita', Intercept Brasil, 18 Sep 2023, available at <https://www.intercept.com.br/2023/09/18/itau-aceita-terras-grupo-horita-investigadas-por-grilagem/>

Estrondo or the landowners with reserves at Capão do Modesto.¹³⁵ In November 2019, the Federal Police searched Horita’s offices and home, and seized documents.¹³⁶

According to the complaint that kick-started Operation Far West, between 2013 and 2019 Horita supposedly made bank transfers worth a fortune – at least BRL7.5 billion (US\$1.5 billion) – in breach of transparency rules about sender and beneficiary data.^{137,138} The investigation also revealed that between March and July 2018, Horita apparently transferred a total of R\$6 million (US\$1.2 million) to a court official.¹³⁹

The revelations, which have led to ongoing criminal and civil court cases, resulted in the suspension of key figures within Bahia’s judiciary. Among them was judge Marivalda Moutinho,¹⁴⁰ who worked in Formosa do Rio Preto, which was described by the Federal Prosecutor’s Office as the “criminal epicentre” of the corruption scheme.¹⁴¹ In her office, police officers found documents on which the names Walter Horita and Estrondo were handwritten opposite the sum of BRL670,000 (US\$137,000).¹⁴² The judge had allegedly acted with the support of an aide who is accused of negotiating the sums paid by Horita and other commodity producers to implicated judges.¹⁴³

In 2021 Brazilian media reported that Horita had offered to collaborate with the investigation under a plea bargain and signed an out-of-court agreement with the federal attorney general.¹⁴⁴ Horita allegedly paid BRL20 million (US\$4 million) as part of the agreement.¹⁴⁵

In comments sent to Earthsight, the Horita Group states Walter Horita has not been charged by the Public Prosecutor’s Office at a federal high court. It “vehemently denies” that Horita has entered a plea bargain¹⁴⁶ and says the company never had any dealings with judge Moutinho. According to the Horita Group, independent audits confirm Walter Horita has never moved money in ways that breach transparency rules.¹⁴⁷

¹³⁵ The transcription reveals a conversation between Walter Horita and one of his business partners in which Horita mentions a trip to Salvador to discuss one of the attorney general lawsuits with a judge. It is not entirely clear whether Horita is referring to the lawsuit against Estrondo or the one related to Capão do Modesto. However, Operation Far West was focused on cases linked to municipalities in northern Bahia, where Estrondo is located, rather than southern Bahia where Capão is located. Horita had also apparently been trying to arrange a meeting with Bahia’s vice governor on a similar subject. The Federal Court of Justice’s Criminal Search and Seizure Request 2019/0098024-2 states: “The dialogues transcribed on pages 426-439 of QuebSig no. 25 show that Walter Horita arranged to fly from Barreiras to Salvador to discuss ‘this attorney general lawsuit (*ação discriminatória*) business’, to have an audience with a court judge and, in addition, to try to arrange a ‘lunch or dinner’ with Bahia’s vice governor.”

¹³⁶ Serapião, F., ‘Suspeito em caso de venda de decisões judiciais movimentou 22 bilhões de reais’, *Crusoe*, 24 Nov 2019, available at <https://crusoe.com.br/diario/suspeito-em-caso-de-venda-de-decisoes-judiciais-movimentou-22-bilhoes-de-reais/>

¹³⁷ Paes, C.F., ‘Justiça bloqueia fazendas da elite do agronegócio por suspeita de grilagem na Bahia’, *Agência Pública*, 10 May 2023, available at <https://apublica.org/2023/05/justica-bloqueia-fazendas-da-elite-do-agronegocio-por-suspeita-de-grilagem-na-bahia/>

¹³⁸ Federal Prosecutor’s Office (MPF), ‘OPERATION FAR WEST – Initial Complaint’, Nov 2020, copy held by Earthsight.

¹³⁹ Federal Prosecutor’s Office (MPF), ‘Criminal lawsuit 2032PGR-/2020/AJCRIMSTJ/PGR/LMA’, 17 Dec 2020, p. 110, available at https://www.mpf.mp.br/pgr/documentos/2032apn940_red.pdf

¹⁴⁰ Bahia Notícias, ‘STF mantém afastamento de Marivalda Moutinho, juíza denunciada na Operação Faroeste’, 21 Apr 2023, available at <https://www.bahianoticias.com.br/justica/noticia/67232-stf-mantem-afastamento-de-marivalda-moutinho-juiza-denunciada-na-operacao-faroeste>

¹⁴¹ Federal Prosecutor’s Office (MPF), ‘OPERATION FAR WEST – Initial Complaint’, Nov 2020, copy held by Earthsight.

¹⁴² *Ibid*

¹⁴³ *Ibid*

¹⁴⁴ Augusto C., ‘Colaboração premiada, acordo de não persecução penal e acordo de leniência são propostos por tres denunciados e duas empresas envolvidas em possíveis atos de corrupção do Caso Faroeste’, *Jornal Grande Bahia*, 7 Jan 2021, available at <https://jornalgrandebahia.com.br/2021/01/colaboracao-premiada-acordo-de-nao-persecucao-penal-e-acordo-de-leniencia-sao-propostos-por-tres-denunciados-e-duas-empresas-envolvidas-em-possiveis-atos-de-corrupcao-do-caso-faroeste/>

¹⁴⁵ *Ibid*

¹⁴⁶ Horita Group’s response to Earthsight. The federal attorney general’s office has not made any public statements about the plea bargain, which is not uncommon in Brazil. Earthsight submitted a Freedom of Information request to the federal attorney general’s office with questions about this alleged plea bargain. In response, the institution did not deny the alleged agreement but emphasised that details of the investigation were confidential.

¹⁴⁷ Horita Group’s response to Earthsight.

In the meantime, agribusinesses have continued to clear vast swathes of native Cerrado in western Bahia's stolen public lands to serve cotton and grain markets abroad. The devastation has often occurred with state complicity. Estrondo, the Horita Group and SLC Agrícola all have their own dark histories of deforestation, as we will see in the next chapter.

Chapter 3: Crimes against the Cerrado

"We used to be afraid of alligators when swimming in rivers. Today you can't even spot a little gecko,"¹⁴⁸ says local environmentalist Marcos Rogério Beltrão dos Santos alluding to the impacts of deforestation in western Bahia.

The Cerrado is home to five per cent of the world's species and a third of Brazil's biodiversity.¹⁴⁹ It plays a crucial role in replenishing several major Brazilian and South American rivers.¹⁵⁰

Traditional community members across western Bahia, including *geraizeiros*, fondly remember the days when tucum, pequi, golden grass and coconut were abundant. They could hunt and fish. For generations the Cerrado provided them with food, clean water, shelter and natural medicines.

All this has dramatically changed. The biome has lost over half its native vegetation to large-scale agriculture in recent decades.¹⁵¹ Since 1985 Bahia alone has lost nearly a quarter of its original 9 million hectares of Cerrado.¹⁵² The climate impact has been enormous: clearing Cerrado vegetation for agricultural production generates as much carbon per year as the annual emissions of 50 million cars.¹⁵³

The Cerrado risks losing over 1,100 species by 2050 if agribusiness expansion continues at the current pace.¹⁵⁴ Several fauna (maned wolf, blue-eyed ground dove) and flora (jussara palm, brasiliana, canelinha) species are threatened with extinction due to habitat loss – a reality facing nearly a fifth of the biome's species.¹⁵⁵ The giant armadillo has lost over 50 per cent of its natural Cerrado habitat.¹⁵⁶

Local communities have seen their traditional activities severely hindered by plantation encroachment, biodiversity collapse, water overexploitation and pesticide contamination. The

¹⁴⁸ Earthsight interview with Marcos Rogério Beltrão dos Santos, June 2023.

¹⁴⁹ WWF Brasil, 'Commemorating the Cerrado's day (11/09), the WWF-Brazil shows the big five of the biome', 10 Sep 2015, available at <https://www.wwf.org.br/?50242/The-Big-Five-of-the-Cerrado#:~:text=The%20Cerrado%20harbours%20837%20species,of%20mammals%20in%20the%20world>

¹⁵⁰ Brown, S., 'A tale of two biomes as deforestation surges in Cerrado but wanes in Amazon', Mongabay, 23 Aug 2023, available at <https://news.mongabay.com/2023/08/a-tale-of-two-biomes-as-deforestation-surges-in-cerrado-but-wanes-in-amazon/>

¹⁵¹ Based on Earthsight's own calculations of deforestation data made available by Brazil's National Space Research Institute (Inpe). Inpe, 'Nota Técnica Prodes Cerrado 2021', table 4, 31 Dec 2021, available at <https://www.gov.br/inpe/pt-br/assuntos/ultimas-noticias/nota-tecnica-prodes-cerrado-2021>

¹⁵² Instituto Mãos da Terra (Imaterra), 'Desvendando as ASV no Cerrado Baiano', Jul 2022, available at <https://www.imaterra.org/c%C3%B3pia-supress%C3%A3o-de-vegeta%C3%A7%C3%A3o-nativa>; G1, 'Região Oeste da Bahia tem maior área de preservação do bioma cerrado em todo o estado, aponta pesquisa', 23 Sep 2018, available at <https://g1.globo.com/ba/bahia/noticia/2018/09/23/regiao-oeste-da-bahia-tem-maior-area-de-preservacao-do-bioma-cerrado-em-todo-o-estado-aponta-pesquisa.ghtml>

¹⁵³ WWF, 'Save the Cerrado: Our climate depends on it', available at <https://www.worldwildlife.org/pages/save-the-cerrado-our-climate-depends-on-it>

¹⁵⁴ Belandi, C., 'IBGE atualiza estatísticas das espécies ameaçadas de extinção nos biomas brasileiros', Instituto Brasileiro de Geografia e Estatística (IBGE), 24 May 2023, available at <https://agenciadenoticias.ibge.gov.br/agencia-noticias/2012-agencia-de-noticias/noticias/36972-ibge-atualiza-estatisticas-das-especies-ameacadas-de-extincao-nos-biomas-brasileiros>

¹⁵⁵ Ibid; Vieceli, L., 'De lobo-guará a pau-brasil, Mata Atlântica tem 2.845 espécies ameaçadas de extinção', Folha de São Paulo, 24 May 2023, available at <https://www1.folha.uol.com.br/ambiente/2023/05/mata-atlantica-tem-2845-especies-ameacadas-de-extincao.shtml>

¹⁵⁶ WWF Brasil, 'Derrubar vegetação nativa para produzir carne e soja é a principal pressão sobre a biodiversidade no Cerrado e Amazônia', Technical Report, Dec 2021, available at https://wwfbr.awsassets.panda.org/downloads/wwf_notatecnica_desmate_e_perda_de_especies_2021_v7.pdf

chapadas (high plateaus), once teeming with rheas, siriemas, burrowing owls, white-lipped peccaries and even jaguars, are now bare.¹⁵⁷

Local residents showed Earthsight dry riverbeds and lost springs. Major Cerrado rivers are expected to suffer a 34 per cent drop in their water levels – equivalent in volume to eight Nile rivers – by 2050 due mostly to deforestation and overexploitation.¹⁵⁸ We drove through local roads that are buckling as the Urucuia, Brazil’s largest aquifer, is unsustainably exploited for irrigation.

Cotton in particular is a notoriously thirsty crop. It is estimated that 10,000 litres of water are required to produce 1kg of cotton fibre, and that it takes around 2,700 litres of water to make one cotton t-shirt.¹⁵⁹ Agribusinesses in western Bahia extract nearly two billion litres of water per day – enough to supply 12 million people – almost free of charge.¹⁶⁰

They pay this back by dumping 600 million litres of pesticides on the Cerrado every year.¹⁶¹ Cotton uses significantly higher percentages of pesticides categorised as highly hazardous than any other agricultural crop.¹⁶² Because pesticides are an important factor in a crop’s greenhouse gas emissions, their heavy use in cotton production also means the commodity has an extremely high carbon footprint compared to other commodities.¹⁶³

In fact, textile production emits more CO₂e (CO₂ equivalent) per year than international flights and maritime shipping combined.¹⁶⁴ Around 70 per cent of this comes from raw materials production, including cotton.¹⁶⁵ Some estimates say the global clothing industry has a similar carbon footprint to that of all EU Member States combined.¹⁶⁶ Others say if the fashion industry were a country it would be the sixth largest emitter of greenhouse gases in the world.¹⁶⁷

Estrondo: a long history of illegalities

Beyond the low valleys coveted by agribusinesses as legal reserves, the forests once abundant on Estrondo’s chapadas have been replaced by cotton and soy monocultures for as far as the eye can

¹⁵⁷ Paes, C.F., ‘In Brazil’s Bahia, peasant farmers and cowboys keep the Cerrado alive’, Mongabay, 15 Sep 2020, available at <https://news.mongabay.com/2020/09/in-brazils-bahia-peasant-farmers-and-cowboys-keep-the-cerrado-alive/>; Por Trás dos Alimentos, ‘Quem bebe agrotóxicos?’, 2018, available at <https://portrasdoalimento.info/agrotoxicos-mapa/docs/index.html?v=5#>

¹⁵⁸ Instituto Sociedade, População e Natureza (ISPAN), ‘Cerrado pode perder um terço da água, aponta estudo’, 10 Nov 2022, available at <https://ispan.org.br/cerrado-pode-perder-um-terco-da-agua-aponta-estudo/>

¹⁵⁹ Soil Association, ‘Cool cotton: Organic cotton and climate change’, Sep 2015, available at <https://www.soilassociation.org/media/11662/coolcotton.pdf>

¹⁶⁰ Instituto Sociedade, População e Natureza (ISPAN), ‘Cerrado pode perder um terço da água, aponta estudo’, 10 Nov 2022, available at <https://ispan.org.br/cerrado-pode-perder-um-terco-da-agua-aponta-estudo/>

¹⁶¹ Lopes, H.R., Gurgel, A.M., and Melo, L.C., ‘Vivendo em territórios contaminados: Um dossiê sobre agrotóxicos nas águas do Cerrado’, Campanha Nacional em Defesa do Cerrado / CPT / TPP / Fiocruz, May 2023, available at <https://www.campanhacerrado.org.br/images/biblioteca/dossie-agrotoxicos-aguas-cerrado.pdf>

¹⁶² Highly hazardous pesticides (HHP) are those that contain chemicals that are highly toxic to health or the environment, such as glyphosate, paraquat and acetochlor. Around 51 per cent of pesticides used in soybean cultivation are HHP. For maize the figure is 49.7 per cent, for rice 43.5 per cent and for cereals 25.8 per cent. For cotton the figure is a whopping 69.1 per cent. Gaberell, L. and Viret, G., ‘Pesticide giants make billions from bee-harming and carcinogenic chemicals’, Public Eye, 20 Feb 2020, available at <https://www.publiceye.ch/en/topics/pesticides/pesticide-giants-make-billions-from-bee-harming-and-carcinogenic-chemicals>. While cotton accounts for 2.4 per cent of the world’s arable land, it consumes 10 per cent of global insecticides. Pesticide Action Network UK, ‘Pesticide concerns in cotton’, available at <https://www.pan-uk.org/cotton/>

¹⁶³ Soil Association, ‘Cool cotton: Organic cotton and climate change’, Sep 2015, available at <https://www.soilassociation.org/media/11662/coolcotton.pdf>

¹⁶⁴ Environmental Audit Committee, ‘Fixing fashion: clothing consumption and sustainability’, UK Parliament, chapter 3, 19 Feb 2019, available at <https://publications.parliament.uk/pa/cm201719/cmselect/cmenvaud/1952/report-files/195202.htm>

¹⁶⁵ Global Fashion Agenda, ‘Fashion on Climate: How the fashion industry can urgently act to reduce its greenhouse gas emissions’, Aug 2020, available at <https://globalfashionagenda.org/resource/fashion-on-climate/>

¹⁶⁶ Environmental Audit Committee, ‘Fixing fashion: clothing consumption and sustainability’, UK Parliament, chapter 3, 19 Feb 2019, available at <https://publications.parliament.uk/pa/cm201719/cmselect/cmenvaud/1952/report-files/195202.htm>

¹⁶⁷ Common Objective, ‘Sustainability Issues – The issues: Energy’, available at <https://www.commonobjective.co/article/the-issues-energy>

see. One can drive for an hour across Estrondo's *chapadas* and see nothing but vast plantations occasionally dotted with silos or office buildings. The stench of pesticide is often in the air.

Estrondo has a long and troubling history of large-scale illegal deforestation.¹⁶⁸ Since 2004 two of the companies that manage Estrondo, CMOB and Delfin Rio, have been fined a total of BRL125 million (US\$26 million) by Ibama, Brazil's environment agency, including for the unauthorised clearance of 60,000 hectares.¹⁶⁹ In the 2000s the agency embargoed 45,000ha of the estate due to deforestation based on expired permits.¹⁷⁰ An embargo is a punitive measure used by Ibama to shut off a piece of land from further commercial exploitation and let it regenerate. Farmers are not allowed to grow crops or raise livestock on an embargoed area. Embargoes are among Ibama's most important law enforcement tools and are used extensively throughout Brazil.

By 2007 more than half of Estrondo's current area had been deforested. The destruction reached a whopping 167,000ha, an area larger than London, with part of the farms' legal reserves illegally degraded.¹⁷¹ It is estimated that under a possible civil suit Estrondo would have to pay the state of Bahia upwards of BRL200 million (US\$40 million) in environmental damages.¹⁷²

Ibama itself has been dragged into the shady behaviour of Estrondo's landlords. In 2003 three Ibama agents in western Bahia were accused of issuing Estrondo fraudulent permits to clear 49,000ha.¹⁷³ They were eventually suspended and sued for corruption in a court case that also embroiled the three companies that run Estrondo.¹⁷⁴ A 2008 Ibama report found that at least 38,000ha of this area had been cleared.¹⁷⁵

¹⁶⁸ Carvalho, I., 'Fazenda símbolo de grilagem sofre derrota "emblemática" e perde área para geraizeiros', Brasil de Fato, 10 Jul 2020, available at <https://www.brasildefato.com.br/2020/07/10/fazenda-simbolo-de-grilagem-sofre-derrota-emblematica-e-perde-area-para-geraizeiros>; Reimberg, M., 'Fazenda Estrondo coleciona crimes trabalhistas e ambientais', Repórter Brasil, 26 Nov 2009, available at <https://reporterbrasil.org.br/2009/11/fazenda-estrondo-coleciona-crimes-trabalhistas-e-ambientais/>

¹⁶⁹ Consisting of more than a dozen fines according to data publicly available on Ibama's database. Ibama's Public Database, available at <https://servicos.ibama.gov.br/ctf/publico/areasembargadas/ConsultaPublicaAreasEmbargadas.php>. Reimberg, M., 'Fazenda Estrondo coleciona crimes trabalhistas e ambientais', Repórter Brasil, 26 Nov 2009, available at <https://reporterbrasil.org.br/2009/11/fazenda-estrondo-coleciona-crimes-trabalhistas-e-ambientais/>. The amount in USD was calculated using historical conversion rates from Oanda Currency Converter, and then converted to current value equivalent. In addition, in 2014 CMOB and Delfin Rio were fined by Inema, Bahia's environmental agency, for submitting false information related to the size and conservation status of their legal reserves, which had been degraded. 10Envolvimento, 'Autorização para supressão de 24.732,80 há de vegetação nativa na Fazenda "Condomínio Cachoeira do Estrondo" – Formosa do Rio Preto', Letter sent to Public Prosecutor Eduardo Antônio Bittencourt Filho, 15 Jul 2019, copy held by Earthsight.

¹⁷⁰ Of the embargoes identified by Earthsight, two still appear on Ibama's public database.. They were imposed in 2008 and total 1,261ha of land at Estrondo's Alaska and California farms. Ibama's Public Database, available at

<https://servicos.ibama.gov.br/ctf/publico/areasembargadas/ConsultaPublicaAreasEmbargadas.php>. Reimberg, M., 'Fazenda Estrondo coleciona crimes trabalhistas e ambientais', Repórter Brasil, 26 Nov 2009, available at <https://reporterbrasil.org.br/2009/11/fazenda-estrondo-coleciona-crimes-trabalhistas-e-ambientais/>

¹⁷¹ Reimberg, M., 'Fazenda Estrondo coleciona crimes trabalhistas e ambientais', Repórter Brasil, 26 Nov 2009, available at <https://reporterbrasil.org.br/2009/11/fazenda-estrondo-coleciona-crimes-trabalhistas-e-ambientais/>

¹⁷² Bahia's State Prosecutor's Office (MPBA), 'Public Civil Inquiry (593.0.218865/2012)', copy held by Earthsight. The agreement between the communities and farmers MPBA is working on is expected to lead to future negotiations on settling Estrondo's environmental damages. The figure provided here is from the civil inquiry that has been the basis for current and future negotiations.

¹⁷³ Mayr, M., 'Multa irrisória – lucro estrondoso', 27 Nov 2021, GGN, available at <https://jornalggn.com.br/opinio/multa-irrisoria-lucro-estrandoso-por-martin-mayr/>

¹⁷⁴ Ibama, 'Irregularidades emissão autorizações Fazenda Estrondo', 22 Oct 2003, internal memo, copy held by Earthsight; Court of Barreiras, 'Ruling', 2017, copy held by Earthsight.

¹⁷⁵ Maisonnave, F., 'Descendentes de Canudos lutam contra megafazenda de soja na BA', Folha de São Paulo, 11 Jun 2019, available at <https://www1.folha.uol.com.br/ambiente/2019/06/descendentes-de-canudos-lutam-contramegafazenda-de-soja-na-ba.shtml>. In 2017 Ibama confirmed those permits had been cancelled and that fines against Estrondo – never paid – had reached \$16mi. Mayr, M., 'Multa irrisória – lucro estrondoso', GGN, 27 Nov 2021, available at <https://jornalggn.com.br/opinio/multa-irrisoria-lucro-estrandoso-por-martin-mayr/>. The amount in USD was calculated using historical conversion rates from Oanda Currency Converter.

Estrondo and its farmers are not the sole culprits of large-scale destruction of lands that should never have become farms in the first place. Inema, Bahia's environmental agency, has gladly provided a helping hand.¹⁷⁶

Public prosecutor Eduardo Antônio Bittencourt Filho does not shy away from criticising the agency's behaviour: "Bahia's greatest environmental problem are the deforestation permits themselves."¹⁷⁷ The recent loss of tens of thousands of hectares of pristine vegetation at Estrondo bears this out.

In 2019 Inema inexplicably authorised Delfin Rio to clear 24,700ha of native vegetation on the western section of Estrondo.¹⁷⁸ NGOs and Bahia's Public Prosecutor's Office argued the permit was illegal due to, among other things, the ongoing lawsuit against Estrondo for land grabbing brought by the attorney general.¹⁷⁹

In 2021 Inema belatedly notified Delfin Rio it should seek consent from Bahia's rural land agency, CDA, before proceeding with the clearance due to Estrondo's legal troubles. Unsurprisingly, this was too little, too late.¹⁸⁰ Between late 2021 and early 2022 Delfin Rio deforested all 24,700ha illegally authorised.¹⁸¹ Estrondo told Earthsight it operates with the necessary environmental licenses.

The Horita Group: true environmental footprint shrouded in secrecy

Earthsight was unable to determine whether any of the illegal deforestation cases relating to Estrondo and detailed above involved the Horita Group, the largest agribusiness within the estate. But the company is certainly guilty of at least some infractions there.

In 2008 Ibama embargoed a 900-ha farm called Lote 16, an embargo which is still in place.¹⁸² At the time, this farm did not belong to the Horita Group, which acquired it in 2014. By law, embargoed areas should not be used for crops but be left to regenerate. In order to check whether the company was complying with this requirement, Earthsight analysed over 100 satellite images available on Global Forest Watch for the 2015-2023 period, especially covering the weeks between late May and

¹⁷⁶ Instituto Mãos da Terra (Imaterra), 'Desmatamentos irregulares no Cerrado baiano: uma política de Estado', July 2022, available at <https://apublica.org/wp-content/uploads/2022/08/desmatamentos-irregulares-cerrado-baiano-agronegocio-desmatou-51-mil-campos-de-futebol-de-vegetacao-nativa-no-cerrado-baiano.pdf>

¹⁷⁷ Earthsight interview with public prosecutor Eduardo Antônio Bittencourt Filho, June 2023.

¹⁷⁸ The deforestation permit, known as an ASV, issued in 2019 was a renewal of a previous permit first issued in 2015 that had expired.

¹⁷⁹ Delfin Rio failed to meet several legal requirements to be granted an ASV. For example, it could not demonstrate full control over its legal reserves because these overlapped with community lands protected by court rulings. In addition, there were unresolved environmental violations perpetrated by Delfin Rio, including a fine of BRL 210,000 against the company issued by Inema. 10Envolvimento, 'Autorização para supressão de 24.732,80 ha de vegetação nativa na Fazenda "Condomínio Cachoeira do Estrondo" – Formosa do Rio Preto', Letter sent to Public Prosecutor Eduardo Antônio Bittencourt Filho, 15 Jul 2019, copy held by Earthsight. Ibama has also issued an outstanding fine of more than BRL 3 billion against the company that are still unresolved. Ibama's Public Database, available at <https://servicos.ibama.gov.br/ctf/publico/areasembargadas/ConsultaPublicaAreasEmbargadas.php>

¹⁸⁰ The state government must be consulted ahead of deforestation permits being issued to areas that are under litigation for land grabbing. While Inema itself has acknowledged such obligation, it did not consult CDA before authorising the clearance. This is particularly egregious because the state's primary duty towards public land is its environmental conservation. Bahia's attorney general and the Public Prosecutor's Office had long insisted Inema should have sought CDA's approval before renewing the ASV. Bahia Prosecutor General's office, 'OPINION Nº PA-NPMAJ-041-2020', 17 Aug 2020, copy held by Earthsight; Associação de Advogados/as de Trabalhadores/as Rurais (AATR), 'Letter sent to the judge of the Civil Court of Formosa do Rio Preto', 9 Sep 2021, copy held by Earthsight; Bahia Public Prosecutor's Office (MPE), 'Request for Provisional Guardianship sent to the judge of Court of Formosa do Rio Preto', 30 Sep 2021, copy held by Earthsight.

¹⁸¹ According to satellite imagery provided by Global Forest Watch and analysed by Earthsight. In 2020 and 2021 Inema would, under identical circumstances, illegally authorise further deforestation of 2,500ha at Estrondo. Over 1,500ha of these were cleared before the end of 2021. Inema did not grant Earthsight's request for an interview. Another recent example of illegal deforestation at Estrondo took place in 2021, when Delfin Rio and CMOB deforested over 4,500ha of native vegetation close to the spring of the Preto River, the last remaining ecological corridor linking the Riachão River and Preto River valleys. The Preto River protected area management was never consulted ahead of this clearance. AATR, 'Letter sent to the judge of the Civil Court of Formosa do Rio Preto', 9 Sep 2021, copy held by Earthsight.

¹⁸² Ibama's Public Database, available at

<https://servicos.ibama.gov.br/ctf/publico/areasembargadas/ConsultaPublicaAreasEmbargadas.php>

late August when most of the harvest takes place and cotton is easily visible as the white bolls are fully open. The analysis reveals that the Horita Group grew cotton on Lote 16's embargoed area in at least four years (2017, 2018, 2021 and 2023) since it acquired the property, which is in violation of the embargo.

In August 2014, Inema found 25,153ha of illegal deforestation on farms leased by the Horita Group at Estrondo. These were within the 49,000ha illegally authorised by Ibama agents years earlier.¹⁸³ In 2020 Inema indicated it could not find permits for 11,700ha of deforestation carried out between 2010 and 2018 at farms operated by the group at Estrondo.¹⁸⁴

In fact, despite exhaustive searches and unanswered Freedom of Information requests submitted to Inema, Earthsight could find almost no deforestation permits, known as ASVs, issued to the Horita Group and its affiliated companies.¹⁸⁵ This indicates that permits, wherever they exist, may have been requested and issued under third parties' names.¹⁸⁶ Without the permits, it is not possible to assess their legality or whether the Horita Group has complied with their terms. This is a serious blind spot because research indicates Inema has repeatedly issued irregular ASVs over the last decade and a half.¹⁸⁷

Between 2002 and 2019 the Horita Group's owners were fined a total of nearly BRL22 million (\$4.5 million) by Ibama due to environmental violations in western Bahia.¹⁸⁸ Asked by Earthsight about these fines (which are directed at the specific individuals, not the corporate group, as is commonly the case in Brazil),¹⁸⁹ the Horita Group told Earthsight "practically all fines [...] have been ruled unsubstantiated." It did not make clear to which fines it referred. Earthsight analysis of Ibama's public database reveals that at least two thirds of the fines either remain in force or were paid, confirming their validity.¹⁹⁰

Outside Estrondo, the company's Timbauba farm in the municipality of Luis Eduardo Magalhães has been the target of not one, but two Ibama embargoes. Both were imposed in April 2018 on the farm's two runways used for the aerial spraying of pesticides and other agrichemicals, indicating irregularities in this practice.¹⁹¹ Flight data analysed by Earthsight show at least 10 landings on and

¹⁸³ The Horita Group, however, did not have to deal with the consequences. Inema fined CMOB nearly \$8mi for this illegality as the area fell within its portion of Estrondo. CMOB eventually managed to reduce the fine to an irrisory amount of \$39,000, equivalent to \$1.6 per hectare of illegally deforested Cerrado vegetation. Analysis done by 10Envolvimento shows that between August 2014 (when the original fine was issued) and June 2021 (when the reduced fine was paid) the Horita Group had at least seven harvests on the farm in question. Using conservative soy price and productivity averages for this period, 10Envolvimento reckons the Horita Group accrued over \$50mi in revenues from soy grown on the area that was illegally cleared. Mayr, M., 'Multa irrisória – lucro estrondoso', GGN, 27 Nov 2021, available at <https://jornalggn.com.br/opiniaio/multa-irrisoria-lucro-estrondoso-por-martin-mayr/>. The amounts in USD were calculated using historical conversion rates from Oanda Currency Converter.

¹⁸⁴ In total Inema could not find permits for over 20,000ha of deforestation carried out within Estrondo between 2008 and 2020. Inema, 'Análise Espacial e Temporal de Cadastros de Imóveis Cefir - Agronegócio Condomínio Cachoeira do Estrondo', Technical Report COTIC, 13 Jul 2020, copy held by Earthsight.

¹⁸⁵ Except for one ASV issued in 2014 for the deforestation of 900ha at the Fêmeas farm, a property in São Desidério. The Horita Group did not respond to Earthsight's questions about its ASVs.

¹⁸⁶ When questioned about this, the Horita Group simply told Earthsight the permits are made publicly available by the relevant authorities.

¹⁸⁷ Research published by the Tamo de Olho project, a joint initiative run by the Instituto Mãos da Terra (Imaterra), Rede Cerrado, Instituto Cerrado, WWF Brasil and Instituto Sociedade, População e Natureza (ISPAN), available at <https://tamodeolho.org.br/>

¹⁸⁸ Twenty one fines issued against Walter Yukio Horita and Ricardo Lhossuke Horita for violations committed on the group's farms in São Desidério, Barreiras, Luis Eduardo Magalhães and Correntina. Ibama's Public Database, available at <https://servicos.ibama.gov.br/ctf/publico/areasembargadas/ConsultaPublicaAreasEmbargadas.php>. The amount in USD was calculated using historical conversion rates from Oanda Currency Converter, and then converted to current value equivalent.

¹⁸⁹ Some of the Horita Group's farms are registered under companies' names while others are registered under the names of the group's owners or other individuals. As such, it is to be expected that fines and embargoes against some of these properties are issued to individuals rather than companies.

¹⁹⁰ Ibama's Public Database, available at

<https://servicos.ibama.gov.br/ctf/publico/areasembargadas/ConsultaPublicaAreasEmbargadas.php>

¹⁹¹ Ibama's Public Database, available at

<https://servicos.ibama.gov.br/ctf/publico/areasembargadas/ConsultaPublicaAreasEmbargadas.php>

take offs from these runways between May 2021 and July 2023,¹⁹² in breach of the embargoes. Timbauba, a 16,000-ha farm, is one of the company's properties that grow cotton.

In comments sent to Earthsight, the Horita Group acknowledged these two embargoes, but argued the use of the runways had been legal. It pointed to an environmental license it received for one of them in August 2023 – it is not clear who issued this license – and its expectation that another license for the second runway would be issued by the municipal authority at any moment. The company did not explain how these licenses retroactively authorised it to use the embargoed runways.

The cases highlighted above illustrate a history of environmental infractions, disrespect for the law and destruction of Cerrado vegetation. Based on our analyses of Horita's past and present farms in western Bahia – including properties leased or owned by the group – Earthsight estimates the company has cleared at least 30,000ha of native vegetation over the last 20 years.¹⁹³ This is a conservative estimate. It is more probable the group is responsible for 50,000 or even 60,000ha of native Cerrado deforestation in western Bahia this century.¹⁹⁴

The difficulty in precisely assessing the group's links to deforestation lies in the complex ways in which it has acquired, leased or sold myriad properties over the decades. Registration of land titles in Bahia is incredibly murky and hard to trace due to the widespread use of obscure frontmen and other manipulative methods commonly adopted by agribusiness, as vividly demonstrated by the land grabbing cases described above.¹⁹⁵

It is striking that, while the Horita Group itself admits to growing large-scale crops in western Bahia since the mid-1980s,¹⁹⁶ the 104 land title records related to the company identified and analysed by Earthsight indicate Horita only acquired its first farm in the region in 1999, with most registrations dating from post-2004.¹⁹⁷ Despite exhaustive searches of property records and notary data, Earthsight was not able to identify land titles for more than 30 of the company's apparent properties in western Bahia. In addition, only about a third of the land titles we analysed contained dates of acquisition of the properties.

It is impossible to say how much of the deforestation at Horita's farms was legal, but easy to understand that none of it is sustainable for the long-term conservation of the Cerrado and its biodiversity, or the livelihoods of traditional communities. The Horita Group says it does not have a single hectare in contravention of environmental legislation. It asserts it has proved the legality of its activities in relation to all sanctions imposed by environmental agencies. However, the public record discussed above in relation to fines and embargoes shows the company has a long history of breaking the law. This evidence is hard to dismiss.

¹⁹² The runways are part of the SNTV Airport, whose landings and take offs can be consulted at <https://www.flightaware.com/live/airport/SNTV>

¹⁹³ Analysis based on deforestation data provided by Prodes, a service run by Brazil's Space Institute, Inpe. The analysis is also based on Earthsight's research of the Horita Group's properties in western Bahia, which included consultations of rural property databases maintained by Brazil's National Institute for Colonization and Agrarian Reform, Incra (Sigef and SNCI), the Cefir (CAR) database, and notary records. The 30,000ha figure is the total Earthsight can more accurately link to the Horita Group after analysing the dates the properties were acquired or sold by the company (for those for which this type of information is available).

¹⁹⁴ Prodes data shows that farms that at some point have belonged to or been operated by the Horita Group are linked to over 79,000ha of deforestation in the 2001-2022 period. However, part of this took place in the years before or after the company held some of these properties, according to land registration data accessed by Earthsight, which included information available at Incra's databases (Sigef and SNCI), Cefir (CAR) data, and notary records.

¹⁹⁵ For several land titles linked to the Horita Group and analysed by Earthsight it was almost impossible to clearly determine a property's history of ownership or changing boundaries. Our researchers came across cases of multiple acquisition dates registered for the same property, and land titles apparently broken up or joined together on repeated occasions.

¹⁹⁶ Horita – Empreendimentos Agrícolas, available at <http://horita.com.br/>

¹⁹⁷ According to notary data analysed by Earthsight.

SLC: when deforestation costs as much as a “traffic fine”

SLC Agrícola has a similarly striking history of deforestation in western Bahia. The company has been named one of the top deforesters in the Cerrado.¹⁹⁸ SLC’s Piratini, Palmares and Parceiro farms, all of which grow cotton, lost at least 40,000ha of native Cerrado vegetation in the last 12 years.¹⁹⁹

Although SLC told Earthsight it has not cleared any areas since 2020 and adopted a zero-deforestation policy in 2021, under which it commits to not converting any native vegetation into crops, a report by Aidenvironment reveals the company cleared 1,365ha of native vegetation at its Palmares farm in September 2022. About half of this loss (700ha) was registered on the farm’s legal reserves.²⁰⁰

Satellite images analysed by Earthsight reveal a pattern of fires and forest loss within areas zoned for conservation inside SLC cotton farms²⁰¹ almost every year between 2012 and 2023.²⁰² A group of SLC properties in Formosa do Rio Preto known as Parceiro, which grows cotton, lost an estimated 1,000ha of legal reserves and other protected areas to fires and deforestation between 2014 and 2021.²⁰³

Repeated occurrences of vegetation loss in these areas strongly indicate violations of environmental laws that demand companies preserve their legal reserves and other types of protected areas.^{204,205}

SLC Agrícola told Earthsight the fires were not caused by the company but were the result of natural processes.²⁰⁶

Ibama has fined the company over BRL1.2 million (US\$250,000) since 2008 for environmental infractions committed at its cotton farms in western Bahia.²⁰⁷ However, this does not seem to trouble some of SLC’s shareholders. The company has several foreign investors, including Odey Asset

¹⁹⁸ Chain Reaction Research, ‘Key Cerrado Deforesters in 2020 Linked to the Clearing of More Than 110,000 Hectares’, 30 Mar 2021, available at <https://chainreactionresearch.com/report/cerrado-deforestation-2020-soy-beef/>

¹⁹⁹ Mighty Earth, ‘Soy and Cattle, Report 2’, Rapid Response, Jul 2019, available at https://www.mightyearth.org/wp-content/uploads/Rapid-Response_Soy-and-Cattle_Report-2.pdf; Mighty Earth, ‘Soy and Cattle, Report 21’, Rapid Response, Feb 2021, available at https://www.mightyearth.org/wp-content/uploads/RR_Report_2169.pdf; Chain Reaction Research, ‘Foreign Farmland Investors in Brazil Linked to 423,000 Hectares of Deforestation’, Dec 2018, available at <https://chainreactionresearch.com/wp-content/uploads/2018/12/Foreign-Farmland-Investors-in-Brazil-Linked-to-423000-Hectares-of-Deforestation-1.pdf>; Chain Reaction Research, ‘SLC Agrícola: Planned Deforestation Could Contradict Buyers’ ESG Policies’, 29 Oct 2018, available at <https://chainreactionresearch.com/report/slc-agricola-planned-deforestation-could-contradict-buyers-esg-policies/>; Chain Reaction Research, ‘SLC Agrícola: Cerrado Deforestation Poses Risks to Revenue and Farmland Assets’, 18 Sep 2017, available at <https://chainreactionresearch.com/wp-content/uploads/2017/09/slc-agricola-company-profile-18092017-1.pdf>; Chain Reaction Research, ‘The Chain: SLC Agrícola Moves Forward with Clearing 5,200 Hectares of Native Vegetation’, 17 Apr 2020, available at <https://chainreactionresearch.com/the-chain-slc-agricola-moves-forward-with-clearing-5200-hectares-of-native-vegetation/>; Chain Reaction Research, ‘The Chain: Wildfires Rage on SLC Agrícola Farm’, 8 Oct 2020, available at <https://chainreactionresearch.com/the-chain-wildfires-rage-on-slc-agricola-farm/>; Ibama’s Public Database, available at <https://servicos.ibama.gov.br/ctf/publico/areasembargadas/ConsultaPublicaAreasEmbargadas.php>

²⁰⁰ Aidenvironment, ‘Soy and cattle supply chains Amazon & Cerrado biomes – Brazil’, Realtime Deforestation Monitoring System – Special analysis of FIRE events, Nov 2022, available at https://aidenvironment.org/wp-content/uploads/2022/11/LIFE_RDM_Report_7_Nov_2022.pdf

²⁰¹ These protected areas include not only legal reserves, but also other types of areas farms must conserve under Brazilian legislation, such as APPs (Permanent Protection Areas), vegetation near springs, riverbanks and other types of water bodies, vegetation on slopes, veredas and more.

²⁰² In fact, all forest loss between 2013 and 2022 on the Palmares II/Califórnia farm appears to have taken place on the property’s legal reserve according to Earthsight analyses of satellite images available at Global Forest Watch.

²⁰³ Earthsight analyses of forest loss and fire data available at Global Forest Watch.

²⁰⁴ Law 6.938/81, Articles 14 and 15, available at <https://www2.camara.leg.br/legin/fed/lei/1980-1987/lei-6938-31-agosto-1981-366135-norma-actualizada-pl.pdf>

²⁰⁵ Similar to other large agribusinesses in western Bahia, SLC has located several of its legal reserves away from the farms to which they are related. The Novo Horizonte property, for example, was entirely cleared between 2016 and 2018, leaving no apparent legal reserve at the farm itself according to Earthsight analyses of satellite images available at Global Forest Watch. SLC says it keeps legal reserves above the minimum required by law and in accordance with regulations that allow the location of reserves away from their farms.

²⁰⁶ SLC also listed the measures it adopts to prevent and control such fires. See SLC’s full statement [here](https://www.slc.com.br/pt-br/assuntos/relatorio-anual-2022).

²⁰⁷ Ibama’s Public Database, available at

<https://servicos.ibama.gov.br/ctf/publico/areasembargadas/ConsultaPublicaAreasEmbargadas.php>. The amount in USD was calculated using historical conversion rates from Oanda Currency Converter, and then converted to current value equivalent.

Management, owned by Crispin Odey, one of the biggest funders of the Brexit campaign in the UK. The British investor has claimed that SLC Agrícola's environmental infractions cost him as much as a “traffic fine.”²⁰⁸ SLC said it has appealed against all Ibama fines and is awaiting final rulings.

Global brands fail to act

Industrial-scale destruction of the Cerrado – often made possible by state complicity but at other times downright illegal – has happened for a reason. Commodities grown on this land find easy access to profitable, eager markets abroad.²⁰⁹ Cotton is a prime example. Large producers in western Bahia have accumulated land, wealth and political power thanks, in part, to the boom in Brazilian raw cotton exports over recent decades.²¹⁰

As we shall see, big European-owned retail houses are helping fuel this destruction with their relentless hunger for cotton. Consumers are likely unaware of how their clothes, towels and bed sheets contribute to the misery wreaked upon local communities and wildlife in Brazil's Cerrado. But the hidden supply chains moving Horita and SLC cotton all the way to shoppers in Europe can be exposed. They reveal a dramatic truth about the failure of European brands to fully understand and address their links to Brazil's dirty cotton.

Chapter 4: The Western connection

Tracing the threads to the world's largest fashion retailers

For this report Earthsight obtained and painstakingly analysed thousands of shipment records, as well as information made available by Asian textile manufacturers,²¹¹ lists of suppliers published by major Western retailers and fashion brands,²¹² and other sources.²¹³ Our investigators also went undercover at Brazil's second largest agribusiness trade show and at textile fairs in Europe posing as foreign investors.²¹⁴ The investigation revealed a stark reality: cotton tainted by the deforestation, land grabbing and violence against traditional communities we documented in Bahia is ending up in the supply chains of the world's two largest fashion retail chains: Zara and H&M.²¹⁵

Using the available shipment records, Earthsight was able to trace 816,000 tonnes of direct cotton exports from the two controversial cotton producers in Bahia at the heart of this report, Horita Group and SLC Agrícola, to foreign markets between 2014 and 2023.^{216,217} Other data suggest that the true total exports of the two firms during that period was well over 1.5 million tonnes, with the difference exported via intermediaries. For example, SLC claimed to be responsible for 11 per cent of

²⁰⁸ Fletcher L. and Gross, A., ‘Odey defends Brazil firm's breaches as ‘a parking fine’’, Financial Times, 11 May 2021, available at <https://on.ft.com/2WHVidC>

²⁰⁹ Brasil 61, ‘Região do Matopiba é a fronteira agrícola que mais cresce no Brasil’, 23 Feb 2023, available at <https://brasil61.com/n/regiao-do-matopiba-e-a-fronteira-agricola-que-mais-cresce-em-area-plantada-em-todo-o-brasil-atualmente-bras237901>

²¹⁰ Bahia Econômica, ‘Algodão do Cerrado baiano alcança qualidade premium’, 28 Jun 2021, available at <https://bahiaeconomica.com.br/wp/2021/06/28/algodao-do-cerrado-baiano-alcanca-qualidade-premium/>

²¹¹ The websites of several of the Asian manufacturers highlighted in this report have information on the fashion brands that buy their products.

²¹² H&M publicly names its suppliers.

²¹³ Including specialist fashion websites, textile industry publications and the Open Supply Hub platform (<https://opensupplyhub.org/>)

²¹⁴ In Brazil, our researchers went to the Bahia Farm Show, which took place in Luís Eduardo Magalhães, Bahia, in June 2023. In Europe, we visited the Heimtextil trade fair in Frankfurt, Germany, in January 2023, and Texworld in Paris in February 2023.

²¹⁵ Statista, ‘Sales of major apparel manufacturers and retailers worldwide in the fiscal year 2022’, 2023, available at <https://www.statista.com/statistics/242114/sales-of-the-leading-10-apparel-retailers-worldwide/>

²¹⁶ According to shipment records for Brazilian exports for the 2014-2023 period.

²¹⁷ This is almost certainly an underestimate because part of Horita's cotton production is exported by traders, according to information shared with Earthsight by a Horita Group employee in June 2023.

Brazil's exports in 2019/20 – suggesting total exports in the region of 228,000 tonnes. But we were only able to trace 80,320 tonnes that year.

China, Vietnam, Indonesia, Turkey, Bangladesh and Pakistan, we found, are the main destinations of SLC and Horita's exports.²¹⁸ A large portion of the shipments identifiable as from SLC or Horita were to middlemen – raw material traders, or firms only producing yarn but not finished goods – or to countries (such as China) where export shipment records are not available. Both things led to investigative dead-ends. In those cases where we were able to trace the tainted cotton to clothing manufacturers in Asia and onwards from there to end markets, however, again and again we found that those Asian firms were supplying finished cotton goods to numerous well known Western retailers – including millions of items to Zara and H&M.^{219,220}

Headquartered in Spain, Zara is owned by the Inditex Group, which also owns fashion brands Pull&Bear, Bershka, Massimo Dutti, Stradivarius and Zara Home.²²¹ Inditex and Sweden's H&M are the largest fashion groups in the world with a combined profit of around US\$41 billion in 2022.^{222,223} They are almost everywhere, from Latin America to the US and Europe. Leaders in the fast fashion sector, H&M has 4,399 shops around the world while Zara and other Inditex brands have 5,815.^{224,225}

The rise of 'fast fashion' in recent decades has been highly controversial due to its large environmental footprint and wastefulness.²²⁶ Relying on low prices, large sale volumes and mass production, this business model replicates styles from fashion shows and delivers them at cheaper prices. New collections released every few weeks keep shoppers hooked. H&M offers up to 16 clothing collections each year, while Zara provides 24.²²⁷ The global retail giants are among the world's largest cotton consumers.

We identified eight Asian clothing manufacturers using Horita and SLC cotton while at the same time supplying one or both of the big retailers with finished cotton garments.²²⁸

The largest customer for the tainted cotton in recent years, our analysis revealed, is an Indonesian firm, PT Kahatex. Over the last decade, Kahatex has been among the five largest consumers of Brazilian cotton in the world.²²⁹ Brazil is the largest source of cotton for the Indonesian garment industry, in which Kahatex is a dominant player.²³⁰ Almost a third of the cotton the firm uses is imported from Brazil.²³¹ Between 2015 and 2023, we found, this included at least 15,200 tonnes of

²¹⁸ According to shipment records for Brazilian cotton exports for the 2014-2023 period. These six countries represent 85 per cent of all the SLC and Horita exports we were able to identify in the records.

²¹⁹ The manufacturers are: Interloop Limited, Masood Textiles, Nishat Mills, Sapphire Group, Yunus Brothers Group, PT Kahatex, Jamuna Group and Noman Group.

²²⁰ Both Inditex and H&M confirmed to Earthsight these Asian manufacturers supply finished goods to them.

²²¹ Inditex Group, available at <https://www.inditex.com/itxcomweb/en/home>

²²² Retail Insight Network, 'Zara owner Inditex reports 17% rise in gross profit for FY22', 16 Mar 2023, available at <https://www.retail-insight-network.com/news/inditex-2022-results/>

²²³ Retail Insight Network, 'H&M registers 12% rise in full-year net sales for fiscal 2022', 27 Jan 2023, available at <https://www.retail-insight-network.com/news/hm-sales-2022/>

²²⁴ H&M Group, 'Markets and Expansion', available at <https://hmgroupp.com/about-us/markets-and-expansion/>

²²⁵ Inditex Group, 'Group Annual Report 2022', available at https://static.inditex.com/annual_report_2022/pdf/Inditex-group-annual-report-2022.pdf

²²⁶ Princeton Student, 'The impact of fast fashion on the environment', Princeton University, July 2020, available at <https://psci.princeton.edu/tips/2020/7/20/the-impact-of-fast-fashion-on-the-environment>

²²⁷ European Parliament, 'Textiles and the environment', p. 2, available at [https://www.europarl.europa.eu/RegData/etudes/BRIE/2022/729405/EPRS_BRI\(2022\)729405_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2022/729405/EPRS_BRI(2022)729405_EN.pdf)

²²⁸ Interloop Limited, Nishat Mills and Noman Group supply both Inditex and H&M. PT Kahatex supplies H&M. Sapphire Group, Yunus Brothers Group, Jamuna Group and Masood Textiles supply Inditex.

²²⁹ According to shipment records for Brazilian cotton exports for the 2014-2023 period.

²³⁰ Ibid

²³¹ Ibid

cotton from Horita and SLC in Bahia.²³² The data show that Horita and SLC are supplying at least 4 per cent, and possibly as much as 29 per cent, of all Kahatex’s global imports of raw cotton.²³³

Individual shipment records for exports of clothing from Indonesia in turn reveal that H&M is Kahatex’s second largest customer, accounting for 29 per cent of the Indonesian firm’s clothing exports.²³⁴ H&M stores in the EU, we found, imported 74 million pairs of cotton socks made by Kahatex in the year to September 2021, including 16 million to Germany.²³⁵ H&M imported 1,041,113 hoodies, 699,809 pairs of shorts and 654,401 pairs of trousers from Kahatex in the EU as well.²³⁶ H&M stores in the US received 7.9 million pairs of Kahatex socks, and those in the UK 3.9 million.²³⁷ Based on average retail prices of relevant products in the UK in October 2023, H&M is selling £366 million of Kahatex-made cotton clothing every year (€419m; USD444m).²³⁸

Buried in the webpages for individual products sold by H&M is information on the manufacturer of each. Scraping this data, we were able to confirm that among the many products made by Kahatex and sold in H&M stores in multiple countries²³⁹ are its highly promoted 10-packs of men’s plain cotton socks.²⁴⁰ Kahatex is also a listed supplier of the relaxed fit sweatshirt.²⁴¹

Another Asian manufacturer acting as a conduit for the tainted goods is the Jamuna Group, one of Bangladesh’s largest industrial conglomerates.²⁴² Almost two-thirds of Jamuna’s garment exports are to Inditex Group companies.²⁴³ Since at least 2018, the company has produced jeans and other denim clothing for Zara, Bershka and Pull&Bear, which enter Europe through Spain and the Netherlands.²⁴⁴ Shipment records for Zara list the importer as Inditex; those for the other two brands identify them specifically. Between 2017 and 2023, the Jamuna Group directly imported at least 7,010 tonnes of cotton produced by SLC and Horita in western Bahia.²⁴⁵ SLC and Horita supplied between 4 and 14 per cent of Jamuna’s entire global imports of raw cotton during 2023.²⁴⁶

In the year to August 2023, meanwhile, our research shows, Zara stores in Europe sold €235 million’ worth of jeans and other denim clothes, which are made with cotton, manufactured by Jamuna in

²³² Ibid

²³³ Based on Indonesian import shipment records for Kahatex imports of raw cotton for October 2020 to September 2021 (the most recent data available). Four per cent of these imports could be confirmed as originating from SLC or Horita in Brazil; a further 25 per cent were from Brazil and supplied by middleman traders, so the actual Brazilian producer is hidden. We know that a large but unknown proportion of exports by those traders also come from SLC or Horita (see report text, which explains that around half of SLC/Horita’s exports pass through such middlemen).

²³⁴ According to shipment records for the year to September 2021 (the most recent data available).

²³⁵ Ibid

²³⁶ Ibid

²³⁷ Ibid

²³⁸ We checked the range of H&M’s UK retail prices for the various categories of products that are specified on shipment records (for example, hoodies, socks, trousers, etc.) and worked out an average retail price for the products in each category (again, hoodies, socks, trousers, etc.). We reached the estimate presented here by multiplying the average retail price of a category of product for sale in the UK by the number of items of each category shown as exported to H&M in the shipment records. Retail prices were obtained in October 2023. Totals have been converted to Euros and US dollars using interbank exchange rates as of 31 October 2023.

²³⁹ The first five national sites checked (Spain, Germany, Italy, UK, USA) all sold the 10-pack socks, suggesting that they are widely sold globally.

²⁴⁰ See, for example, the product listed on H&M’s Italy website at https://www2.hm.com/it_it/productpage.1060473011.html. By clicking on ‘Materiali & fornitori’ and again on ‘Informazioni sul fornitore’ it is possible to see the list of suppliers for this product. The same information appears for this product on the H&M websites in the UK, Spain, Germany and the USA.

²⁴¹ See the product listed on H&M’s Spain website at https://www2.hm.com/es_es/productpage.0970818003.html. By clicking on ‘Materiales & proveedores’ and again on ‘Información del proveedor’ it is possible to see the list of suppliers for this product.

²⁴² Jamuna Group, available at <https://jamunagroup.com.bd/>

²⁴³ According to shipment records for Bangladesh exports during 2023.

²⁴⁴ According to shipment records for Bangladesh exports.

²⁴⁵ Ibid

²⁴⁶ Based on Bangladesh import shipment records for Jamuna imports of raw cotton for January to December 2023. Four per cent of these imports could be confirmed as originating from SLC or Horita in Brazil; a further 10 per cent were from Brazil and supplied by middleman traders, so the actual Brazilian producer is hidden. We know that a large but unknown proportion of exports by those traders also come from SLC or Horita (see report text, which explains that around half of SLC/Horita’s exports pass through such middlemen).

Bangladesh – approximately 21,500 pairs a day.²⁴⁷ Unlike H&M, Zara does not identify manufacturers of individual products on its website, but it does list the country of manufacture. Where items are confirmed there as Bangladesh-made, it is possible using wider Bangladesh export shipment records and product descriptions therein to nevertheless identify specific Jamuna-produced goods sold by Zara. This includes top-promoted men’s cropped slim fit jeans,²⁴⁸ and women’s straight-fit high-waist long length jeans, which also retail for the bargain price of €29.95.^{249,250}

An even larger volume of raw cotton (at least 15,600 tonnes between 2015 and 2023) from SLC and Horita in Brazil was imported by another Bangladeshi firm, Noman Group, which supplies both Zara Home *and* H&M.²⁵¹

Five textile manufacturers in Pakistan that supply H&M and Zara have also imported thousands of tonnes of cotton harvested in western Bahia by Horita and SLC.²⁵² At textile trade fairs in Frankfurt and Paris in January and February 2023, Earthsight’s undercover investigators talked to representatives from these companies, who confirmed that they supply the two big retail chains.

In those cases in which H&M’s most basic men’s cotton socks were not made by Kahatex, our research revealed they were probably made by another SLC/Horita customer, Pakistani firm Interloop.²⁵³ One of its directors told Earthsight’s undercover investigators that the Swedish group is Interloop’s largest customer.²⁵⁴ Shipment records confirm that Interloop shipped some 30 million pairs of cotton socks to H&M in 2023, with the largest destinations being stores in Germany, Sweden, USA, Belgium, Spain, UK, Italy and the Netherlands. It shipped 350,000 pairs of women’s denim jeans to Inditex the same year.²⁵⁵ Between 19 and 42 per cent of Interloop’s total imports of raw cotton, worldwide, came from SLC or Horita in Brazil, Pakistani import shipment records show.²⁵⁶

In comments sent to Earthsight, Inditex confirmed it sources finished goods from the Asian manufacturers identified in this investigation, but said that, “according to suppliers’ information,” those firms do not directly purchase cotton from any Brazilian producer. The company did not provide any evidence to substantiate this claim, which runs counter to the hard evidence obtained by Earthsight: individual shipment records for each and every shipping container, with individual code numbers, showing the number of cotton bales in each, the name of the supplier and the identity of the customer.

Similarly, Interloop also denied directly importing cotton from SLC or the Horita Group. Kahatex simply stated it purchases cotton from “global commodity trading houses.”²⁵⁷ Both companies

²⁴⁷ According to shipment records for Bangladesh exports. Total retail value calculated from numbers of units, based on typical retail prices per unit for the identified products.

²⁴⁸ See the product listed at <https://www.zara.com/es/en/cropped-slim-jeans-p08062475.html?v1=267195309&v2=2297970>

²⁴⁹ We reached this estimate by multiplying the retail price of a typical item for sale in the UK by the number of items of each type shown as exported to Zara in the shipment records for Bangladesh exports. Retail price was obtained in September 2023.

²⁵⁰ See the product listed at <https://www.zara.com/es/en/z1975-straight-fit-high-waist-long-length-jeans-p07147228.html?v1=308695716&v2=2291201>. Retail price was checked in November 2023.

²⁵¹ According to shipment records for Brazilian cotton exports and for Bangladesh exports.

²⁵² According to shipment records for Brazilian cotton exports.

²⁵³ Supplier information for the 10-pack of men’s plain cotton socks on the H&M website reveals these are produced by three different companies, including Kahatex in Indonesia, Interloop in Pakistan, and a third company in Turkey.

²⁵⁴ An Interloop director present at Texworld, Paris, told Earthsight: “H&M is our largest client.”

²⁵⁵ According to shipment records for Bangladesh exports January 2023 to December 2023.

²⁵⁶ Based on Pakistan import shipment records for Interloop imports of raw cotton for January to December 2023. 19 per cent of these imports could be confirmed as originating from SLC or Horita in Brazil; a further 23 per cent were from Brazil and supplied by middleman traders, so the actual Brazilian producer is hidden. We know that a large but unknown proportion of exports by those traders also come from SLC or Horita (see report text, which explains that around half of SLC/Horita’s exports pass through such middlemen).

²⁵⁷ Letters sent to Earthsight, August 2023.

highlighted a number of cotton certification schemes they rely on as proof of legality and sustainability. The Jamuna Group and the Noman Group did not respond to Earthsight's requests for comment.

H&M, on the other hand, did not deny the trade links between its suppliers in Asia and the Horita Group and SLC (which undermines Inditex's claim, since H&M and Inditex share several of these suppliers). The company instead emphasised it has a "long-standing commitment to source raw materials responsibly [...] while also supporting local communities and ecosystems."

Investigation launched

How did these big retailers end up with supply chains tainted with Brazilian cotton linked to deforestation and land grabbing? Part of the answer lies in the fact that their ethical policies are full of holes.²⁵⁸ More importantly though, the ethical supply chain system they rely on is fundamentally flawed.

When it comes to ensuring their cotton is ethically sourced, both companies rely on using cotton supplied by farmers certified by Better Cotton, the world's best known sustainable cotton certification scheme. All of H&M's cotton is already Better Cotton-certified (or, to a much lesser extent, organic certified).²⁵⁹ More than 90 percent of Inditex's cotton was already BC (81 per cent), recycled (6 per cent) or organic (4 per cent) by 2022.²⁶⁰ The firm expected to reach 100 per cent BC or organic cotton in 2023.²⁶¹ H&M is one of Better Cotton's founding members, and until recently was represented on its governing council.²⁶² The two firms are by far the largest users of BC-certified cotton on the planet; Inditex alone consumed 205,000 tonnes of it in 2022.²⁶³

Responding to Earthsight's findings in advance of publication, Inditex said land grabbing and deforestation "should not be allowed under any circumstances," and highlighted Better Cotton's requirements on respect for the rights of indigenous peoples and local communities.

²⁵⁸ Despite touting a series of commitments on healthy workplaces, resilient ecosystems and animal welfare, H&M's Human Rights Policy makes no reference to traditional communities, land grabbing or land conflicts. Land rights are only superficially mentioned in its Salient Human Rights Issues 2021 (H&M Group 'Salient Human Rights Issues', available at <https://hmgroup.com/wp-content/uploads/2023/03/HM-Group-Salient-Human-Rights-Issues-2022.pdf>). It is worth noting that land grabbing and communities' rights violations are not new to H&M. A 2014 complaint alleged the company had used cotton produced on land grabbed in Ethiopia. (SvD Naringsliv, 'H&M-partner anklagas for landgrabbing', 10 Nov 2014, available at <https://www.svd.se/a/65f9c239-9fce-3e48-8d63-a6598f749114/hm-partner-anklagas-for-landgrabbing>). H&M's Code of Ethics says: "The company does not tolerate bribery in any form and is committed to a solid anti-corruption programme" (H&M Group, 'Code of Ethics', available at <https://hmgroup.com/wp-content/uploads/2020/10/Code-of-Ethics-Business-Partners-1.pdf>). The commitment is mandatory for business partners who supply it with goods and services. It is not clear whether this applies to raw material suppliers. The company did not answer Earthsight's questions about its anti-corruption policies or the land grabbing case in Ethiopia. Inditex is even more ambiguous in its environmental commitments. Its Biodiversity Strategy states the company works with raw material suppliers to encourage land management practices that protect biodiversity. While the group boasts of not buying, renting, or managing land in or adjacent to protected areas or areas of high biodiversity value, it is not clear whether the company expects its suppliers to do the same (Inditex Group, 'Biodiversity Strategy', available at https://www.inditex.com/itxcomweb/api/media/069a661f-6de0-4bfe-94cc-76c1475db6a5/inditex_biodiversity_strategy.pdf?t=1655306523402). Inditex's Policy on Human Rights says the company respects local communities' rights where it conducts its business activities. It doesn't clarify if it requires similar policies from its raw material suppliers. Inditex Group, 'Policy on Human Rights', available at https://www.inditex.com/itxcomweb/api/media/7e50ddce-a4de-4d51-9ab0-f7c248d23656/inditex_policy_on_human_rights.pdf?t=1655306506255.

²⁵⁹ H&M Group, 'Sustainability Disclosure 2022', p. 44, available at <https://hmgroup.com/wp-content/uploads/2023/03/HM-Group-Sustainability-Disclosure-2022.pdf#page=43>

²⁶⁰ Inditex Group, 'Annual Report 2022', p. 189, available at https://static.inditex.com/annual_report_2022/pdf/Inditex-group-annual-report-2022.pdf

²⁶¹ Ibid

²⁶² Better Cotton, 'Annual Reports 2020 to 2022-3', available at <https://bettercotton.org/who-we-are/annual-report/>. The reports show H&M were represented on the Council until they stepped down in June 2022. Better Cotton, '2022-23 Annual Report', p.26, available at <https://bettercotton.org/wp-content/uploads/2023/09/2022-23-Annual-Report.pdf>.

²⁶³ Calculated from figures in Inditex Group's Annual Report 2022, p. 188-189, which show total cotton consumption of 254,133 tonnes, and Better Cotton consumption as 80.88 per cent of total cotton consumption. Inditex Group, 'Annual Report 2022', available at https://static.inditex.com/annual_report_2022/pdf/Inditex-group-annual-report-2022.pdf

Over the years, the Better Cotton label has become a symbol of concern for the environment. Previously known as the Better Cotton Initiative (BCI), the scheme was created in Switzerland almost 20 years ago. Auditors for the scheme are meant to check that minimum requirements are met on working conditions in farms and factories, as well as environmental protection during cotton production, including reducing water and pesticide use and protecting soils and biodiversity.²⁶⁴

In Brazil, the Responsible Brazilian Cotton (ABR) programme, run by the Brazilian Cotton Producers' Association (Abrapa), operates under a benchmarking agreement with Better Cotton. In effect, this means Better Cotton and Abrapa's ABR are granted as a single certification to Brazilian cotton farmers.²⁶⁵

Brazil produces the world's largest amount of Better Cotton-licensed fibre. The country accounts for 42 per cent of the global certified volume, with over 2 million tonnes in 2022.²⁶⁶

But there is one rather glaring problem with all this: the cotton we linked to land rights and environmental abuses in Bahia is Better Cotton-certified. The scheme patently failed to prevent this cotton reaching concerned consumers. Those involved don't seem to agree on just how much of the cotton concerned is certified. Horita and SLC claim all their production is certified;²⁶⁷ Better Cotton told us the firms have a total of only three certified farms at present, but Abrapa says 14 of these companies' farms in Bahia are certified.²⁶⁸ Without doubt several of the farms are certified. The SLC cotton fields linked to Capão do Modesto where we documented wrongdoing, for example, and Horita's Centúria farm at Estrondo, are certified according to all parties.²⁶⁹

This state of confusion should not perhaps be surprising, as Better Cotton has repeatedly been shown to be deeply flawed. Indeed, the certification scheme has been plagued by accusations of greenwashing and criticised for not allowing for full traceability of supply chains and not addressing human rights violations.^{270,271} Past analyses indicate the label cannot be seen as a guarantee of environmental or social responsibility.²⁷²

²⁶⁴ The sustainable livelihoods was designed to support smallholders and medium farmers within the cotton farming sector. Better Cotton, 'Sustainable Livelihoods: How our new principle supports better cotton's mission to boost cotton farmers' income and resilience', available at <https://bettercotton.org/sustainable-livelihoods-how-our-new-principle-supports-better-cottons-mission-to-boost-cotton-farmers-income-and-resilience/>

²⁶⁵ Better Cotton, 'Better Cotton in Brazil (ABR)', available at <https://bettercotton.org/where-is-better-cotton-grown/better-cotton-is-thriving-in-brazil/>

²⁶⁶ Brazil Cotton, 'Sustainability', available at <https://cottonbrazil.com/sustainability/>

²⁶⁷ Notícias Agrícolas, 'O setor de algodão no Brasil: da PRODUÇÃO à EFICIÊNCIA sustentável', Jul 2023, available at <https://www.noticiasagricolas.com.br/videos/algodao/354828-o-setor-de-algodao-no-brasil-da-producao-a-eficiencia-sustentavel.html>. Livre, 'Grupo Horita comemora três anos com 100% do algodão certificado', Nov 2019, available at <https://olive.com.br/grupo-horita-comemora-tres-anos-com-100-do-algodao-certificado>. In addition, SLC Agrícola told Earthsight in a letter that 100 per cent of its cotton is BC-certified.

²⁶⁸ Abrapa, 'Unidades Produtivas certificadas ABR e licenciadas BCI', available at <https://abrapa.com.br/relatorio-de-unidades-produtivas/>. It is possible to obtain lists of certified farms by state, municipality, year and certified company by filling out the different filters.

²⁶⁹ The Horita Group and SLC told Earthsight all their cotton is certified. Better Cotton told Earthsight the two firms have a total of three farms currently certified. Abrapa, 'Relatório de Unidades Produtivas', available at <https://abrapa.com.br/relatorio-de-unidades-produtivas/> (it is possible to select the year and state to obtain lists of certified farms). It is important to note that different cotton farms belonging to the same agribusiness can be certified every year, as can be seen from Abrapa's annual lists through the link above. Both SLC and the Horita Group, for example, have had different farms in Bahia certified over the last decade. It is unclear to what extent fresh checks are done each year before farms are re-certified or new ones operated by the same agribusiness added to the list. This raises questions about the rigour of the certification process and Abrapa's capacity to run it.

²⁷⁰ Guinebault, M., 'Coton: épinglée par Cash Investigation, la Better Cotton Initiative répond', Fashion Network, 29 Nov 2017, available at https://fr.fashionnetwork.com/news/coton-epinglee-par-cash-investigation-la-better-cotton-initiative-repond.896917.html#.Wh_rGW9VE5

²⁷¹ Changing Markets Foundation, 'The false promise of certification', May 2018, available at https://changingmarkets.org/wp-content/uploads/2018/06/THE_FALSE_PROMISE_OF_CERTIFICATION_FINAL_WEB.pdf

²⁷² Peeters, E., 'BCI and the greening of cotton: an analysis of the Better Cotton aims and the impact on soil salinity in Maharashtra, India', Wageningen University, 12 Jun 2015, available at <https://edepot.wur.nl/350927>

H&M and Inditex stated they had shared Earthsight’s findings with Better Cotton, which had launched an investigation as a result. Better Cotton said it had asked Abrapa to investigate our findings since the farms in question had been certified by the Brazilian association. It stated that initial findings submitted to it by Abrapa had “not identified any non-compliance issues.” No evidence was provided to substantiate this conclusion.

Still, Better Cotton indicated it had “made the assessment that further research is required [...] in order to better understand the risks present in the region and what they could mean for credible implementation of the Standard.” Accordingly, it said it will “contract an independent auditor to run enhanced verification visits focusing on areas of risk highlighted in the report,” with the aim of having an assessment completed within 12 weeks.

The label stated that if evidence on non-compliance with its requirements is found, the Horita Group and SLC Agrícola’s licenses “will be revoked.” It acknowledged investigations such as ours “can highlight areas where the objectives outlined in the Better Cotton Standard may not be fully achieved.”

'Better' cotton?

One reason Abrapa’s initial investigation may have drawn a blank could be a simple one: it wasn’t compliance that was the problem, but the standard itself.

Of seven principles which Better Cotton currently requires companies growing cotton to follow, only one relates to biome conservation or local communities.²⁷³ Principle 4 concerns biodiversity and land use, but its relevance to the issues seen in Bahia is severely limited.²⁷⁴

Better Cotton requires that when converting native vegetation to cotton production, certified farms must follow a process designed to protect ‘high conservation values’ (HCV).²⁷⁵ Part of that includes a requirement to consult with and obtain the free, prior, informed consent (FPIC) of local communities who will be affected. But there is no requirement for a producer to demonstrate that it holds legal rights over the land under cultivation: that the land was not ‘grabbed’. There is no ban on growing BC cotton on land illegally cleared of forest before it was certified, and therefore no checks as to whether that might be the case. In fact the standard includes no requirements at all for individual certified farms to comply with relevant laws on land rights or environmental protection.

Even the limited requirements that do exist are of doubtful value because the compliance system is riddled with holes. In Better Cotton’s checklist for assessing large farms (its strictest one as smallholders get a simplified system), there are no specific indicators relating to FPIC.²⁷⁶ Auditors are simply recommended to ask the company concerned whether it has followed the standard’s requirements on High Conservation Values.²⁷⁷ It is assumed that if they haven’t, they will simply confess. And while Better Cotton members – including Horita and SLC – are required to sign a general ‘Code of Practice’, which includes a promise to “comply with all relevant legal

²⁷³ Better Cotton, ‘BCI Principles and Criteria, Version 2.1’, 1 Mar 2018, available at <https://bettercotton.org/wp-content/uploads/2019/06/Better-Cotton-Principles-Criteria-V2.1.pdf>

²⁷⁴ Ibid

²⁷⁵ According to the HCV Network, a High Conservation Value is “a biological, ecological, social, or cultural value of outstanding significance or critical importance.” They include ecosystem services, species diversity and community needs, among others. HCV Network, ‘HCV Approach’, available at <https://www.hcvnetwork.org/hcv-approach>

²⁷⁶ Better Cotton, ‘BCI Principles and Criteria, Version 2.1’, 1 Mar 2018, available at <https://bettercotton.org/wp-content/uploads/2019/06/Better-Cotton-Principles-Criteria-V2.1.pdf>

²⁷⁷ Ibid

requirements,²⁷⁸ there is no mechanism in place for checking compliance. Again, the system simply assumes that cotton companies wouldn't lie.

One result of these flaws is that it is easy for firms with many farms to simply certify the good ones alone – or to drop them from the scheme while conversion takes place, then re-certify them afterwards.

More broadly, the Better Cotton system suffers from deep conflicts of interests, especially in Brazil. Abrapa – a producers' association that exists to defend and promote the sector's interests – is in charge of the certification programme in the country.²⁷⁹ Abrapa works closely with local associations, including Bahia's producers' association Abapa.²⁸⁰ Both Abapa and Abrapa's presidents are cotton growers.²⁸¹ Luiz Carlos Bergamaschi and a member of the Horita family, alongside other large cotton producers, are part of Abrapa's councils.²⁸² The cotton producers are effectively certifying themselves.

In comments sent to Earthsight, Abrapa said it does not approve, issue or revoke ABR/Better Cotton certificates, all of which are done by third-party auditors. Abrapa emphasised it fully trusts ABR/Better Cotton's auditing independence, without providing details about how such independence is ensured. How much one can trust the various third-party auditing firms charged with actually doing the checks is anyway brought into question by their own conflicts of interest within a labelling system in which they are paid by the cotton companies, and compete for business from them.

In an almost comical twist, immediately after asserting its neutrality, Abrapa said in its response to our findings that it would “fully support the producers in legal action” against Earthsight in case our report caused them any harm. It also added the Horita Group and SLC Agrícola's comments in an annex to its own letter, verbatim.

The big retailers are a little more honest about the problems with Better Cotton. Inditex told Earthsight it “continuously collaborates with certifying organizations and other specialized third parties to enhance the quality of these standards, their requirements, their traceability tools and compliance policies.” H&M said it engages with the label's leadership to continuously review the scheme and “identify improvement needs.” The company admitted that “despite the standard owners' best efforts, violations can of course occur.”

Empty promises

H&M boasts a series of commitments to resilient ecosystems, supply chain due diligence, water conservation, anti-corruption, and local communities' land rights.²⁸³ Inditex has a Biodiversity

²⁷⁸ Better Cotton, 'Member Code of Practice', 19 Oct 2021, available at <https://bettercotton.org/wp-content/uploads/2021/08/Better-Cotton-Member-Code-of-Practice-2021.pdf>

²⁷⁹ Abrapa, 'Guia de Orientação – ABR', 2016, available at https://abapa.com.br/wp-content/uploads/2019/02/ABR_Guia-de-Orientacao_Safra_2016_2017.pdf

²⁸⁰ Abapa, 'Abapa integra a primeira missão vendedores da Abrapa/Cotton Brazil ao Paquistão', 16 Oct 2023, available at <https://abapa.com.br/noticias/abapa-integra-a-primeira-missao-vendedores-da-abrapa-cotton-brazil-ao-paquistao/>

²⁸¹ Luiz Carlos Bergamaschi is Abapa's president while Alexandre Pedro Schenkel is Abrapa's president. Abapa, 'Diretoria', available at <https://abapa.com.br/diretoria/> and Abrapa, 'Palavra do presidente', available at <https://abrapa.com.br/palavra-do-presidente/>

²⁸² Abrapa, 'Quem é quem', available at <https://abrapa.com.br/quem-e-quem/>

²⁸³ H&M Group, 'Code of Ethics', available at [https://hmgroup.com/sustainability/standards-and-policies/code-of-ethics/#:~:text=The%20Code%20of%20Ethics%20states,favours%20to%20H%26M%20Group%20employees](https://hmgroup.com/sustainability/standards-and-policies/code-of-ethics/#:~:text=The%20Code%20of%20Ethics%20states,favours%20to%20H%26M%20Group%20employees;); H&M Group, 'Human Rights Policy', available at <https://hmgroup.com/sustainability/fair-and-equal/human-rights/>; H&M Group, 'Salient Human Rights Issues', available at <https://hmgroup.com/wp-content/uploads/2023/03/HM-Group-Salient-Human-Rights-Issues-2022.pdf>; H&M Group, 'Sustainability Commitment', available at <https://hmgroup.com/sustainability/standards-and-policies/sustainability-commitment/>

Strategy to encourage sound land management by raw material suppliers,²⁸⁴ and a Policy on Human Rights that includes communities' rights.²⁸⁵

However, far from the textile fairs in Europe, the traditional communities of western Bahia are painfully aware of the empty promises made by brands that have pledged to reduce their environmental impacts. "Multinationals publicly espouse good practices and social responsibility, but deep down, when you look at [their impacts on] traditional communities, the reality is different," summarises environmentalist dos Santos.²⁸⁶

"These foreign companies should be ashamed of themselves. The whole world today buys cotton and soy tainted by land grabbing. Whoever is buying these commodities can be certain that they are stained with blood," argues Iremar Barbosa de Araújo, a schoolteacher and resident of the traditional community of Arrojelândia.²⁸⁷

The European fashion industry, despite its immense market power and financial muscle, seems either unwilling or unable to rigorously implement the necessary policies and monitoring systems that would allow it to cut any ties to land grabbing, deforestation and violations of local communities' rights. As a result, their customers are inadvertently made complicit in such abuses.²⁸⁸

Some improvements to Better Cotton's standards and procedures are under way. A new set of Principles and Criteria came into effect in March 2024.²⁸⁹ But as we will detail in the next chapter, plenty of problems remain.

If corporations cannot act of their own accord, it is urgent that governments and regulators step in. Wealthy consumer markets, including the EU, UK and US, are currently taking steps to do just that. However, as we will see in the next chapter, while certain sectors are either being regulated or soon expected to be so, cotton and the textile industry are largely being let off the hook.²⁹⁰ This must change.

Chapter 5: What must be done?

Consumer country regulation

In terms of pressure on land, and the human and ecological consequences, EU consumption of textiles is second only to consumption of food.²⁹¹ Almost all of that pressure happens overseas, and

²⁸⁴ Inditex Group, 'Biodiversity Strategy', available at https://www.inditex.com/itxcomweb/api/media/069a661f-6de0-4bfe-94cc-76c1475db6a5/inditex_biodiversity_strategy.pdf?t=1655306523402

²⁸⁵ Inditex Group, 'Human Rights Policy', available at https://static.inditex.com/annual_report_2022/pdf/Human-Rights-2022-ENG.pdf

²⁸⁶ Earthsight interview with Marcos Rogério Beltran dos Santos, June 2023.

²⁸⁷ Earthsight interview with Iremar Barbosa de Araújo, June 2023.

²⁸⁸ WWD, 'If consumers still don't understand what fast fashion is, can they minimise its impact?', 10 Aug 2021, available at <https://wwd.com/feature/what-is-fast-fashion-what-isnt-clothing-environmental-impact-1234897189/>

²⁸⁹ Better Cotton, 'Principles and Criteria v.3.0', available at <https://bettercotton.org/better-cotton-principles-and-criteria-v-3-0/>

²⁹⁰ The European Union Deforestation Regulation (EUDR) came into force in June 2023 and will be fully operational from December 2024.

It seeks to stop certain commodities and goods linked to deforestation and illegalities abroad from entering the EU market. It requires companies involved in these supply chains in Europe to carry out due diligence to minimise the risks of placing commodities and goods tainted by deforestation and illegalities in the EU market. The EUDR regulates a specific list of commodities - including beef, leather, soy, palm, cocoa, coffee, timber, rubber - and some related products, but not cotton or goods made with cotton.

²⁹¹ European Environment Agency, 'Textiles in Europe's circular economy', Briefing, 19 Nov 2019, available at

<https://www.eea.europa.eu/publications/textiles-in-europes-circular-economy/textiles-in-europe-s-circular-economy>

almost all relates to the cultivation of cotton.²⁹² The biggest culprits are the biggest consumers. The EU is the largest importer of clothing in the world, and the US is the second largest.²⁹³

Yet while increasing attention is being paid in these markets to the impacts of our food consumption – including soy, beef, cocoa and palm oil – on land and forests overseas, the impact of our clothes on those same things has received less scrutiny. That needs to change.

Governments on both sides of the Atlantic are gradually realising that voluntary action by companies, under pressure from concerned consumers or pressure groups, is never going to successfully address the impacts of our consumption abroad. Green labels and certification schemes have universally failed to deliver on their promises,²⁹⁴ and there are always going to be firms who simply will not sign up.

In recognition of this, consumer country laws are under development or have been recently passed which seek to address the negative impacts of supply chains through regulation. These fall under two main categories: laws specific to deforestation, and wider laws about human rights and environmental impacts.

France has a general law on ethical supply chains, the *Loi de Vigilance*. A similar law in Germany took effect in 2023, the *Lieferkettenschutzgesetz* (LkSG), though it is deeply flawed.²⁹⁵ Under the LkSG, a company's due diligence obligations for indirect suppliers are much weaker than for direct suppliers, and a regulated company would only have to take action, such as carrying out a risk analysis, when they already have "substantiated knowledge" that human rights abuses or environmental damages have occurred. Given that the European fashion industry does not source cotton directly, this approach is insufficient to address the harms revealed in this report.

With its EU Strategy for Sustainable and Circular Textiles, the European Commission in principle agrees that government-led action is needed to ensure the fashion and textile industries change their practices.²⁹⁶ Adopted in March 2022, the strategy aims to reinvent the lifecycle of textile and footwear products by changing how fabrics are made, consumed, and disposed of. However, the strategy places little focus on the environmental and social impacts of cotton production.²⁹⁷ The European Parliament's resolution on the strategy stresses the need to cover the *entire* value chain of textile products but also fails to directly tackle issues connected with cotton sourcing.²⁹⁸

²⁹² Ibid

²⁹³ Brad, A. and Lenikus, V., 'The false promise of certification: How certification is hindering sustainability in the textiles, palm oil and fisheries industries', Changing Markets Foundation, May 2018, available at <https://changingmarkets.org/report/the-false-promise-of-certification-how-certification-is-hindering-sustainability-in-the-textiles-palm-oil-and-fisheries-industries/>

²⁹⁴ Greenpeace International, 'Destruction: Certified', 10 Mar 2021, available at <https://www.greenpeace.org/international/publication/46812/destruction-certified/>; Earthsight, 'Relying on green labels to address our thirst for products of deforestation would be a disaster', 8 Nov 2021, available at <https://www.earthsight.org.uk/news/analysis-relying-on-green-labels-to-address-our-thirst-for-products-of-deforestation-would-be-a-disaster>; Earthsight, 'Open letter: FSC is no longer fit for purpose and must urgently reform', 25 Oct 2021, available at <https://www.earthsight.org.uk/news/blog-open-letter-fsc-no-longer-fit-for-purpose-and-must-urgently-reform>; Brad, A. and Lenikus, V., 'The false promise of certification. How certification is hindering sustainability in the textiles, palm oil and fisheries industries', Changing Markets Foundation, May 2018, available at <https://changingmarkets.org/report/the-false-promise-of-certification-how-certification-is-hindering-sustainability-in-the-textiles-palm-oil-and-fisheries-industries/>

²⁹⁵ Initiative Lieferkettengesetz, 'FAQ on Germany's Supply Chain Due Diligence Act', Oct 2021, available at https://lieferkettengesetz.de/wp-content/uploads/2021/11/Initiative-Lieferkettengesetz_FAQ-English.pdf

²⁹⁶ European Commission, 'Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – EU Strategy for Sustainable and Circular Textiles', 30 Mar 2022, available at https://eur-lex.europa.eu/resource.html?uri=cellar:9d2e47d1-b0f3-11ec-83e1-01aa75ed71a1.0001.02/DOC_1&format=PDF

²⁹⁷ Though the Strategy does address the environmental impact of production of synthetic fibres from fossil-fuels. Ibid

²⁹⁸ For instance, the Commission's EU Strategy for Sustainable and Circular Textiles does not mention the EU Deforestation Regulation, while the European Parliament's resolution on the Strategy recalls that land clearance to raise cattle for food and fashion purposes is responsible for 80 per cent of the Amazon's deforestation and that the EUDR includes leather. European Parliament, 'EU Strategy for Sustainable and Circular Textiles, European Parliament resolution of 1 June 2023 on an EU Strategy for Sustainable and Circular Textiles (2022/2171(INI))', P9_TA(2023)0215, 2023, available at https://www.europarl.europa.eu/doceo/document/TA-9-2023-0215_EN.pdf

Two regulatory actions at the EU level named in the Commission’s strategy and the Parliament’s resolution do have the potential to address European complicity in the environmental harms and human rights violations revealed in this report.

One is the EU Corporate Sustainability Due Diligence Directive (CSDDD). If enacted, it will require large companies operating in the EU to exercise due diligence throughout their supply chains. As such, the CSDDD could have a positive impact for the communities affected by large-scale cotton production in Brazil. If passed, EU-based companies, including Inditex and H&M, would in the future have to identify and prevent, mitigate, minimise or bring to an end adverse human rights and environmental impacts in their cotton supply chains.

Despite having passed most of the usual hurdles to become law,²⁹⁹ the CSDDD was nearly killed in early 2024 due to a dramatic U-turn by the German government.³⁰⁰ Contrary to EU practice, the German coalition government withdrew its support ahead of what would normally be a final rubber-stamping process in the EU.³⁰¹ The U-turn was the result of a change of heart at the pro-business German political party FDP, a minority partner in the government coalition. FDP has received funding from businesses which will be affected by the law, including big cotton clothing retailers found by Earthsight to also be sourcing suspect clothing from Asia.³⁰² Last-ditch efforts to rescue the law have since led to further weakening of the text, including restricting the law’s applicability to the very largest businesses while extending the period after which they would need to comply.³⁰³

The CSDDD is not perfect. Even before the final changes made to salvage the law in the Council, pressure from certain Member States – notably Germany and France – during earlier negotiations between the Council and European Parliament led to a significantly weakened text.³⁰⁴ Specific rights

²⁹⁹ Following an initial proposal put forward by the European Commission, and positions on this proposal being adopted by the EU Parliament and the Council of the EU, the CSDDD went through months’ long negotiations between the three bodies (a process known as trilogues), through which these institutions agreed on a final compromise text before it could be approved. Germany, as well as all other EU Member States, was part of this process and signed off on the text agreed during the trilogues. But the country changed its mind only a few days ahead of a crucial vote at the Council’s COREPER committee. This is a highly unusual and disruptive move by a Member State at such a late stage of the legislative process, which not only undermined months of challenging consensus building but contradicted Germany’s strong involvement in the negotiations. It is all the more puzzling considering parts of the law had already been rewritten to suit the country’s interests (such as article 22 on civil liability). Campaigners accused the FDP of adopting aggressive tactics to block the CSDDD and “ignoring regular negotiation channels.” European Coalition for Corporate Justice, ‘The CSDDD is at a make-or-break moment: from fake news to business support’, 7 Feb 2024, available at <https://corporatejustice.org/news/the-csddd-is-at-a-make-or-break-moment-from-fake-news-to-businesses-support/>

³⁰⁰ Belgium Presidency of the Council of the EU 2024, Twitter 28 Feb 2024, available at <https://twitter.com/EU2024BE/status/1762802636414153044>; See also European Coalition for Corporate Justice, ‘REACTION We say YES to the CSDDD. Joint Civil Society Statement reacting to lack of majority in COREPER’, 28 Feb 2024, available at <https://corporatejustice.org/news/reaction-we-say-yes-to-the-csddd-joint-civil-society-statement-reacting-to-lack-of-majority-in-coreper/>

³⁰¹ When the Council of the EU and the EU Parliament vote on and approve the text.

³⁰² Earthsight, ‘Leading German sports retailer linked to rights abuses overseas, as German government looks set to kill EU ethical supply chain law’, 6 Feb 2024, available at <https://www.earthsight.org.uk/news/Germany-CSDDD>

³⁰³ Under these changes, only companies with over 1,000 employees and turnover of more than €450 million would fall under the scope of the law, as opposed to the previously agreed 500 employees and €150 million turnover. In addition, a staged approach was introduced to application periods, with some companies having to comply after three years and others after 5 years. See Council of the European Union, ‘Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937 - Letter to the Chair of the JURI Committee of the European Parliament’, Interinstitutional File: 2022/0051(COD), 15 Mar 2024, available at <https://data.consilium.europa.eu/doc/document/ST-6145-2024-INIT/en/pdf>

³⁰⁴ For instance, France was the main driver behind the close to complete exclusion of the financial sector. Ritter, I. and Lillevali, U., ‘Euroviews. CSDDD is the make-or-break moment for the EU’s sustainability commitments’, Euronews.business, 12 Dec 2023, available at <https://www.euronews.com/business/2023/12/12/csddd-is-the-make-or-break-moment-for-the-eus-sustainability-commitments>. See also European Coalition for Corporate Justice, ‘France strikes again to undermine the CSDDD’, 28 Feb 2024, available at <https://corporatejustice.org/news/france-strikes-again-to-undermine-the-csddd/>; Germany succeeded in preventing the addition of sanctions for companies that do not implement their own CSDDD climate plans. Lieferkettengesetz, ‘Glaubwürdigkeit über Bord: Die Kehrtwende der FDP beim EU-Lieferkettengesetz und warum Olaf Scholz jetzt Führung zeigen muss’, 24 Jan 2024, available at https://lieferkettengesetz.de/wp-content/uploads/2024/01/20240124_Initiative-Lieferkettengesetz-Briefing-FDP_final-1.pdf

of indigenous peoples and traditional communities are not included, for example.³⁰⁵ Yet the passing of such a law can bring much-needed accountability to some European supply chains and allow those negatively affected by large companies' activities to hold them liable before EU courts.

The second law is the EU Deforestation Regulation (EUDR). It came into force in June 2023 – although companies will only have to comply with it from December 2024 – and is arguably the strictest ever of its kind passed in a major consumer market. It demands that firms trace goods covered by the law³⁰⁶ back to the land where the raw materials were produced. It requires that production not only be deforestation-free, but also legal under the producer country's environmental, land and human rights laws. It also requires companies to carry out due diligence in order ensure that the risk of breaching the law's requirements is reduced to a minimum – an important shift in the burden of proof, particularly given the vast grey areas surrounding legality in certain places, including Bahia.

The EUDR has, however, a serious limitation: it does not cover cotton. Unlike better known drivers of deforestation, including beef, soy and palm oil (which are covered), the law will not prevent the cotton supply chains of Europe from being tainted by land grabbing, deforestation or violations of traditional communities' land rights. There is a ray of hope, however. The law does require that the range of commodities it covers be reviewed after the first couple of years of implementation. The Commission should include cotton in its upcoming impact assessments on commodities that the law could cover in future.

Simply adding cotton and derived products to the EUDR may, however, not be enough. Further improvements to the EUDR³⁰⁷ and proper enforcement are also needed. For example, the regulation needs to go beyond its current, narrow focus on forests to also protect other types of ecosystems, including the less densely forested ones common in the Cerrado.³⁰⁸ Enforcement authorities in EU countries will need to ensure laws protecting traditional communities' rights are complied with even if local enforcement in the producer country is lacking or local governments are being complicit in illegalities.³⁰⁹

³⁰⁵ The International Labour Organisation's Indigenous and Tribal Peoples' Convention 1989 (No. 169) or the UN Declaration on the Rights of Indigenous Peoples are not included in the CSDDD Annex. See Council of the European Union, 'Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937 - Letter to the Chair of the JURI Committee of the European Parliament', Interinstitutional File: 2022/0051(COD), 15 Mar 2024, available at <https://data.consilium.europa.eu/doc/document/ST-6145-2024-INIT/en/pdf>

³⁰⁶ The EUDR covers seven commodities – cattle, soy, oil palm, coffee, cocoa, wood, rubber – and a list of products linked to these commodities. EUR-Lex, 'Regulation (EU) 2023/1115 of the European Parliament and of the Council of 31 May 2023 on the making available on the Union market and the export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010 (Text with EEA relevance)', Document 32023R1115, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32023R1115&qid=1687867231461>

³⁰⁷ Improvements can and should take place during the EUDR's built-in review stages. Article 34 of the EUDR establishes a review clause. It mandates the Commission no later than one year after entry into force, to assess whether other wooded land should be added to the scope of the EUDR. No later than two years after entry into force, the Commission is mandated to assess whether the Regulation is to be extended to other natural ecosystems, and to other commodities and products, and evaluate the role of financial institutions in preventing financial flows that contribute directly or indirectly to deforestation and forest degradation. No later than five years after entry into force, and every five years thereafter, the Commission is mandated to conduct a full review of the regulation.

³⁰⁸ The EU Commission must take the opportunity of the one- and two-year review stages to add 'other wooded lands' and 'other ecosystems' to the scope of the EUDR. Article 2(4) of the EUDR defines forest as "land spanning more than 0,5 hectares with trees higher than 5 metres and a canopy cover of more than 10 %, or trees able to reach those thresholds in situ, excluding land that is predominantly under agricultural or urban land use." While 18 per cent of the Cerrado – including many cotton production areas – falls under the definition of forest, 56 per cent is 'other wooded land' and therefore currently not protected by the zero-deforestation requirement. Alianza Cero Deforestación, 'Why the new EU Deforestation Regulation should include "Other wooded land"', Sep 2023, available at https://alianzacerodeforestacion.org/wp-content/uploads/2023/09/RF_EUDR_0923_low.pdf.

³⁰⁹ Article 3(b) requires that commodities placed shall not be placed or made available on the market or exported, unless "they have been produced in accordance with the relevant legislation of the country of production". As per Article 2(40)(f), this includes "laws applicable in the country of production concerning the legal status of the area of production in terms of (...) human rights protected under international law". While the EUDR includes relevant internationally recognised human rights laws, but only where these are part of producer country law. While Brazil does have laws that, at least in principle, protect traditional communities' land rights, whether these laws are

For ‘forest-risk-commodities’ such as beef and soy, a new law akin to the EUDR has also recently been enacted in the UK, as part of the Environment Act, though it has not yet come into full effect and no date for this has been announced.³¹⁰ A similar bill, the FOREST Act, has meanwhile been introduced in the US Congress. Neither of these laws includes cotton, focusing instead on better-known deforestation drivers, including cattle, soy and oil palm.

Even if they did, it is unclear to what extent they would be able to ensure cotton entering UK and US supply chains were truly sustainable. This is because the Environment Act and FOREST Act only cover illegal deforestation – as opposed to focusing on eliminating all deforestation from supply chains as the EUDR does. A sole focus on illegal deforestation is unlikely to sufficiently address cases where harmful deforestation authorised by local governments contravenes local laws.³¹¹

While many details of the law are yet to be decided through secondary legislation, the UK Environment Act also applies only to forests as defined by the UN’s Food and Agriculture Organization,³¹² suffering from the same limitation as the EUDR. In addition, it does not explicitly refer to human rights and it remains to be seen whether secondary legislation will include laws protecting human rights among those that need to be complied with.

Given that cotton is one of the greatest sources of pressure on land linked to Western consumption, the US, UK, EU and individual EU Member States must ramp up their ambition. The ministerial level of the Council of the EU and the EU Parliament must finally pass the CSDDD. Those EU Member States which had sought a much stronger law should consider bolstering it by passing their own, stricter national legislation. The UK and EU laws on forest-risk commodities must be strengthened, including by properly assessing the addition of cotton. In the US, the inclusion of cotton in the draft FOREST Act should be considered, and wider ethical supply chain legislation akin to the CSDDD urgently developed. Above all, it is essential that all these laws are properly implemented and enforced, something that past experience with legislative efforts to address unethical supply chains suggests is far from certain.³¹³

Action in Brazil

The election of President Luiz Inacio Lula da Silva at the end of 2022 was welcomed by environmentalists the world over. The reintroduction of policies to combat deforestation in the

implemented or enforced is a different matter. The enforcement authorities of EU Member States will have to make thorough assessments to ensure these laws are complied with even if local enforcement and implementation are lacking or if local governments are being complicit in illegalities. To ensure consistency among Member State enforcement authorities, the European Commission should produce clear stakeholder guidance on this. In its FAQ document, the Commission states that it will issue a specific guidance document on legality “in due course”. The FAQ also highlights that for documentations that form part of the risk assessment under the EUDR, “the operator has to verify that these documents are verifiable and reliable, taking into account the risk of corruption in the country of production.” European Union, ‘FAQ-Deforestation Regulation’, 22 Dec 2022, available at <https://circabc.europa.eu/ui/group/34861680-e799-4d7c-bbad-da83c45da458/library/e126f816-844b-41a9-89ef-cb2a33b6aa56/details>

³¹⁰ On 9 December 2023, the UK government announced initial details of its long-expected deforestation legislation, but many key issues remain unclear, including when the law will start to apply. Earthsight, ‘UK announces deforestation due diligence rules, but cause for concern remains’, 11 Dec 2023, available at <https://www.earthsight.org.uk/news/uk-due-diligence-legislation>

³¹¹ As we saw in chapter 3, at times local governments authorise deforestation in contravention of their own laws or national-level laws. It can be argued that authorising deforestation that should not be authorised constitutes an illegality and would, therefore, render commodities linked to such illegality non-compliant with the UK Environment Act or US FOREST Bill. However, this would largely depend on the quality of the enforcement of these laws in the UK and US. Enforcement authorities may be unwilling or find it too difficult to ascertain the legality of the actions of governments in producer countries. When a company presents a deforestation permit issued by a local authority, enforcement agents in consumer markets may see little reason to investigate the matter further, unless specific concerns are brought to their attention.

³¹² Schedule 17 of the Environment Act defines ‘forest’ as “an area of land of more than 0.5 hectares with a tree canopy cover of at least 10% (excluding trees planted for the purpose of producing timber or other commodities)”. UK Public General Acts, ‘Environment Act 2021– Schedule 17’, available at <https://www.legislation.gov.uk/ukpga/2021/30/schedule/17/enacted>

³¹³ Earthsight, ‘Despite landmark law, Europe faces tough test to end role in global forest loss’, 16 May 2023, available at <https://www.earthsight.org.uk/news/-stopping-europe-ravaging-forests>

Amazon, which practically disappeared during Jair Bolsonaro's administration, was among the first actions implemented in Lula's first days in office.

As a result, deforestation in the Brazilian Amazon fell by almost 50 per cent in 2023 compared to the previous year.³¹⁴ Climate campaigners could breathe more easily.

However, the sense of relief was incomplete. While the latest news from the Amazon is cautiously positive, the opposite is true in the Cerrado: the problem is getting worse, not better. In 2023 the biome registered frightening rates of deforestation, which increased by 43 per cent compared to the previous year.³¹⁵

As a reaction to this troubling trend, the Brazilian government has unveiled the fourth phase of its plan to prevent and control deforestation and fires in the Cerrado, known as the PPCerrado. The government asserts that the initiatives outlined in the plan will eliminate deforestation by 2030, offering a glimmer of hope.

However, the effectiveness of the proposed measures remains uncertain as the plan exclusively targets illegal deforestation, which contradicts the aim of eliminating all deforestation.³¹⁶ Failing to address deforestation authorised by local governments leaves the door open for the kind of unsustainably permissive – and sometimes illegal – policies adopted by the state of Bahia.

While Bahia's 1989 Constitution has strong provisions on environmental protection, successive state governments have adopted regulations that undermine them.³¹⁷ Since 2011, environmental licensing has not only become self-declaratory but has been severely weakened.³¹⁸ This has been challenged by public prosecutors.³¹⁹ In parallel, approval of deforestation permits (ASVs) has skyrocketed. Between 2012 and 2021, ASVs were issued for around 750,000 hectares, an area larger than Paris, London, Rome, and New York City combined.³²⁰

Just as worrying as the deforestation permits are the hundreds of authorisations granted to agribusinesses to drill wells and extract water from the Urucuia aquifer for irrigation.³²¹ Between 2007 and 2022, more than 830 permits authorising the extraction of 17 billion litres of water per day

³¹⁴ Ministério do Meio Ambiente e Mudança do Clima, 'Área sob alertas de desmatamento na Amazônia cai 50% em 2023', 14 Jan 2024, available at <https://www.gov.br/mma/pt-br/area-sob-alertas-de-desmatamento-na-amazonia-cai-50-em-2023>

³¹⁵ Ibid

³¹⁶ Ministério do Meio Ambiente, 'Plano de ação para prevenção e controle do desmatamento e das queimadas no bioma Cerrado (PPCerrado)', 2023, copy held by Earthsight; Folha de São Paulo, 'Destrução do Cerrado cresce, mas desacelera, e governo lança plano para zerar desmatamento', 28 Nov 2023, available at <https://www1.folha.uol.com.br/ambiente/2023/11/destrucao-do-cerrado-cresce-mas-desacelera-e-governo-lanca-plano-para-zerar-desmatamento.shtml>

³¹⁷ Imaterra, 'Desmatamento autorizado e apropriação de água no oeste baiano: a destruição do Cerrado e seus povos', Dec 2022, available at <https://www.imaterra.org/c%C3%B3pia-supress%C3%A3o-de-vegeta%C3%A7%C3%A3o-nativa>

³¹⁸ Law 12.377/11, Articles 45, creates the LAC (Licença Ambiental por Adesão e Compromisso), a self-declaratory environmental license. Available at <http://www.seia.ba.gov.br/legislacao-ambiental/leis/lei-n-12377-de-28-de-dezembro-de-2011>

³¹⁹ Portaria Inema Nº 22.078, Article 9, 08 Jan 2021. It states: "The Legal Reserve that has already been approved may exceptionally be relocated, with Inema's authorisation, based on an analysis of technical criteria for the environmental quality of the areas, with a view to improving the quality of their environmental functions (see definition in item VIII of article 2), in the same basin and preferably in the same micro-basin, observing the limitations and safeguarding the specifications set out in Law No. 10,431/2006 and Law No. 12,651/2012." Following public prosecutors' challenges, Inema Ordinance n. 22078/2021 revoked Portaria Nº 22.078.

³²⁰ Agência Pública, 'Quem é a servidora por trás do 'libera geral' de águas na Bahia', 9 Dec 2021, available at <https://apublica.org/2021/12/quem-e-a-servidora-por-tras-do-libera-geral-de-aguas-na-bahia/>

³²¹ The Urucuia is a source of water for the entire Cerrado biome, not only Bahia. Using data from NASA's satellite system that measure gravitational pull, geologists from Brazil and Germany have been able to estimate the mass of water lying underground between 2002 to 2014. They found the Urucuia had lost two cubic miles of water in 12 years. Although this is a small fraction of the aquifer's estimated 290 cubic miles of water, the researchers are now trying to understand how this reduction has affected surface water. Gonçalves, R., Stollberg, R., Weiss, H., and Chang, H.K., 'Using GRACE to quantify the depletion of terrestrial water storage in Northeastern Brazil: the Urucuia Aquifer System', *Science of the Total Environment*, volume 705, 25 Feb 2020, available at <https://www.sciencedirect.com/science/article/pii/S0048969719358401?via%3Dihub>; Grossman, D., 'Water War: Is big agriculture killing Brazil's traditional farms?', Pulitzer Center, 17 Nov 2021, available at <https://pulitzercenter.org/stories/water-war-big-agriculture-killing-brazils-traditional-farms>

were issued.³²² Combined with the effects of deforestation, this has had dramatic impacts on the region's water availability.

The federal government should put in place a plan to halt all large-scale deforestation in the Cerrado, not only the illegal kind. Bahia's government should fulfil its constitutional mandate and map all public lands to ensure they are preserved, and that traditional communities fully enjoy their land rights. Bahia's rural agency must speed up analyses of allegedly fraudulent land titles overlapping with traditional communities' territories with a view to reclaiming these lands. The series of setbacks in environmental policies should be reversed immediately by Bahia's environmental agency, which must also invest in transparency and make available all data related to deforestation and water permits issued in recent decades.

Action by companies

While the ultimate answer to this scandal lies with governments, that does not mean that companies have to wait until they are forced to act. On the contrary, with the net of regulation gradually tightening around global supply chains linked to consumption in wealthy countries, it makes sense for companies to move sooner rather than later, putting them in a better position when regulation arrives.

The first thing the fashion giants must do is adopt sufficiently ambitious goals. H&M's Human Rights Policy makes no reference to land conflicts or traditional communities.³²³ Neither its Sustainability Commitment nor its Responsible Raw Material Sourcing Policy identifies deforestation linked to cotton production as a risk to be monitored and mitigated.³²⁴ Inditex says it does not manage land in protected areas and that it respects the rights of local communities "where it conducts its business activity," but it is unclear whether it expects the same from its cotton suppliers.³²⁵

Their environmental and human rights policies should be clear about covering their entire cotton supply chains, and specify measures that mitigate risks of deforestation, pesticide contamination or violations of traditional communities' rights. Their policies should also include possible remedies for harms that do occur. Western retailers cannot be exempted from their responsibilities for abuses and violations committed by the agribusinesses that grow their cotton.

In the cotton sector, imminent regulation is already helping to drive action. As Better Cotton admitted in 2022, "Traceability within the cotton supply chain will soon become a market 'must' with legislators on both sides of the Atlantic moving to toughen rules."³²⁶ As part of its 2030 strategy, Better Cotton Traceability was launched at the end of 2023. However, it fails to commit to tracing cotton back to farm of origin – the only level of traceability that truly matters – limiting itself to country of origin.³²⁷ This is clearly insufficient as illegalities and abuses committed at individual cotton farms would remain out of sight for foreign buyers unless they did their own traceability (which has also been lacking). It also leaves the system wide open to laundering.

³²² Imaterra, 'Desmatamento autorizado e apropriação de água no oeste baiano: a destruição do Cerrado e seus povos', Dec 2022, available at <https://www.imaterra.org/c%C3%B3pia-supress%C3%A3o-de-vegeta%C3%A7%C3%A3o-nativa>

³²³ Land rights are only superficially mentioned in its 'Salient Human Rights Issues 2021'. H&M Group, 'Salient Human Rights Issues 2022', Mar 2023, available at <https://hmgroupp.com/wp-content/uploads/2023/03/HM-Group-Salient-Human-Rights-Issues-2022.pdf>

³²⁴ H&M Group, 'Sustainability Commitment', Oct 2020, available at https://hmgroupp.com/wp-content/uploads/2020/10/Business-Partner-Sustainability-Commitment_en.pdf; H&M Group, 'Responsible Raw Material Sourcing Policy', Mar 2022, available at <https://hmgroupp.com/wp-content/uploads/2022/03/HM-Group-Responsible-Raw-Material-Sourcing-Policy-2022-.pdf>

³²⁵ Inditex Group, 'Policy on Human Rights', available at https://www.inditex.com/itxcomweb/api/media/7e50ddce-a4de-4d51-9ab0-f7c248d23656/inditex_policy_on_human_rights.pdf?t=1655306506255

³²⁶ Better Cotton, 'Better Cotton Brings Together Global Fashion Brands to Ensure Cotton Traceability', 27 Apr 2022, available at <https://bettercotton.org/better-cotton-brings-together-global-fashion-brands-to-ensure-cotton-traceability/#:~:text=Traceability%20within%20the%20cotton%20supply,introduce%20a%20ban%20on%20greenwashing.>

³²⁷ Better Cotton, 'Better Cotton Traceability', available at <https://bettercotton.org/traceability/>

Better Cotton has put in place a new set of Principles and Criteria (P&Cs), which came into effect in March 2024.³²⁸ They require cotton producers to mitigate social and environmental risks to “surrounding communities”, people or ecosystems “beyond the farm boundaries”;³²⁹ ban the conversion of “natural ecosystems” by certified farms after 31 December 2019 (which, unlike the other P&Cs, will only be in force from August 2025, a year later than originally planned);³³⁰ call for the protection of High Conservation Value (HCV) lands by agribusinesses planning new conversions;³³¹ and demand compliance with “all applicable laws” in the producer country, including those deriving from international treaties.³³²

However, problems remain. The ban on deforestation after 31 December 2019 does nothing to prevent BC cotton from being produced on land which was illegally deforested prior to that date. The requirement to avoid harm to surrounding communities says nothing about communities whose lands have been stolen and transformed into plantations.³³³

The criteria on natural ecosystem conversion and HCV protection meant to mitigate risks to communities within farm boundaries³³⁴ only apply before land is converted and have no relevance thereafter. In addition, they fail to explicitly require the free, prior and informed consent of communities affected by conversion plans.³³⁵ Better Cotton could at least have been clearer that the new HCV criteria are meant especially to protect indigenous peoples and traditional communities. But guidance they have promised on this has yet to be published.

The legality criteria are also still vague about what types of laws are applicable, failing to even mention the importance of laws on land use and ownership.³³⁶ There is no wording on what is expected from producers in situations (common in Brazil) where one government agency says something is illegal and another says otherwise; or where a company may have one legal document but not all of those required. In all the cases documented in this report, the certified farms in question could have produced some kind of ‘proof’ of legality to present to an auditor.

The wider issue of implementation and enforcement seems to have been left unresolved. Even in instances where the issues we have exposed could potentially be covered by the new P&Cs, there is little reason to believe such breaches would be detected or acted upon. This is especially the case

³²⁸ Better Cotton, ‘Principles and Criteria v.3.0’, available at <https://bettercotton.org/better-cotton-principles-and-criteria-v-3-0/>

³²⁹ Ibid. See sub-criterion 1.1.6 within criterion 1.1.

³³⁰ Ibid. See sub-criterion 2.4.1 within criterion 2.4.

³³¹ Ibid. See sub-criterion 2.4.2 within criterion 2.4.

³³² Ibid. See sub-criterion 1.1.5 within criterion 1.1.

³³³ Ibid. Sub-criterion 1.1.6 within criterion 1.1 says: “The intent is to ensure that Producer Management is aware of and mitigates any adverse impacts of farming activities on the people or ecosystem beyond the farm boundaries.” This sub-criterion does specify obtaining the free, prior and informed consent of affected communities as a requirement.

³³⁴ Ibid. Sub-criteria 2.4.1 and 2.4.2 within criterion 2.4 emphasise the need to avoid harm to HCV areas. BC provides a definition for HCV that includes six categories, including categories HCV5 and HCV6 which directly address communities’ rights and wellbeing. Considering the focus of 2.4.1 on banning conversion of natural ecosystems (and sub-criterion 1.1.6 on communities beyond farm boundaries), sub-criterion 2.4.2 seems to have been included especially to guarantee the protection of local community lands that sit within farm boundaries.

³³⁵ Ibid. While HCV5 and HCV6 (see note above) say risks should be identified through “engagement” with traditional communities and indigenous peoples, there is no specific language about free, prior and informed consent as set out by Brazilian law and the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). Brazil is also a signatory to the International Labour Organisation (ILO) Convention 169, which in its sixth article highlights that any activity with an impact on the life and land of indigenous and traditional peoples must undergo consultation. The convention recognises traditional communities’ rights to land and natural resources (Article 15). ILO, ‘Convention C169 - Indigenous and Tribal Peoples Convention’, 1989, available at https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C169. Such legal instruments make it even more urgent for Brazilian producers to meaningfully consult traditional communities. There is a clear distinction between “engagement” and obtaining consent, with the latter being necessary to guarantee communities’ rights and wellbeing.

³³⁶ Ibid. Sub-criterion 1.1.5 within criterion 1.1 says: “Applicable laws include local, county, province, state and national laws and regulations, including those which have been integrated into or legally deemed to be superior to national law by a state’s signing of an international treaty.” It does not provide examples of what types of laws may be relevant.

considering the conflicts of interest inherent in the system. The auditing firms are paid by the agribusinesses they are meant to monitor. Our experience researching other green labelling schemes³³⁷ tells us that, ultimately, global industries cannot be trusted to police themselves.

Even in the rare instances where the issues we have exposed could potentially be covered by the new P&Cs *and* picked up by auditors, it is very likely the tainted cotton would make it into BC supply chains anyway. This is because of the lack of adequate traceability highlighted above.

Better Cotton must act to further strengthen its standard, as well as the systems for implementing and enforcing it. Big clothing retailers, including H&M and Zara, must pressure it to do so. Until it does, they must go beyond using certification schemes to ensure their goods are ethically sourced, and must institute their own, more rigorous checks.

³³⁷ Earthsight, 'FSC hall of shame: The ethical wood label's long line of scandals', 25 Oct 2021, available at <https://www.earthsight.org.uk/news/blog-fsc-hall-of-shame-the-ethical-wood-label-long-list-of-scandals>