

AGENDA of Main Events
subject: Teakwood
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date: September 21, 1998

INTRODUCTION

This agenda is there to serve as a reference sheet to those who follow the public debate on the Teakwood programme. It highlights some of the materials on file at Treemail's office. Although the materials have been compiled and translated with due care, Treemail fully disclaims any responsibility as to the correctness of its contents and in all cases calls the readership to refer with the original documents.

(Introduction-Section A)
The principal players in the debate:

Teakwood:

This is an investment program in teak plantations in Costa Rica. The programme was started in 1989 by Dutch owned Flor y Fauna S.A. who independently sold the projects called Teakwood I-V to individual Dutch investors until 1993.

In 1989, Flor y Fauna S.A. Director Ebe Huizinga initiated the Teakwood I plantation of ca 25 ha. This was followed in 1990 by Teakwood II, ca 13 ha, and Teakwood III, ca 65 ha. In 1991, Teakwood IV, ca 150 ha, and Teakwood V, ca 320 ha, were planted.

In 1993, Flor y Fauna S.A. was joined by OHRA insurance company and WWF-NL for the plantation projects called Teakwood VI, VII and VIII.

Teakwood plantation acreage (ha)

Total		OHRA's share:	
I-V	550	I-V (0%)	0
(*) VI	750	VI (100%)	750
VII	700	VII (60%)	420
VIII	700	VIII (60%)	420
Total	2,600	OHRA Total	1,590

(*) The owner of Flor y Fauna expects profits derived from timber sales to be between NLG 700 M and 2,300 M from the Teakwood plantations and that investors can earn up to 60 times their money back (source: Houtwereld, '94-4, page 11). OHRA insurance company paid NLG 23 M for the trees and maintenance of Teakwood VI, the company's first 750

ha (source: 'Het Financieele Dagblad', the Dutch language Financial Daily, April 7, 1994).

[note: The regional newspaper 'de Gooi en Eemlander' report on December 28, 1995, that OHRA would have sold 12,000 contracts to investors. One 'OHRA' contract corresponds with 1/8th of a hectare. The total area for 12,000 contracts thus corresponds with an area of (12,000/8=) 1,500 ha. On January 28, 1996, the Netherlands Central Press Agency, ANP, reports that a total of 13,000 contracts were sold to investors. This corresponds with an area of (13,000/8=) 1,625 ha. Following this, OHRA repeated the latter number of contracts publicly on numerous occasions. OHRA continued advertising the Teakwood scheme well into the third quarter of 1996. As far as the author is aware, the total plantation acreage for 'OHRA' of 1,590 ha is the only figure made public by the Teakwood contract partners. It is unknown to the author if OHRA has contracted additional acreage from Flor y Fauna.]

[note: OHRA claims to have sold around 14,000 investment policies in Teakwood. On July 31, 1996, the Central Press Agency of The Netherlands, ANP, to be followed the next day by a number of leading newspapers which include NRC Handelsblad, De Volkskrant, de Telegraaf and Het Financieele Dagblad, unanimously reported that OHRA had sold a total of 14,000 policies and that OHRA had ceased selling the product. Each of these policies correspond to 1/8th of a hectare of teak plantation. This corresponds to a total surface of 1,750 ha. This is in contrast with the 1,590 ha of the table presented above. The rationale behind this discrepancy is not known to the author.]

The principal Teakwood contract partners are:

. Van Rossum Van Veen Management Consultants of The Netherlands, chief advisors to the Teakwood programme, liaisons for the Rainforest Alliance certification (source: Rainforest Alliance statement of August 16, 1997) and, indirectly, through the press agency 'Rood en Partners' for OHRA insurance company.

. Flor y Fauna S.A. of Costa Rica as managers of the teak plantations.

. OHRA insurance company, sales agent for a financial product that ties the teak investment to a life insurance policy as of early 1993. The combined OHRA Teakwood investment and insurance policy package was introduced to the market in April 1993.

[note: The insurance company buys the participations (of ½ ha, author's note) and divides these into four. The resulting participations are sold at around NLG 15,000 each. (source: 'Het Financieele Dagblad', the Dutch

language Financial Daily, April 7, 1994, in a rectification to an earlier publication of April 5, 1994).]

. WWF-NL (The Netherlands branch of the World Wide Fund for Nature) as endorsing agency with an additional role as public relations, marketing and sales organization. Bonner, 1993, notes that: "In 1998, the World Wildlife Fund, which has its international headquarters in Switzerland and national organizations throughout the world, changed its name to the World Wide Fund for Nature. The United States and Canada have stayed with the original name -World Wildlife Fund. All these organizations prefer to be identified by the abbreviation WWF."

In return for their efforts, WWF-NL receives a commission of NLG 700 per sales contract of 1/8 ha plus a premium of 5% of the proceeds from the timber sales from thinnings at year 8, 12 and 16 and from the final harvest at year 20. The exclusive use of the WWF name for the promotion of Teakwood has been contracted for a period of five years (late 1992-1997). WWF allegedly accorded its collaboration with Teakwood in January 1993 (source: court ruling in Leeuwarden, April 12, 1995).

[note: The Teakwood VI sales brochure of March 1993 refers to WWF's role in sale of Teakwood's end-products as: "Of course, a buyer must be found for this product in advance. The collaboration with WWF will make this easier and can probably lead to even higher returns for the investors, according to the programme's initiators." This brochure portrays the WWF Panda logo on its front cover together with the words "in collaboration with WWF". In advertisement entitled 'Flor y Fauna in sustainable forestry together with WWF', in WWF's magazine 'Panda' of 1993, the text under a Panda logo asserts that: "The collaboration between Flor y Fauna and WWF runs along a number of different lines. First of all, WWF offers its support to attract investors for new projects (Teakwood VI and beyond). In the longer run, WWF helps with the marketing and sales of the teak wood and/or products that are produced."]

[In the Dutch language Financial Daily, het Financieele Dagblad, of April 7, 1994, OHRA portrays its most conservative estimate of the 5% premium on the timber sales for 750 ha (this area covers only the Teakwood VI plantation, author's note) as NLG 36 M.]

Rainforest Alliance:

The Rainforest Alliance is based in the USA, and has certified the Flor y Fauna plantations in April 1995. The Teakwood plantations were thereby recognized as 'well-managed' under the Rainforest Alliance's 'Smart Wood' programme, thus allowing the plantation's produce to carry the 'Smart Wood'

label. The Smart Wood 'well managed' certificate has been issued to all the Flor y Fauna teak plantations (No's I-VIII).

Rainforest Alliance Smart Wood certification of forestry operations is in one of two categories. A forest operation can be a) *well managed*, or b) *sustainable*.

The Director of the Rainforest Alliance Smart Wood programme is Richard Donovan, a former employee of WWF in Costa Rica.

[note: The Rainforest Alliance Smart Wood programme issued a certificate of 'well managed' forest for the entire Flor y Fauna plantation area, including those that are tied to the OHRA investment cum insurance scheme. The certificate has been issued by the Rainforest Alliance under its 'criteria for the certification of plantations'. According to these criteria, a key-requirement for certification by the Rainforest Alliance is: "Growth and yield projections in planning and/or marketing documents are reasonable and based on a combination of scientific literature and documented or practical local experience." (source: Rainforest Alliance criteria on certification of forest plantations, point 3.7).]

FSC:

The Forest Stewardship Council FSC is legally established as an 'Asociacion Civil' before Mexican law since October 25, 1995. The FSC accredits certifying agencies. On February 21, 1996, the FSC accredited its first four certifying agencies, including the Rainforest Alliance. In the case of the Rainforest Alliance, the FSC accreditation does not include plantation forestry at the time of writing of this agenda.

Prof. Dr. J.C. Centeno:

WWF-NL commissioned a study on the economic analysis of the Teakwood plantations in 1993 to Prof. J.C. Centeno of Venezuela.

Treemail:

Treemail is a advisory company for international forest policy that is based in The Netherlands. In November 1995, journalists from a Dutch television programme called 'NOVA' approached Treemail to provide information for a broadcast on the Teakwood programme. In the NOVA broadcast that followed, Treemail's Director Paul Romeijn was interviewed.

(Introduction-Section B)

The incorrect claim to an 'FSC certificate':

The Teakwood contract partners have claimed that the Flor y Fauna plantations have a certificate that has been issued by the Forest Stewardship Council.

This claim was made by Flor y Fauna at the occasion of a court hearing on December 28, 1996.

This claim was made by WWF-NL in a book that was written, printed and put in circulation in August of 1995 ('Naar een Houtbare Wereld, hoe de Nederlandse markt zich opmaakt voor FSC hout'; ISBN 90-74595-07-3). This WWF book is adorned by the (new) FSC accreditation logo on its front cover. The same claim is reiterated publicly (to the press) by WWF on February 9, 1996.

OHRA printed and distributed this claim millions of times in its advertisements over the period between August 19, 1995 and November 30, 1995, according to this insurance company's memo of February 2, 1996.

Before, during and after this period, another version of these advertisements for the Teakwood investment scheme was circulated. The sole difference between the two versions is that the text 'Rainforest Alliance' replaces the text 'Forest Stewardship Council' when referring to the organization that would have issued the certificate for the Teakwood plantations.

In the advertisement, the text under the header Eco-Certificate reads as follows: "The Teakwood plantation Flor y Fauna has recently received the official certificate of 'well managed' plantation from the Forest Stewardship Council (or the Rainforest Alliance, depending on the version), and is thereby the first have plantation grown tropical timber with an eco-certificate."

This agenda does not deal with the claim to an 'eco-certificate' for Flor y Fauna plantation produce, even if Treemail is not aware of any substantiation of this claim by any of the Teakwood partners. Rather this agenda contains references to the claim to a certificate issued by the FSC for the Flor y Fauna plantations.

The (draft) 'Manual for evaluation and accreditation of certification bodies' of January 1996 (FSC Document #2.1), on page 86, states that type of use of the FSC accreditation logo as in the WWF publication "can only be made with prior, written consent of the FSC." The FSC announced this accreditation logo in FSC Notes of January 1996, Vol.1, Issue 2, where it reads: "correct use is controlled by legally binding contracts and will be protected by legal action."

TEAKWOOD AGENDA OF MAIN EVENTS

[note: near to all the written communications referred to below have been transmitted per E-mail or fax]

1995

23-11 NOVA broadcasts and item on the Teakwood investment scheme over Dutch national television. As a result of the broadcast, questions are raised in the Dutch Parliament to the Ministers of Agriculture and International Cooperation the next day.

24-11 The Greens in the Dutch Parliament submit 6 questions on the Teakwood case to Ministers of Agriculture and Finance.

30-11 OHRA informs NOVA in writing that expected yields are in the order of 400-850 m³/ha over the 20 year cycle, and this is "without doubt" according to their scientists [cross reference: agenda entry for April 9, 1996].

01-12 OHRA's Board Director Huesmann writes personalized letter to its Teakwood investors where he projects 11-25% annual rates of return to investors.

[note: OHRA advertised with rates of return to investors of 15-25% until at least 1995. In that year, advertisements texts changed regarding the projected rates of return to investors to '14-18% or more'.]

[note: According to a public letter 'Green investment with a high rate of return' of June 7, 1995, OHRA states the following on the rates of return: "Thanks to the insurance element, the customer always receives the sum of his investment back at the closing date, even if he would pass away earlier. In addition, he will receive his portion of the proceeds from the timber cuts (Dutch: 'kapopbrengsten'). Pending various assumptions, the expected rate of return is 15-25%."

06-12 Van Weezendonk files case of misleading advertisements against 5 teak investment schemes at the Standards Advertising Committee. OHRA requests and receives extra time for refuting, this allows the Teakwood contract partners to contract CCT and to submit the resulting CCT summary report.

10-12 Prof. J. Centeno reports to the FSC Director T. Synnott on a possible claim to FSC certification having been made for the Flor y Fauna plantation.

18-12 Treemail's Director presents WWF-INT forestry officer Per Rosenberg a video copy of the NOVA broadcast and of one of the OHRA advertisements

containing the claim to 'FSC certification' obtained by the Flor y Fauna plantation (and as reported by Treemail to FSC Director T. Synnott on December 20, 1995, and to SW Director R. Donovan on January 7, 1996).

- 20-12 Ministers of Agriculture and Finance answer to the questions from the Greens in Parliament of November 24, 1995.
- 20-12 FSC Director T. Synnott phones to Treemail's office. The fictitious claim 'FSC certified' for the Flor y Fauna plantations is discussed at length. During the conversation T. Synnott ascertains and is assured that Treemail perfectly understands the terminology 'endorsed', 'accredited', 'certified' and the distinction between 'a possible claim to FSC or Smart Wood certification' and that there is mutual agreement that there is no misunderstanding whatsoever about the exact nature of the fictitious claim. The FSC Director agrees to send a letter for public use detailing information to clarify to third parties the FSC position on the use the expression 'certified by the FSC' as claimed for the Flor y Fauna plantations [note: witnessed by G.Ch. Kiel, international forestry expert, at Treemail office].
- 21-12 In response to a request by Treemail to OHRA insurance company of December 15, 1995, OHRA's adjunct Director Janssen informs Treemail per fax that copies of the FSC certificate can be obtained from Flor y Fauna.
- 21-12 Following the telephone conversation of December 20, 1995, and upon Treemail's request the FSC Director Synnott sends a message that could be used publicly in the interest of aiding transparency on the FSC's position regarding claims to FSC issued certificates for plantations. This message is copied to the FSC Director of the Board Bruce Cabarly of the World Resources Institute and to the Rainforest Alliance Smart Wood Director Richard Donovan.

The FSC Director writes: "the FSC Board cannot yet approve the certificates for plantations in the absence of the new Plantation P&C.", and: "We believe that the Flor y Fauna evaluation and report was thorough and competent." In addition, the FSC Director informs that: "... we scrutinized all reports, including the Flor y Fauna report. Our conclusions were that the current and completed evaluations had indeed followed the approved systems, and that the certified forest presented no obvious problems not already identified by the certifiers (with the exception of early certificates now being re-evaluated). Therefor, in a limited

sense, the FSC Board has approved their certification systems even for plantations ..."

21-12 Rain Forest Alliance Smart Wood Director Richard Donovan informs Treemail:

"We believe that Smart Wood [...] did have the responsibility of evaluating the soundness of forest management data upon which such financial projections might be made, i.e. timber yields."

"There is a long history in Costa Rica (and elsewhere) of some plantation operations or companies making exorbitant claims regarding timber or financial yields, environmental benefits, and other social or economic benefits. Based on our assessment, Flor y Fauna is not that type of company."

[note: cross ref. entry for January 8, 1996, where the FSC and its Director describe these statements as "entirely correct and responsible"]

28-12 Court of law in The Hague hears a case by Flor y Fauna S.A. against Van Weezendonk's reputed libel in his statements in NOVA broadcast of November 1995. Tomlow, Van Weezendonk's legal advisor, distributes copies of his memorandum of oral pleading, which includes a copy of the 'Centeno report', to journalists. Flor y Fauna claims 'official FSC certificate' for their plantations orally in court (which Treemail reports to FSC Director T. Synnott on same day). At the court hearing, Flor y Fauna did not once mention an organization called Rainforest Alliance, or its 'Smart Wood' certificate.

1996

05-01 Le Vif/L' Express reports that tropical tree investments schemes have been spreading into Flanders, and are now active in the French speaking part of Belgium.

07-01 Treemail informs Smart Wood Director, with copy to FSC Director, that: "I regret to inform you that your interventions have not succeeded in preventing F&F stating in court on 28 December 1995 that F&F plantations have been officially certified by the FSC ...". This letter is later referred to by the Smart Wood Director as part of the listing of communications of January 28, 1996 [note: cross-reference with FSC announcement of June 25, 1996, and the Rainforest Alliance report of August 16, 1996].

- 08-01 FSC Director T. Synnott copies a letter addressed to the Smart Wood Director R. Donovan to Treemail's office. Quote: "I expect you [note: i.e. Richard Donovan] will be asking OHRA why they stated in public that the F&F plantations have been certified by the FSC.", and:
- "Richard: I expect that this issue can be sorted out without too much harm. We also anxiously await your decision on whether the Rainforest Alliance is willing to sign the [FSC accreditation, Treemail's note] contracts.", and when addressing Treemail's Director: "Thank you very much for keeping us informed, and for working at damage-control."
- In this same letter, the FSC Director Synnott informed the Smart Wood Director Donovan that his communication to the Treemail office of December 21, 1996 was "entirely correct and responsible".
- 10-01 Ruling on case Flor y Fauna versus Van Weezendonk, libel case dismissed, and judge condemns Teakwood to cover legal costs.
- 10-01 Van Weezendonk adds the issue of the incorrect claim to certification by the FSC for the Flor y Fauna plantations as an addendum to his complaint on misleading advertising by OHRA at the Standards Advertising Committee of December 6, 1995.
- 10-01 Prof. J. Centeno suggests to FSC Director T. Synnott to the FSC should request a public disclaimer from the Rainforest Alliance to the effect that the certificate they issued does not in any way imply an endorsement by the FSC; with copy to SW Director R. Donovan.
- 19-01 Ir. P. Hulsebosch reports to the Internet forestry list about a red code (i.e. instructions to remain silent) issued by DGIS to Costa Rica based sector specialist for the environment Ir. J. Bauer. This was never refuted by DGIS, or by its forestry advisors at IKC-NBLF (part of the Ministry of Agriculture) who are subscribers to the list.
- 23-01 Coordinator W. Kloppenburg of the Foundation BOS makes written suggestion to OHRA to 'reconsider the financial product Teakwood' [note: co-reference the agenda's entry for January 31, 1996].
- 23-01 In a letter to FSC's Board Director B. Cabarly Prof. J. Centeno writes: "It seems appropriate in this case for the FSC to request a public disclaimer from OHRA. The lack of reaction by the FSC to these statements [author's note: this refers to the fictional claim to FSC certification for the Flor y

Fauna plantations] can only be considered an endorsement by the FSC of OHRA's untruthful claim."

25-01 Prof. J. Centeno requests support from Minister Pronk of The Netherlands for an opportunity to speak in The Netherlands, and this request is copied to HRH Prince Bernhard. No response was ever received by Prof. Centeno.

27-01 Press release "Setting the record straight, the teak sword swings again" by Prof. Dr. J.C. Centeno distributed to ANP, The Netherlands Central Press Agency service. This press release includes reference to the incorrect claim to FSC certification for the Flor y Fauna plantations. The press release is circulated over the Internet forestry list.

28-01 Smart Wood Director writes a generic letter to B. Cabarly, FSC Director of the Board of Directors, and FSC Executive Director T. Synnott. OHRA brought this letter into the public domain by submitting it as an exhibit for the defense at the case before the Standards Advertising Committee in March 1996.

In this generic letter, Smart Wood Director states to have "seen no documented evidence that they have represented the certification in any other way." when referring to possible claim to "FSC certification' made for the Flor y Fauna plantations (instead of 'Rainforest Alliance certified').

In addition, the Smart Wood Director states: "However, at this time, it is our impression that Flor y Fauna and/or agents selling investments in Flor y Fauna, S.A. (e.g. OHRA insurance company) are quite clear that they were certified by Rainforest Alliance and not by the FSC, and that they have not attempted to mislead either clients or the public in this regard. [...] Upon hearing of these concerns, I spoke directly with Jan van Rossum of Van Rossum Van Veen Consultants, financial and management advisors in the Netherlands, who have been the liaisons for Smart Wood certification for Flor y Fauna. They were not aware of any instances where the terms "FSC-certified" had been used."

About the accuracy of advertising claims, the Smart Wood Director states: "We have continually required that FyF keep us updated in terms of advertising claims. Our contract obligations with them are quite clear."

In addition, the Rainforest Alliance Smart Wood Director informs: "Based on interviews, field work, and research data collected in Costa Rica, we did

not find that Flor y Fauna's projections on growth and yields were inaccurate." and: "Data collection so far indicates that they are not inaccurate."

[note: The Rainforest Alliance copied this letter to Treemail's office per fax on January 30, 1996, and to Prof. J. Centeno's office on February 1, 1996. Cross reference with agenda the letter from the FSC Director to the Smart Wood Director of January 8, 1996, and the agenda's entry for July 18, 1996]

On the past and current process related to Smart Wood certification of Flor y Fauna, Richard Donovan continues:

As I believe you all know, Smart Wood initially assessed FyF in the Fall of 1993. A full certification assessment procedure was completed including:

- . full assessment using the Smart Wood Generic Guidelines for Assessing Forest Plantations, a public document published in November 1993 [...]
- . independent interviews - as part of the assessment process, individual interviews were carried out with 15 forest economists, foresters, environmental specialists and social scientists to discuss FyF teak plantations, and a wide variety of environmental, social and forestry issues; these individuals included both Costa Ricans and many international specialists based in Costa Rica; though I was not part of the assessment team, I personally conducted field work at FyF prior to certification and also was present at some interviews.
- . independent peer review - the specialists who reviewed the draft report included Rebecca Butterfield, Ph.D. in silviculture and 10+ years of experience working on reforestation in Costa Rica with a research emphasis on native species; Buford Briscoe, a forester with over 30 years of experience in plantation and management; and Jose Joaquim Campos, Ph.D. in forestry from Oxford university in reforestation and natural forest management.

I should note that the assessment activities, and all subsequent activities, are being conducted in collaboration with Fundacion Ambio, a Costa Rican non-profit organization that is gradually assuming more responsibility as a local representative for the Smart Wood Program, with Costa Rican staff trained to conduct forest and chain-of-custody assessments. [...]

As you know, FyF did not meet Smart Wood standards at that time of the initial assessment. There were a

number of very significant pre-conditions for certification.

In late 1994, FyF requested that Smart Wood return to evaluate their compliance of pre-conditions for certification. Field work was conducted and FyF had fulfilled the conditions for certification. Based on this re-assessment, FyF was granted certification in April of 1995. [...]

Certification conditions

Following are the conditions which FyF agreed to for Years 1-3 of the certification (Smart Wood certification contracts are for three years). These conditions are in addition to a certification contract that explicitly states how the Smart Wood name can and will be used by FyF. Because the existing contract predates any Smart Wood accreditation by the FSC (currently pending for natural forest management and possibly in the future for plantations as well), FSC is only mentioned in the contract as a potential accreditor of certifiers. Thus, as part of our contract process, FyF must agree to providing information to such accreditors in the future on a confidential basis. It has been made quite clear to FyF that this is a Smart Wood-certification by Rainforest Alliance. [...]

Year 1 Conditions

-FYFSA will design and implement a continuous forest inventory and scientifically-based silvicultural trials system to monitor growth and test (and better substantiate) silvicultural procedures currently being used. (Note - As a suggestion from Smart Wood, and not a condition, FYFSA might consider conducting a benefit/cost and analysis to evaluate the currently-planned thinning regime once every two years.) Specifically, the silvicultural systems research program will compare the response and productivity of different thinning regimes and other silvicultural techniques at different sites. The results of this system should facilitate the development of reliable annual allowable cuts and yield projections for specific harvest areas, and volume estimates based on field volumetric evaluations rather than regression analysis. The design of the inventory plot system should eliminate factors such as edge effect and ensure a random site selection for good representation of all conditions.

- FYFSA will organize a training course for staff, employees and short-term workers on the use, storage and disposal of chemicals. FYFSA will also continue

to emphasize careful use of all chemicals, particularly in the case of Counter for nematode problems. FYFSA should also continue to research the most effective fertilization treatments for all plantations and seek ways of minimizing fertilizer and other chemical runoff into aquatic systems.

[note: WWF's Allard Stapel wrote in an article in the May 1993 issue of the WWF magazine 'Panda' that Flor y Fauna plantations were sustainably managed and that no chemicals are applied at the Flor y Fauna plantations.]

-FYFSA will plan, and if possible begin to implement, an assessment of biological resources within the forestry operation, capitalizing on national resources (e.g. universities, research centers, etc.). This assessment will assist FYFSA in clarifying future plans for re-establishing corridors between forest fragments, the use of native species, and other biological conservation measures. (As a suggestion from Smart Wood, and not a condition, FYFSA might also explore the use of Geographic Information Systems (GIS) as a tool for managing biological resources, as well as assisting in overall forest and plantation management.)

-FYFSA will complete plantings of native species as per current management plans.

-FYFSA will make available, in English or in Spanish language, to Smart Wood the results of the University of Rotterdam research on markets and prices for teak wood. Upon completion of this research, FYFSA and Smart Wood will discuss and reach closure on the need for a more detailed analysis of yield and financial projections.

-FYFSA will continue to seek improvements in systems for communicating with all employees. Options include the incorporation of Costa Rican staff into the senior technical management team, production of written annual operating plans (including yearly expectations and measures of progress), and formal annual planning sessions.

-FYFSA will identify and begin to use a new site for waste disposal, replacing the existing site near the Rio Aguas Zarcas.

Throughout the initial 3 year certification period:

-FYFSA will explore development of a system for more formal interaction with local communities in order to discuss grievances, community projects and/or other community development issues.

-FYFSA will place special attention to ensure the construction or rehabilitation of new roads, bridges or other infrastructure has minimal negative impacts on rivers, streams, wetlands and other conservation areas.

-FYFSA will monitor the need for on-site filed marking (e.g. signs) of conservation areas.

-FYFSA will explore the means to improve both genetic diversity and seedling quality for teak and other timber species being planted.

-FYFSA will explore possibilities for getting input from a forest roads and engineering specialist with strong experience in road design and erosion control.

-FYFSA will continue to explore ways of reducing use of chemicals in all plantation areas.

28-01 ANP, the Central Press Agency of The Netherlands, issues a press release to all Dutch newspaper, several of which later published the story. In its press release, ANP quotes OHRA's Director of the Board Huesmann as follows:

"The yield of the first plots that Flor y Fauna started eight years ago is exactly conform the expectations. Investors that have joined have meanwhile received their first share of the profits." and

[note: To the best of Treemail's knowledge, these first shares of the profits were not yet received by January 1997. For public and contrary company statements cross reference with e.g. entries for April 9 and 28 and August 5 and 16, 1996.]

"He [when referring to Professor Centeno; author's note] has not even seen the plantations".

[note: According to an article in the Netherlands' Forestry Association's magazine 'Nederlands Bosbouw tijdschrift', 69(1997)1: on page 9, authored by OHRA's Vice President of the Board Janssen, Professor Centeno did visit the Flor y Fauna plantations.]

29-01 FSC Director T. Synnott informs Treemail in a fax message that: "It is unfortunate that OHRA referred to the plantations as being FSC certified. The expression FSC certified is inaccurate and premature. The possibility of a certified enterprise making misleading public claims is in first instance, a matter for the certifier. Therefore

Rainforest Alliance is pursuing the matter, in close communication with the FSC."

[note: See agenda entry for January 30, February 2, 5, 22, March 11, 1996 and June 25, 1996. References to how this information was to be handled by the Rainforest Alliance can be found in the agenda entries for February 22, March 11 and August 16, 1996.]

30-01 Treemail sends a copy of advertisement per fax to the FSC containing the incorrect FSC certification claim. A copy of the accompanying letter was also sent per e-mail to the Rainforest Alliance Smart Wood Director R. Donovan.

In this accompanying letter Treemail informs the Rainforest Alliance Smart Wood Director that he can always refer to the Treemail office or alternatively to the FSC Secretariat if he would still require additional proof of the existence of claims in advertisements to a certificate that would have been issued by the FSC to the Flor y Fauna plantations. Even so, Treemail sends a additional fax copy of a similar advertisement text was directly to the Rainforest Alliance Smart Wood Director on February 2, 1996.

In the accompanying letter, which is also copied to the Rainforest Alliance Smart Wood Director, Treemail's Director states: "I hope we can all agree that as of this moment further ignorance of this OHRA claim in their advertisements will be labeled as silly by all others from now till ever after."

[note: See notes in this agenda of January 28, February 2, 5 and 22 and March 11, 1996, to follow Rainforest Alliance Director Richard Donovan's handling of this issue and to follow how this matter was later portrayed in public statements by the Rainforest Alliance Smart Wood Director.]

30-01 FSC's Director T. Synnott informs A. van Kreveld and W. Braakhekke, both WWF-NL, in a fax (which the FSC Director alleges was "designed for your support and use, as appropriate") that: "The Rainforest Alliance Smartwood Program is one of four certification programs which the FSC has evaluated and approved for accreditation as an independent certification body", and: "Accreditation contracts will refer only to certification of natural forests."

31-01 WWF-NL Director of Conservation W. Braakhekke communicates to Professor Centeno (with copies to HRH Prince Bernhard of The Netherlands, Minister Pronk, WWF-NL Chairman Nijpels, FSC and Rainforest

Alliance) that WWF-NL research has failed to identify one single instance of Flor y Fauna claim to a certification by the FSC.

[note: This is precisely the issue of a complaint before the Standards Advertising Committee, as per January 10, 1996. This letter by WWF to Professor Centeno is made public by OHRA on March 26, 1996, when the company submitted this document in evidence for the defense before a hearing at the Standards Advertising Committee.]

[note: The Rainforest Alliance report of August 16, 1996, states that "When WWF's communications department realized the mistake, it added, on its own volition, a clarifying addendum to the brochure at the end of January 1996." However, it appears that WWF spokesperson's and OHRA's still continue to address the press with same mis-statements in February, c.f. entry for February 9, 1996.]

- 31-01 OHRA threatens Stichting BOS with legal action [see: this agenda's note of January 23, 1996; as reported in 'de Telegraaf' of February 13, 1996].
- 02-02 An internal OHRA memo counts well over 1.5 Million incorrect advertisements containing a claim to FSC certification for Flor y Fauna plantation, and a mailing of 127,000 distributed to potential investors containing same claim [cross reference agenda entry for February 22, 1996].
- 02-02 Treemail sends a copy of a Teakwood Advertisement directly to Rainforest Alliance. On January 30, 1996, Treemail had already notified Rainforest Alliance that a sample copy had been sent to FSC Secretariat and that it would be available there for reference.
- 04-02 "Teak controversy flares up in The Netherlands" distributed over forestry list by Prof. Dr. J.C. Centeno.
- 05-02 In an e-mail message to Treemail, the Smart Wood Director Richard Donovan confirms receipt of the fax messages from Treemail dated February 2, 1996, which contain one of OHRA's advertisements where the incorrect claim is made to a certificate issued by the FSC for the Flor y Fauna plantation.
- 05-02 OneWorld Online publishes "WWF endorsed teakwood scandal hits tropical timber market" on <http://www.oneworld.org/>
- 06-02 FSC Board decides to ask the FSC Secretariat to request correction from OHRA and WWF-NL for

incorrect claim to FSC certificate for Flor y Fauna plantations "in their respective brochures and other places where the original misstatements circulated [note: consult agenda entry for April 3, 1996, on how this Board decision is reflected in correspondence from the FSC Secretariat to OHRA]".

07-02 The Financial Daily, 'Het Financieele Dagblad', and other Dutch newspapers report that OHRA threatens to take legal action against Prof. Dr. J.C. Centeno.

In its address to the Dutch press, OHRA declares the criticism by Centeno, on i.a. the false claim to a certificate issued by the FSC for the plantations, to be "totally unfounded". According to OHRA, "such an attack on OHRA's integrity is not justifiable." This news is reported by several Dutch newspapers, including e.g. 'Reformatoisch Dagblad'.

07-02 The Greens in the Dutch Parliament submit second round of questions on the Teakwood case, this time to Ministers of Agriculture, Finance and Foreign Aid [note: see agenda entry for March 29, 1996, for Ministerial response].

09-02 The Financial Daily, 'Het Financieele Dagblad', reports that (in reaction to OHRA's threat to take legal action of February 6, 1996) Prof. Dr. J.C. Centeno takes up residence at Tomlow lawyers office in the Netherlands to facilitate legal action to be taken by OHRA.

09-02 WWF spokesperson Marie Christine Reusken states in articles of GPD (e.g. as reported in the newspapers 'De Brabander' and 'De Gelderlander') that "Flor y Fauna received a certificate from the Forest Stewardship Council in Mexico." The article continues: "OHRA refers to this recognition."

[note: Cross reference with e.g. agenda entries for December 28, 1995, January 10, 31, February 1, 22, April 1 and June 25, 1996.]

12-02 Treemail distributes extra info on "Teak controversy in The Netherlands" over the forestry list. This message contains excerpts from the 1993 bailiff report and Flor y Fauna's provisional yield table.

15-02 The Dutch language weekly 'Elsevier Magazine' states: "Flor y Fauna is the first teak plantation that supposedly received a certificate issued by the so-called Forest Stewardship Council, FSC. The claim is important, for such a certificate would furnish the project with the essential credibility. In addition, WWF-NL has made swift certification conditional to joining the Teakwood programme. It is

all the more painful to mother organization WWF and WWF-INT that, as it appears now, the claim is untrue. OHRA, Flor y Fauna, nor any other party involved can claim an FSC issued certificate." and: "Salient detail: WWF is one of the main sponsors to the FSC."

18-02 Distribution over the forestry list of excerpts from Professor Oldeman's "Notes on measuring procedure 'Huizinga & Groot'".

21-02 FSC announces the accreditation of the first four certification bodies, including the Rainforest Alliance. Plantation forestry remains explicitly excluded from this FSC accreditation even if this arrangement is not reflected in the promotional materials released by the FSC Secretariat on that day.

The press release by the FSC informs:

"FSC today signed accreditation contracts with four certification bodies, and officially launched the FSC Trademark."

22-02 Rainforest Alliance Smart Wood Director R. Donovan circulates an open letter ('to whom it may concern') on the subject of "preliminary comments on Centeno observations and Rainforest Alliance certification of Flor y Fauna".

[note: This letter was made public by OHRA by submitting it in evidence at the hearing of the Standards Advertising Committee on May 9, 1996. Just who were the recipients of the letter from the Rainforest Alliance Director, apart from OHRA, is not known. In any case, a copy of this open letter was never sent to Professor Centeno, in spite of his repeated requests that followed once he was aware of the existence of this 'to whom it may concern' letter, nor was a copy ever sent to Mr. Van Weezendonk who filed the complaint at the Standards Advertising Committee on December 6, 1996, and who subsequently filed an addendum to his complaint on OHRA's claim to a certificate issued by the FSC for the Flor y Fauna plantations on January 10, 1996.]

In this open letter the Smart Wood Director states: "We request that any individual contact us if they have specified DOCUMENTED situations where misleading information is being presented on either Smart Wood, the FSC or Smart Wood certification on Flor y Fauna. Please contact us immediately. To be fair to all concerned, verbal statements are not sufficient; we need documented evidence."

[note: Cross reference with agenda's entries of January 8 (the communication from FSC Director to R. Donovan), 28, 29, 30 and 31, February 1, 2, and R. Donovan's confirmation of receipt of precisely such a document of 5, 1996.]

"Smart Wood is conducting a thorough review of all public information on Flor y Fauna provided by the company itself, or agents selling investments in Flor y Fauna. If Flor y Fauna had said that it was certified by the FSC, this would be inappropriate. So far, the language used in public brochures seen or reviewed by Smart Wood states either that:

- a) Flor y Fauna was certified by the Rainforest Alliance,
- b) Flor y Fauna was certified based on the FSC Principles and Criteria, or,
- c) Flor y Fauna was certified by the Rainforest Alliance based on the FSC Principles and Criteria.

All these statements are correct and have been discussed previously with Smart Wood or the FSC. Though we are still searching for documentation of inconsistencies and inaccuracies in public documents, court documents, etc. by Flor y Fauna or its agents, these are the only documented statements we have been able to encounter so far. [...] However, at the time, it is our impression that Flor y Fauna and/or its agents selling investments in Flor y Fauna S.A. (e.g. OHRA insurance company) are quite clear that they were certified by the Rainforest Alliance and not by the FSC, and that they have not attempted to mislead the public in this regard. [...] Also, Smart Wood always tried to be as clear as possible in all public forums about the role of Smart Wood and the FSC."

[note: Cross reference with agenda entries for February 1, 2 and 5, 1996, which include a reference of the Smart Wood Director's acknowledgment of receipt of a sample copy of an advertisement containing the incorrect claim by OHRA to a certificate issued by the FSC for the Flor y Fauna plantations, which he received per fax from Treemail on February 2, 1996.]

In the statement, R. Donovan adds to be "in almost daily contact with the FSC Secretariat" over the Teakwood case [also consult with agenda entry for January 8 and May 11, 1996], and the Smart Wood Director asserts "Flor y Fauna has been very open to Smart Wood, providing reports, documentation or access to confidential information whenever requested."

On the subject of Flor y Fauna's yield forecasts, the Smart Wood Director asserts: "Whilst Flor y Fauna's overall production volumes were seen by the assessment as "optimistic", neither we or peer reviewers could say that they would not achieve them, and Flor y Fauna's projections for mean annual increment (MAI) were reasonable."

Smart Wood Director Richard Donovan continues:

"The Smart Wood team then came to the conclusion that, in order to be certified:

- a) Flor y Fauna would have to establish a strong empirical basis for yield projections; this required establishment of an on-the ground system for growth and yield monitoring; and,
- b) Flor y Fauna should review current figures and ensure that accurate information was presented in public documentation.

Based on the above, Flor y Fauna engaged consultants, designed a system for data collection and monitoring, and began to implement it. This system was assessed during the late 1994 Smart Wood re-assessment. In addition, Flor y Fauna (or its agents) presented within public documents a range of potential yield values, not just a single value. These potential yield values were:

- Scenario 1 - diameter growth of 1.7 centimeters/year, with a mean annual increment of 29 cubic meters per hectare,
- Scenario 2 - diameter growth of 1.85 cm/yr, MAI of 39 cubic meters/ha,
- Scenario 3 - diameter growth of 2.2 cm/yr, MAI of 44 cubic meters/ha,
- Scenario 4 - diameter growth of 1.5 cm/yr, MAI of 22 cubic meters/ha.

[note: Smart Wood writes on August 16, 1996, that the first public indication of a change from the advertised yield projections was made only in November 1995. Quote: "OHRA's volume figures of 400-850 m³/ha in 20 years were first publicly indicated in November 1995 in response to criticisms."]

[...] Based on the above "growth and yield" discussion and relatively careful claims that Flor y Fauna was making about the environmental benefits of the plantations, Smart Wood did not feel that the company was misrepresenting it's current actions or potential achievements."

In a closing paragraph entitled "Smart Wood: Constantly Seeking Ways To Improve Forest Management/Certification", the Smart Wood Director writes:

" Smart Wood has a legal and philosophical responsibility to be fair. [...] Smart Wood hopes that Flor y Fauna's many positive contributions to plantation forestry in Costa Rica are not forgotten [...] ."

- 22-02 FSC Director T. Synnott announces the worldwide launch of FSC's timber logo (for independent eco-friendly forest products) on the RTL-4 Dutch language television evening news broadcast.
- 24-02 Article "Blasting the FSC in The Netherlands" distributed over forestry list by Prof. Dr. J.C. Centeno.
- 26-02 CCT report finalized, according to OHRA in the information distributed at the occasion of a press conference on Teakwood of March 4, 1996.
- 28-02 OHRA's President of the Board Huesmann informs all its Teakwood investors in a generic letter that:
- "The project performs conform all growth expectations."
- 01-03 The 'Intermediar' (a Dutch language weekly) reports shipment of 'FSC certified timber' to have been unloaded at Rotterdam ports, reports 5 Million ha of FSC certified forests worldwide, and in same full page article interviews Gemma Boetekees (FoE-NL, and later FSC-NL office holder) and Arnold van Kreveld (WWF-NL).
- 04-03 Teakwood press conference hosted by OHRA and WWF-NL, in the presence of Costa Rican Minister for the Environment and Energy Mr. R. Castro. OHRA and WWF present a CCT (or TSC in its English acronym) summary report and a summary of a KPMG report.

In the press release, OHRA and WWF discloses for the first time to the public that the Teakwood base price for teak has changed from USD 450 to a range of USD 450-565 per cubic meter.

A collage of snippets from the CCT report is presented to the press. According to the collage, the CCT was to:

"analyze projections of teak plantations belonged to the company [note: i.e. Flor y Fauna], which are supposed to reach certain levels of annual

increments in log volume and certain levels of economic revenues. TSC representatives in this contract are Dr. Humberto Jiménez Saa, coordinator and main responsible, Dr. Joseph Tosi Olín, M.Sc. Vincente Watson Céspedes, and M.Sc. Jaime Echaverría. Company representative was Dr. Pablo Camacho."

The OHRA/WWF press hand-out also includes a 13 page full color Teakwood brochure, which is edited and printed by Rood & Partners. According to this brochure, the text and photography have earlier been published by OHRA in its annual report of 1993. On page 12, the brochure references a 1993 report by the Ministry of Agriculture 'De Teak-plantages van Flor y Fauna S.A. in Costa Rica' as a source document. This implies that OHRA and WWF have quoted the Ministerial report, colloquially known as the 'Wouters' report, from 1993 onwards.

The 'Wouters' report clearly states the following on page 2: "This report has been written for -and remains property of- the Ministry of Agriculture. Conclusions and recommendations are for Ministerial use only." This notwithstanding, the Dutch Ministry of Agriculture has never protested the inappropriate and repetitive use of its 'Wouters' report by the Teakwood contract partners in e.g. brochures, annual reports, press releases and court cases.

The Ministerial 'Wouters' report includes -as a *conclusion*- with regards to the calculations on rates of return and prognosis the following key-statement (on page 11): "OHRA and FYFSA have been conservative in their calculations ...".

The confidential KPMG report (and thus not the collage that was presented to the press as the summary of the KPMG report) in the version that was presented to court by OHRA as exhibit # 10 on March 26, 1996, p 2, states:

"Outside of our report lies the judgement of the prognotized growth of the teak wood and the prognosis of the monetary value of the trees."

05-03

"Yesterday, OHRA announced that it will no longer sell Teakwood insurance policies in the future. In total, around 13,000 policies were sold. According to the Director of the Board, the decision has not been reached on the basis of the negative publicity during the passed weeks. "Three years ago it was already established that there are no possibilities for expansion of our plantation. The surrounding areas had already been sold off. In addition, there is but a limited market for this kind of investment

policies", declared OHRA." [Source: 'de Telegraaf, March 5, 1996].

- 06-03 Costa Rica's Prime Minister J.M. Figueres and Minister of Environment and Energy R. Castro joins in with Teakwood representatives to attend a round table conference on "Reforestation investments in Costa Rica", organized in cooperation between the Costa Rican Embassy in the Netherlands and the foundation Eco Operation (an Amsterdam based and DGIS funded institution which has been established to execute the bilateral environmental treaty between the two countries).
- 07-03 Wageningen University Newspaper, WUB # 9, reports on Teakwood's presentation of March 4, 1996 (excerpt):
- "The most recent research of the Centro Cientifico Tropical should, with hindsight, justify the projected world records. If this will close the discussion remains doubtful. On March 5, OHRA presented only extremely marginal data that give no insight into the methods employed and the quality of the timber, which is highly relevant to its pricing. According to WWF Director Woldhek, a discussion with foresters will take place in April. At the occasion all information will be made available."
- [note: these data, including the CCT report were later declared as company confidential and classified by Flor y Fauna. A discussion with foresters, as announced by the WWF Director, never materialized. Cross reference with agenda entry for March 14, 1996, which reports that WWF forestalled any such discussion. A proposed discussion with foresters by WWF Wageningen branch was forbidden by WWF headquarters.]
- 08-03 The Tico Times, an English language newspaper for Central America, publishes an interview with Rainforest Alliance's Smart Wood Director R. Donovan. Quotes: 'Smart Wood now admits it didn't investigate the company's financial projections and its advisors are disputing the plantation's growth projections. Donovan said he believes Flor y Fauna's higher projections are not realistic, but that "the lower rates are possible".' and: 'Donovan says there are other pitfalls. During the next 25 years, for example, the plantation must not suffer any hurricanes, rodent attacks or plagues. Donovan confessed that he himself would have doubts about investing with OHRA in a teak farm in Costa Rica.'

The article continues:

'Donovan said he believes that the higher rates are not realistic, but that "the lower rates are possible". Nonetheless, Smart Wood is seeking to dodge the controversy by saying Flor y Fauna's projections cannot be disproven.

In addition, The Rainforest Alliance Smart Wood Director Richard Donovan also stated that in late 1993 he found that Paraquat, a highly toxic herbicide, had been used extensively on the Flor y Fauna plantation, that the plantation personnel was now instructed in the proper use of chemicals and that the plantation did not even have a management plan.'

[note: In its very first brochure of 1993 and in subsequent public and promotional materials, the Teakwood contract partners have consistently claimed that the Flor y Fauna plantations were managed 'according to FSC principles and criteria'. This has been done with the apparent full consent of the FSC. According to the Rainforest Alliance Smart Wood Director, a management plan was not in place at the Flor y Fauna plantations during his 1993 inspection. However, it would appear that a forest management plan is the primordial document upon which any certification of forest management can be based, either within FSC related or alternative certification schemes.]

11-03

FSC finalizes a public statement on certification, which includes a reference that the FSC considers any claim to plantations being certified by FSC to be a 'double mistake'. This public statement is not 'broadcast' by the FSC Secretariat, nor does the Secretariat publish its statement on the FSC WWW site as the FSC Secretariat implies in the statement. Full text:

FOREST STEWARDSHIP COUNCIL / FSC / CONSEJO DE MANEJO
FORESTAL Avenida Hidalgo 502, 68000 Oaxaca,
Oaxaca, México Tel: ++ 52 951 46905,
63244. Fax & Tel: ++ 52 951 62110 E-Mail:
FSCOAX@anteguera.anteguera.com FSC@laneta.apc.org
FSC WWW site: <http://anteguera.anteguera.com/FSC/>

NOTICE 11 March, 1996
FSC Board Members
FSC Contacts
WWW site home page

As a result of the recent accreditation by the Forest Stewardship Council of four certification bodies, and specific issues which have arisen in Europe (most recently in The Netherlands), the FSC Board of Directors wishes to clarify the following

points, to ensure a better public understanding of independent forest certification and of FSC accreditation.

1 The Forest Stewardship Council is an accreditor of independent certification bodies, which certify and monitor forest management enterprises. The FSC itself does not certify forests, but it endorses certification bodies and their certificates.

2 Four certification bodies have now been accredited by the FSC, for the certification of natural forests only. None have yet been accredited for certification of plantations. No certificates for plantations have yet been endorsed by the FSC. Accreditation contracts may be extended to cover plantation certification during the next few months.

3 The expression "FSC-certified" is incorrect. Any claims that plantations have been in any way "FSC-certified" are doubly incorrect. Certification programmes, certificates, forests, and products which are within the scope of FSC contracts may be described as "FSC-endorsed". The name "Forest Stewardship Council" and the new FSC logo are now being registered internationally as Trade Marks, and any improper uses will be followed by the appropriate measures.

4 As a condition for FSC accreditation, each certifier must operate an appeals procedure for hearing and investigating complaints against their certification decisions. Due process demands that this appeals process be brought to conclusion, before the FSC Board or Secretariat be involved in investigating appeals or complaints about individual certified forests. The results will be available on request.

The FSC Board of Directors requests that this statement be freely distributed by any recipient.
FSC . Oaxaca . Mexico.

11-03

Smart Wood Director R. Donovan releases a public statement entitled "Flor y Fauna Certification: A Statement Form Smart Wood". The Rainforest Alliance copies this statement to the Internet forestry list.

The Smart Wood Director publicly announces this to forestry colleagues worldwide that he is still investigating if Flor y Fauna or its agents would have advertised that the Teakwood plantations have a certificate that was issued by the FSC. The Rainforest Alliance Smart Wood Director Richard Donovan does so even if a sample copy of such an advertisement had been sent to his office and after

he had acknowledged -in writing- the receipt of these materials [see notes of January 28, 30 and 31, and February 1, 2, 5 and 22, 1996].

To be precise, the Smart Wood Director claims in his public statement that: "Smart Wood is now working to verify Flor y Fauna's advertising claims with respect to FSC and/or Smart Wood. If deliberately misleading claims have been made by others, then appropriate actions will be taken."

[note: The Smart Wood Director here publicly reiterates the impression that it is Smart Wood and not the FSC that is investigating the Teakwood contract partners' incorrect claims to an FSC issued certificate for the Flor y Fauna plantations. This would be congruent with a letter by FSC Director T. Synnott to Treemail of January 29, 1996. However, the FSC issues a public statement to the contrary on precisely this issue, on June 25, 1996. In this statement, the FSC publicly announces that only the issue of the growth and yield projections "is being dealt with by the Rainforest Alliance".]

In continuation, the public statement by Smart Wood alleges: "Smart Wood does not guarantee growth and yield projections. However, Smart Wood did review Flor y Fauna's growth data, and the company already was showing above-average growth performance. Based on this preliminary data, Smart Wood could not determine definitively that Flor y Fauna's range of growth projections would not be obtained."

[note: In the case of the Teakwood plantations I-V, Flor y Fauna has never published a range of growth projections, rather, it has projected one single projection. The Flor y Fauna Teakwood I-V plantations are also certified as 'well managed' under the Rainforest Alliance Smart Wood programme. Flor y Fauna's sales brochures for the Teakwood I-V plantations only refer to a single yield expectation of 1,001.50 m³/ha accumulative log volume in 20 years, which corresponds to an MAI of 50.07 m³/ha.]

After having asserted that Professor Centeno has informed Smart Wood that he will not file a complaint at the Rainforest Alliance, the statement continues:

"Nonetheless, Smart Wood is treating Mr. Centeno's concerns as a formal complaint. [...] Concerns will be addressed in a careful, systematic way that treats all parties fairly. A subsequent report will provide more detailed information on Smart Wood's findings and Flor y Fauna's certification.

[note: The outcome and ruling of the Rainforest Alliance 'complaints procedure' and the 'findings' of these investigations are eventually reflected in a report by the Rainforest Alliance with date August 16, 1996.]

12-03 "World record on teak yield: truth or trickery?" distributed over forestry list by Prof. Dr. J.C. Centeno.

14-03 Wageningen University Newspaper, WUB #10, publishes a more than full page article on Teakwood by Ir. Laurens Vogelezang. Excerpts:

CASTLES IN THE AIR ... MADE FROM TEAKWOOD

Teak Plantation Controversies Frustrate Forestry Sector.

Sky high returns on investment and world records in the production of tropical timber. With these beautiful predictions and with support from the WWF-Netherlands insurance company OHRA lured thirteen thousand investors. They invested substantial amounts in young and petite Costa Rican teak trees. Messages from a confused sector.

The Dutch forestry sector is at its wits' end what to do about teak investment companies. Financial swingers, as a rule completely devoid of any forestry knowledge, rapidly unleashed a boom of investment funds that tie down Dutch private savings to tiny trees. [...]

The Teakwood entrepreneurs do not shy away from summoning critics before court. This happened to a former Flor y Fauna advisor, L.H.T. van Weezendonk, who openly criticized the promised high rates of return. Ohra lost the court case.

The court hearing came as a real bomb shell. OHRA appeared to have increased the expected yields to 1,067 m3 per hectare. Source of these projections was remarkable: a bailiff. He had traveled to the plantation in 1993, supervised by a civil servant from the Ministry of Agriculture and one from the Ministry of International Cooperation. The civil servant from the Ministry of Agriculture endorsed the spectacular results and even considered them to be conservative.

This was really taking it too far, observed Professor R.A.A. Oldeman. He analyzed the data that were presented and put them in the pillory in no mean terms. [...]

According to forestry faculty's K.F. Wiersum "WWF confuses means and goals." The organization made a one sided choice for the big money ... But WWF-NL does not budge an inch ... quiet diplomacy from the forestry faculty was of no avail. ... Sill, the whole affair can damage WWF-NLs good reputation. [...]

Under strong political pressure, the forestry sector works to stimulate trade in sustainably produced timber. Certification is an important means to reach that goal. ... The FSC portrays itself as THE international organization for accreditation of organizations such as the Rainforest Alliance. To this, absolute credibility is conditional; fumbling with untrue allegations in advertisements undermines this process. The anger amongst foresters further increased because the FSC never openly refuted the improprieties. Al the more so because WWF-NL is main sponsor to the FSC. [...]

Foresters frustrations reached their zenith when Ministers Zalm and van Aartsen [of Finance and Agriculture; Treemail's note] answered questions raised in Parliament, following a television broadcast by NOVA. Zalm declared that because of the special character of the investments he could not legally supervise the investments. Van Aartsen added fuel to the fire by stating: "it has not been proven that the Teakwood plantations cannot reach their prognostised timber yields". He based this mainly on the findings by the civil servant who accompanied the bailiff, and who was no longer taken serious by forestry scientists.

Many forestry academics experience vicarious shame ever since. Foresters slowly pool counter forces, because quiet diplomacy proved ineffective. Forestry consultant Romeijn attempts to strike up a public discussion over the Internet. The discussion clearly demonstrates how high frustrations and indignations have risen. Via the net, Professor Centeno received over 3,000 letters from perturbed colleagues. [...]

WWF-NL headquarters ... prohibited its Wageningen branch to organize a public debate following the NOVA broadcast. OHRA and WWF-NL did, however, did go public on March 4, with a report prepared by scientists from the Costa Rican Centro Cientifico Tropical (CCT). The researchers state in the executive summary that yields from 400 to 800 m3 appear attainable. [...]

According to de Graaf, Huizinga with his Flor y Fauna plantations can attain just over 400 m3 under extremely favorable conditions. This concerns the

total timber mass, and not just those parts of the stems that can readily be sawn. The forestry faculty's staff member departs from his own research experiences, because the CST summary is totally unsound; the methodologies are not specified and essential data are lacking. "I read between the lines that the researchers do not realize that they have been tricked" states de Graaf. The researchers appear to base their findings on data provided by Flor y Fauna, who are themselves under debate. "I do not accept it when my students produce such a summary", adds colleague Wiersum.

The bickering seems to degenerate into a repetition of moves. How can foresters react adequately in order to forestall the next sordid experience? De Graaf: "For scientists the only truth is reality. In this case it can be measured, but this should be done properly. To end the debate Flor y Fauna should give us permission to measure everything, but they won't. Where money reigns, this is what you can expect."

Wiersum: "One is confronted with ones' ethical limits when so much money is involved. In the past the discussion was about the question if the faculty could collaborate with logging companies. Now the question has arisen if one has to distance oneself from organizations that, as part of afforestation, throw money about."

16-03 Flor y Fauna circulates a letter form the Director Ebe Huizinga to all its investors in Teakwood I-V. Excerpts:

Luckily, we have been able to get our growth projections confirmed by the Tropical Science Center, a renowned research organization in Costa Rica. It is true, our trees grow very well, better than any reference in literature. At the time, rather than to consult with the literature, we mainly looked into what the actual possibilities for growing teak in the direct area were. Because of proper and intensive management, we preform better than other plantation nearby but not by an extreme margin. These other, mainly smaller plantations serve us -in part- as guide for our forecasts. A 9 year old nearby plantation has 400 m3 standing timber per hectare and another, 16 year old plantation located at slightly less favorable site, has 500 m3 standing timber. All of this grew without any maintenance and/or management.

In many countries no more than 15 m3 per hectare per year is attained. At our plantation, on the other hand, growth figures are reached of over 40

m³/ha/year. Measured over 20 years, the yield will without doubt lie between 400 and 800 m³ per hectare. We are convinced that these figures can be increased considerably in the future if progress can be made with genetic improvement, seed selection, site selection and further research into nutrients.

Up to now the all projects are performing just fine. Even if there are discrepancies in yield between the various projects, all investors will make good returns. [...] More than 95% of you has returned the signed form to accord the new thinning regime and the further processing of the timber. I can, once more, tell you that the processing will definitively generate higher returns. The detour of the timber trade is shunted and we now count with e.g. interest from North America and Italy for several of our products, markedly for tables and chairs.

The first thinning in Teakwood I is now underway and is producing beautiful wood [note: for a company statement on the quantity consult with agenda entry of April 28, 1996]. OHRA would like to see lots of teak used for its new building. Wood derived from the thinning of Teakwood I can be used for this purpose. According to our latest calculation, we will not quite attain NLG 25,000 with our first cut, but this is caused by thinning two years ahead of schedule which makes the stems thinner. [...] By the way, the pre-thinning, remember the so-called trash [Dutch: 'rommel'; author's note] that we removed, still renders spare money because part of it can be processed. [...] In all, this means that according to our calculations the first investors may receive what was expected in 1997.

[note: In WWF's Dutch language summary of the CCT report, the following is reported on the dates of the thinnings in the Teakwood plantations: "Meanwhile, Flor y Fauna has thinned the plantations twice. In February 1995 and a second time during the visit of the CCT consultants. Thinnings are performed on the basis of tree quality."]

- 19-03 Press release #22 issued by the Dutch Ministry of Agriculture announces that the civil servant that accompanied the bailiff (ref. entry of March 14, 1996) is advanced to a much higher position within the Ministry. The mutation is to take effect on April 15, 1996 (see entry).

- 26-03 OHRA's legal representatives Ekelmans den Hollander present a written memorandum for the defense in the case of alleged misleading advertising brought before the Standards Advertising Committee on December 6, 1995, by Van Weezendonk. Excerpts:

OHRA bases itself on a report of Ir. Wouters, following an extensive mission on behalf on the Ministry of Agriculture, Nature and Fisheries, a report by the Rainforest Alliance following the certification of the Teakwood project, a declaration from Prof. Camacho dated November 21, 1995, an official recording by bailiff Groot and a report from the Centro Cientifico Tropical, likewise based on an extensive research. In addition, OHRA's arguments are supported by reference data from other plantations in Costa Rica where timber volumes have been attained that are entirely in line with the prognosis of Flor y Fauna and OHRA.

Considering the prices that are already being paid for 20 year old teak from Costa Rica and given the circumstance that -also according to Van Weezendonk- prices will only rise in the future, the rates of return will be within the bandwidth of 11-25%. In particular, this is valid now that more than 60% of the Teakwood investment policy's return is determined by the returns from cuts of the 20 year old teak. To this must be added that OHRA has agreed that it will not acquire 'standing timber' (in the sense of trees as they stand in the plantation) but, as a minimum, semi-finished products. It follows that higher prices must be paid than for standing timber. But this is not all. At this point in time there are advanced plans to process the wood into e.g. furniture and this, again, will fetch a higher price. For the purpose, all the necessary machines and other equipment is present at the Flor y Fauna plantations to process the timber into furniture. With that, all required furniture designs have been produced.

The positive effect of processing timber into semi- and finished- products has not been allowed for in the calculations on the rates of return.

The accreditation of organizations for the certification of plantations is in full swing, but at the moment not one organization worldwide has been accredited by the FSC for the certification of such plantations.

OHRA introduces, as Exhibit 5, a letter from W. Braakhekke of WWF to Prof. Centeno of January 31, 1996. Quote from exhibit 5: "Secondly, you write that FyF claimed that it has been certified as "well managed" by the FSC, that OHRA seems to have done the same and that this is unlawful. We have checked their publications and have not found a single case to support your allegation."

OHRA introduces, as exhibit 27, the WWF document entitled 'Naar een houtbare wereld'. Excerpt: "Recently, The Netherlands first producer of tropical hardwood was FSC-certified for its good management of the teakwood plantations."

OHRA introduces, as exhibit 30, a letter from WWF Director S. Woldhek to OHRA's legal representative Ekelmans den Hollander of March 20, 1996. Excerpts: "From December 1992 till April 1994, Mr. Van Weezendonk has intensively tried to gain interest from WWF and our international organization WWF-INT for his Savewood project. We have always wondered why he placed such strong emphasis on the secrecy obligations concerning these documents. Now we finally understand. In his proposition, he promised 19% rates of return and portrayed to us that this should be considered as a conservative estimate.

[note: In his comparison between Teakwood and Savewood, WWF Director Woldhek appears to that the Savewood project proposal, in apparent contrast to the Teakwood investment programme, includes revenues derived from timber processing as part as the basis for attaining projected rates of return projected to investors. This information on the Savewood programme can be found in same documentation from the defense by of OHRA's legal representative Ekelmans den Hollander, Exhibit 22, Memo from WWF Wade Adeleke to WWF Forest Advisory Group of September 13, 1993. Inclusion of returns derived from timber processing can substantially enhance revenues for investors, according to the report on Teakwood written by Prof. Laarman for the Rainforest Alliance. Cross reference with agenda entry of August 16 and December 18, 1996.]

[note: OHRA introduces the WWF publication 'Naar een Houtbare Wereld' (first edition) as exhibit # 27, without correction note (ref agenda entry for April 1, 1996).]

29-03

Ministers answer to second round of questions raised by the Greens in the Dutch Parliament. Minister of Finance announces that he is not willing to exert control over teak investment schemes. DGIS announces that it has canceled a workshop on Dutch plantation investment schemes in developing countries. DGIS had already commissioned preparation and organization of this workshop to the Foundation BOS.

In addition, Minister Pronk announces to the Parliament that Prof. J.C. Centeno will not be invited to The Netherlands.

[note: At the time of publication of this agenda, DGIS still fails to communicate the nature of this decision to Prof. J.C. Centeno. Cross reference this with Prof. Centeno's request as reported in agenda's entry for January 25, 1996.]

30-03 In March 1996, OHRA circulates the 'Teakwood Information Bulletin'.

In the section 'market and price/quality', OHRA states that:

Two factors that will without doubt positively influence the proceeds in the future, i.e. processing into semi-finished product and the ecological hallmark (from the Rainforest Alliance) have, as a matter of prudence, not been incorporated in the calculation of the expected rates of return."

In the section 'timber yields', OHRA describes its perception of the relationship between diameter and volume increment.

"In the brochures of both Flor y Fauna and OHRA, a bandwidth of timber yields is predicted. On this, in part, the rates of return are based. The timber yields are related to the mean diameter increment of the trees. In the said brochures, a minimal annual growth of 1.5 cm and a maximal annual growth of 2.2 cm per ha are predicted. Translated to cubic meters, this comes down to a total yield (four cuts) of 400 m³ to 850 m³ over 20 years."

01-04 The FSC Secretariat publishes a statement called an "Update on the Flor y Fauna Case" with date 'April 1996' (no precise day is given). The statement reflects the decisions taken at the 8th FSC Board meeting of early February 1996. Excerpts:

2 The Board decided the following:

(I) That Julio Cesar Centeno's challenge of the Flor y Fauna certificate should be dealt with first by the certifier as a formal complaint according to their internal procedures, as required in the FSC Accreditation Manual; and that the FSC should invoke its own appeals procedures at either the level of the Secretariat, or the FSC task force on accreditation appeals, only after due process had been followed by the certifier, and appealed to the FSC Secretariat."

"3 (I) [...] Chris Elliot has stepped down as Taskforce Chair [...]."

"6 With regard to the Flor y Fauna case, Julio Cesar Centeno drew the Secretariat's attention to claims about the Flor y Fauna certification made in brochures produced by OHRA a Dutch insurance company, and WWF-Netherlands (WWF-NL). the Secretariat has sent letters to both OHRA and WWF-NL to explain our policy, and to request that they correct any mis-statements in their respective brochures and other places where the original mis-statements circulated. WWF-NL informed us that they realized their error after the fact, and subsequently included a correction notice inside their brochure."

[note: see final note on agenda entry of March 26, 1996.]

03-04 FSC Director T. Synnott informs OHRA on the claim to a certificate issued by the FSC for the Flor y Fauna plantations that: "We urge to ensure that statements of this kind are withdrawn immediately."

[note: This letter was made public by OHRA by its submission as an exhibit for the defense in a hearing at the Standards Advertising Committee which ruled on May 9, 1996.]

[note: This letter contains no reference whatsoever to a request for correction of mis-statements by OHRA and WWF, as reflected in the FSC Board decision of early February where the Board states that: "the Secretariat has sent letters to both OHRA and WWF-NL to explain our policy, and to request that they correct any mis-statements in their respective brochures and other places where the original mis-statements circulated."]

[note : see agenda entries for January 8, February 6, April 1 and June 25, 1996]

03-04 "The developments surrounding the teak plantations and teak investments have the appearance of a soap opera. Disputes over promised rates of return, sales companies and researchers that give each other hell over reports, (threats to) legal action and extensive media coverage. The soap opera can even count with international success. Next to teak plantations in Costa Rica, Brazil, Ghana and India, walnut projects in Portugal and Robina plantations in The Netherlands have recently been introduced. Meanwhile, the answer to the true rates of return lies in the future, after all, what will the teak revenues, teak prices and the dollar exchange be like in some twenty years from now?"

Source: 'Houtwereld', issue '96-7, page 20 (box 1 of feature article).

09-04

OHRA circulates a letter to all investors in Teakwood VI-VIII (excerpts):

"OHRA currently advertises with an expected rate of return of 14, 16 or 18%. In the brochure that can be requested through the advertisement it appears that there is actually a bandwidth of 11-25%. This depends on the growth (timber yields), the market price of the timber after cutting and the dollar exchange rate (the world's timber market trades in dollars). Presently there are eight generations of teak trees on the Flor y Fauna plantation. Thinning of the first generation has recently taken place. The yield, with regards to timber quality, quality and price, is conform expectations [note: cross reference entry for January 28, April 4 and August 5, 1996]. Part of the wood will be used to produce furniture, another part will be processed into flooring and parquet. Very recently, Flor y Fauna has informed all its initial investors that they will receive the first returns conform expectations in early 1997. This does, by the way, not concern the OHRA Teakwood policies; those trees will be thinned shortly."

In addition, OHRA circulated an attachment with date 'March 1996' entitled 'OHRA Teakwood Informatiebulletin' to all its investors. Excerpts:

"The project develops entirely within the bandwidth of the claimed prognosis. This is supported by intensive monitoring, scientific supervision (certification !) and under accountants surveillance."

"... OHRA, with Flor y Fauna, is of the opinion that a base price of USD 565 leaves more than enough margin to corroborate the prognostized prices, and the price that Flor y Fauna believes it will realize in the future. Implicitly, this takes account of the fact of a lower perceived market quality in comparison to the 60-80 years old Burma teak."

"The OHRA brochures mention different parameters (diameter increment, exchange rate of the dollar and annual price increases) that will influence the height of the final return. Exchange rates to the dollar of 1.50 to 1.95, diameter increments of 1.5 to 2.2 cm per year, an annual price increase for timber of 2 to 9% are all mentioned. In that case, the return will fall between 11 and 25%. Being the most likely bandwidth, the OHRA brochures and advertisements depart from 14 to 18%."

"In order to remain on the safe side, two factors which have a positive influence on the rates of return in the future, specifically the processing into semi-finished or finished product, and the ecological label (from the Rainforest Alliance) have not been taken into account for the purpose of calculating the expected rates of return."

"In both the Flor y Fauna and the OHRA brochures, a bandwidth of timber yields is predicted. On this the rates of returns are based. The timber yields are related to the mean diameter increment of the trees. In said brochures, a minimum growth of 1.5 cm per year is predicted and a maximum growth of 2.2 cm per year (see above). Translated to cubic meters this boils down to a total yield (four cuttings) of 400 m³ to 850 m³ over the entire period of 20 years."

"According to forestry experts the timber yields will 'without a shimmer of a doubt' fall between the bandwidth of 400 to 850 m³."

"The Rainforest Alliance is amongst the first four certification institutes worldwide to have been accredited by the Forest Stewardship Council. Only teak derived from a plantation that has been certified by an institution that has been accredited by the FSC can carry the FSC label. This label is a guarantee for plantation timber that it is sourced from a plantation that is managed according to the highest standards of environmental, social and economic management."

[note: The above communications make no reference whatsoever to the yield projections that were verified by the Rainforest Alliance during the Smart Wood assessment of March 1996, which were based on measurements taken by Flor y Fauna in January 1996; see entry of June 8, 1996.]

"However, the meteorological station closest to the plantation was closed down in 1983. Recent and accurate data on the weather conditions in the area near to the plantation are therefore not available."

[note: the Teakwood VI, March 1993, brochure states: "On the basis of meteorological data over the last 20 years, we can assume that the first thinning could be achieved in the seventh year after planting the trees. Because an unfavorable season can always occur during the first couple of years and to err on the safe side, the calculations {for the yield projections} are not based on this assumption.]

"The 1990 base-price of USD 565 that Flor y Fauna used for teak as standing timber is OHRA's point of

departure for calculating its prognosis. It is important to know that in 1991/1992 Flor y Fauna sold 20 year old teak (sawn and dried) in The Netherlands for prices of NLG 2,500 to 3,000. Other teak exporters from Costa Rica recently sold against prices varying between USD 850 to 1,200 per m3, notably in the USA.

Given the recent prices that were actually made, OHRA (together with Flor y Fauna) believes that the base-price of USD 565 leaves more than enough headroom to set the prices as prognostized and to set the price that Flor y Fauna believes it will make in the future."

[note: OHRA apparently informs or discloses for the first time to its investors that the 1990 base price for standing timber as used for its calculations of the rates of return to investors has retrospectively been increased from USD 450 to USD 565 per m3. The Teakwood VI sales brochure of March 1993 states about the 1990 base price for raw teak logs in Costa Rica: "The calculations for TEAKWOOD VI depart from a base-price for teak of USD 450 per m3. However, in 1992, the price in Costa Rica had already risen to USD 585 per m3. Thus the calculations have a built-in a fall-back of USD 100 per m3. This, once again, demonstrates the extremely conservative, hence safe, approach." Cross reference with agenda's entry for March 4, 1996.]

"The Rainforest Alliance is among the world's first four certification bodies that has been accredited by the Forest Stewardship Council (FSC). Only teak that is derived from plantations that have been certified by an FSC accredited organization may carry the FSC label. This label guarantees that the plantation timber is derived from a plantation that has been managed according to the highest environmental, social and economic management standards."

[note: This communication to OHRA's Teakwood investors contains no reference to the incorrect claims that OHRA, Flor y Fauna and WWF have made to a certificate issued by the FSC for the Flor y Fauna plantations, or of the fact that the Rainforest Alliance accreditation contract with the FSC does not cover plantation forestry.]

[note: For the occasion, OHRA submitted the March 1993 Teakwood VI brochure to the Committee as exhibit in evidence for the defense.]

09-04 Flor y Fauna's representative Jan van Rossum announces that the CCT report "will be published soon." (source: Het Financieele Dagblad, page 11.)

12-04 Treemail communicates to key-FSC Board members and the FSC Secretariat [cross reference: FSC statement of June 25, 1996]:

"End of December 1995 Tim Synnott phoned our office and convinced himself that I understood perfectly well the distinction between certification and endorsement, which is not too hard for someone who was brought up bi-lingual and was later trained as a tropical forester. I have never, to my knowledge, confused these terms neither in English or in Dutch. We have seen many euphemisms used to smoothen mis-information produced intentionally by F&F, WWF-NL, OHRA and Van Rossum Van Veen, including some of these statements originating from Oaxaca. Examples of such statements are: unfortunate, premature, mistake, slip of the pen, and now possibly a language difficulty.

Intentional? Yes, because even after being confronted with the misleading nature of the statements, WWF-NL -as I quoted- still maintained use of FSC certified to the press. And yes, since WWF-NL brochure, OHRA advertisements and F&F statements in court skipped any mention of RA when elaborating the subject. Nor will it suffice for RA to investigate Flor y Fauna advertisements, since we all know quite well that advertising for Teakwood is done by OHRA, and not by Flor y Fauna. And even more yes, since Teakwood is backed by a scientific advisory board whose members are all perfectly capable of understanding these issues and of handling any of the possible language barriers between Dutch and English that you refer to. Also, this hide and seek game was prolonged for months as parties were unable to find statements produced by OHRA and WWF-NL that were printed and distributed over 1,500,000 times or to verify statements made in court; and is apparently even maintained after Treemail faxed copies of same to RA and FSC."

15-04 A.J.M. Wouters is advanced to the much higher position of interim Director of the Directorate Science and Knowledge Transfer of the Ministry of Agriculture, Nature and Fisheries, a key position for controlling these budget lines for the Agricultural University of Wageningen and the cluster of agricultural research institutions 'DLO' (ref: 'Wagenings Alumniblad', June 6, 1996).

A.J.M. Wouters is the author of an official report on the Teakwood plantations by the Ministry of

Agriculture which was published early 1994 and of several declarations before courts in support of Flor y Fauna. Meanwhile, it has surfaced that he is also the President of Flor y Fauna's scientific advisory board. The independence of Ministerial report and its author were claimed by WWF-NL's Director S. Woldhek in a letter to the editor in the national newspaper NRC, published on December 30, 1993, where he announced this report would be an "independent and professional evaluation of the project" [note: cross reference Treemail's publication over the Internet forestry list of June 5, 1996].

This Ministerial report contains the following text (on page 11):

[caption in bold typeface:] "Conclusion on the calculations of the rates of return and prognoses"

"OHRA and FYFSA have been conservative in their calculations ..."

Professor J. Centeno publishes the following comments on this document in an article called 'The elusive credibility of forest management certification claims', June 20, 1996. Excerpts from the comments by Professor Centeno:

As late as December of 1995, Flor & Fauna introduced as evidence in a court of law a document from the Ministry of Agriculture of the Netherlands, dated December 28, 1993 [Reference 9], where the MINIMUM expected yield for these plantations is established at 1,057 M3 per hectare during the 20 year rotation period. This implies a MINIMUM mean annual increment of nearly 53 M3 per hectare per year!!

The same Ministerial Report was introduced as evidence by OHRA to the Standards Advertising Committee for the hearing of May 9, 1996.

[NOTE (by Prof. Centeno in his article): This document has proved to be an embarrassment to the Ministry of Agriculture, due to its speculative nature, to its lack of professionalism, and to the inclusion of such an array of elementary mistakes that would flunk first year forestry students at any University.]

[note: also see this agenda's entry of February 18, 1996]

The Ministerial report is one of the very few sources of publicly available information that contains any detail on the 'innovative management

techniques' at the Teakwood plantations as claimed by Flor y Fauna, OHRA and WWF. Under conditions which are described in the Ministerial report as: "it is not known what nutrient deficiencies are present in the soil or what deficiencies may turn up in the future" and where the report's author asserts that: "soil research is recommended", the author of the report also informs his readership of the following:

"Before planting, a dose of 200 grams of calcium carbonate is given to the soil of each planting hole. After 1 growing season in 2 holes adjacent to each tree at a depth of ca 30 cm, NPK fertilizer 12/24/12 or 10/30/10 is applied (to stimulate height increment). From the fourth year onward, similar application is changed to NPK 15/3/31 plus dolokal which contains magnesium (to stimulate diameter increment and in reaction to too light coloring of the leaves)."

16-04 Questions in Parliament to the Minister of Finance raised by VVD, a political party that is coalition member of the Dutch Government, as a result of publicity surrounding ostrich farming, diamond and teak investment schemes, and calling for effective control by the Minister [note: agenda entry on Ministers answers for May 30, 1996].

18-04 Symposium presentation by Treemail's Director at University of Twente. The DGIS representative and speaker at the symposium, Ph.J. Bastiaenen, informs the symposium public that DGIS has had no ties or dealings whatsoever with Teakwood. An English language version of the presentation is published on June 5, 1996.

Treemail took stock of reports in the Dutch press that followed upon the NOVA television broadcast of November 23, 1995, and closing on April 3, 1996. The following publications were identified (although no claim to completeness of the following list can be given):

24-11-1995 NRC Handelsblad; 25-11 Drentse Courant, Groninger Courant, Friesch Dagblad; 30-11 Het Verzekeringsblad; 06-12, Verzekerings Magazine; 08-12 Beleggings Expres; 23-12 Leeuwarder Courant; 28-12 De Telegraaf, De Gooi- en Eemlander, Haagsche Courant; 29-12 Arnhemse Courant, Deventer Dagblad, Gelders Dagblad, Overijssels Dagblad, Haagsche Courant, Nieuws van de Dag, De Telegraaf, De Gelderlander, De Stem, De Gooi- en Eemlander, Nieuwsblad van het Noorden, Het Financieele Dagblad; 5-01-1996 Beleggers Belangen; 7(?) -01 Houtwereld; 11-01 De Telegraaf; 18-01 Consumenten-Geldgids; 19-

01 NRC Handelsblad; 29-01 Goudsche Courant, Haagsche Courant, Leeuwarder Courant, Dagblad Rivierenland, Utrechts Nieuwsblad, Veluws Dagblad, Apeldoornse Courant, Arnhemse Courant, Deventer Dagblad, Gelders Dagblad, Overijssels Dagblad, Twentsche Courant, Dagblad van Almere, De Gooi- en Eemlander, De Stem, De Volkskrant, Dagblad Tubantia, Drentsche Courant, Groninger Dagblad, Haagsche Courant; 02-02 Het Financieele Dagblad; 07-02 Brabants Dagblad, De Gelderlander, Het Financieele Dagblad, Arnhemse Courant, Leeuwarder Courant, Reformatorisch Dagblad, Drentse Courant, Groninger Dagblad, Apeldoornse Courant, Arnhemse Courant, Deventer Dagblad, Gelders Dagblad, Overijssels Dagblad, Goudsche Courant, Haagsche Courant; 9-02 Beleggers Belangen, Brabants Dagblad, De Gelderlander, Het Financieele Dagblad; 13-02 De Telegraaf, Nieuws van de Dag; 14-02 Arnhemse Koerier; 17-02 Elzevier; 22-02 Het Financieele Dagblad; 23-02 Assurantie Magazine; 1-03 Intermediair; 05-03 Haarlems Dagblad, Leidsch Dagblad, IJmuider Courant, Limburgs Dagblad, Dagblad van Almere, Amersfoortse Courant, Dagblad Rivierenland, Utrechts Nieuwsblad, Veluws Dagblad, Nieuwsblad van het Noorden, Friesch Dagblad, De Stem, Algemeen Dagblad, De Dortenaar, Dagblad Tubantia, De Limburger, Leeuwarder Courant, De Gelderlander, Het Financieele Dagblad, Het Financieele Dagblad, Haagsche Courant, NRC Handelsblad, De Telegraaf, Nieuws van de Dag, De Volkskrant, Arnhemse Courant; 7-03 WUB; 8-03 Beleggers Belangen; 14-03 WUB; 15-03 Stichting Bos en Hout, Alerta; 21-03 WUB; 26-03 Het Financieele Dagblad, Het Financieele Dagblad, Trouw; 27-03 Het Financieele Dagblad, Het Financieele Dagblad, Het Parool, Brabants Dagblad; 28-03 WUB; 3-04 Het Financieele Dagblad, Houtwereld.

28-04 In a circular to investors of Teakwood I-V (Teakwood-info) Flor y Fauna reports:

"The pre-thinnings for TW I - V are completed, and in TW VI a partial pre-thinning was executed." and

"The thinnings of Teakwood I-V have resulted in the production of 65 m³ sawn timber. [...] Only stems with a diameter of more than 8 cm are processed into board."

[note: Cross reference with agenda entries of January 28, April 9, August 5 and 16, 1996, for examples of conflicting company statements to this issue.]

01-05 DGIS publishes a full page article entitled "OHRA does not mislead investors" in the May 1996 issue of 'Internationale Samenwerking'.

[note: The magazine 'Internationale Samenwerking' is the official organ of the public information service on international cooperation from the Ministry of Foreign Affairs, DGIS. Cross reference with agenda's entry for May 9, 1996, in order to appreciate that precisely the alleged misleading nature of the OHRA advertisements was subject of a pending dispute at the Standards Advertising Committee at the time of the official DGIS publication. The case eventually leads to the condemnation of OHRA for the misleading nature of its advertisements on July 29, 1996.]

09-05

The Standards Advertising Committee rules on complaints against five teak investment schemes, including Teakwood. Core of the dispute are the advertised rates of return to investors of "14-18% or more ..." and the validity of advertised claims by OHRA that the Teakwood plantations would have been certified by the FSC.

In its written memorandum for the defense, OHRA's legal representative Ekelmans den Hollander informs the Committee on the CCT report as follows:

" [...] a four day research was executed at the plantations; 19 December 1995, 11 and 12 January 1996 and 21 January 1996. In addition the plantations were visited on 21 February 1996 and discussions were held on 19, 20 and 21 February 1996."

On page 38, section 34, OHRA's legal representative states:

"The positive effect of timber processing into semi finished product and into finished products such as furniture has ... not yet been taken into account for the purpose of calculating the rates of return."

OHRA's legal representative also submits in evidence, as exhibit # 5, a fax message from WWF Arnold van Kreveld to Julio Cesar Centeno with copies to Chris Elliott, Wade Adeleke, Joop van Veen and Jan van Rossum, with date October 17, 1993. Excerpts of this letter:

"Land acquisition is \$ 3000/ha."

"All of FYF's financial prognoses are based on prices for logs within Costa Rica."

[note: the case is heard in appeal on July 18, 1997]

09-05

Flor y Fauna submits its first contribution to the Internet forest mailing list, and announces to circulate the English translation of an article from

the Dutch language magazine 'Money' "shortly" (which never materialized).

In a letter of May 23, 1996, OHRA's Vice-President Janssen wrote a letter to Professor Centeno that carried an English translation of the article as an enclosure. It came with the following quotation:

"PS: For your information and clarification, we enclose an article from a reputable Dutch financial magazine, which will give you insight in the motives of certain people involved in the regrettable teak-war."

10-05 WWF circulates a public announcement on the Flor y Fauna case as heard at the Standards Advertising Committee on May 9, 1996 (full text):

TO WHOM IT MAY CONCERN.

HERE FOLLOWS A STATEMENT BY WWF NETHERLANDS ON THE VERDICT OF THE DUTCH ADVERTISING CODE COMMITTEE REACHED ON THE 9TH OF MAY 1996.

IF YOU CANNOT READ THIS MESSAGE PLEASE NOTIFY STAPEL@WWF.NL

THANK YOU.

OHRA wins teak case

On television, in press releases and on Internet, forestry specialist Prof. Julio Centeno has accused OHRA in very harsh terminology of misleading the Dutch public with its advertisements about the Flor y Fauna teak plantation and at the same time questioned the involvement of WWF The Netherlands. Prof Centeno's ally, Mr. Van Weezendonk filed an official complaint about these advertisements with the Dutch Advertising Code Committee (Prof. Centeno calls this institute the Code of Ethics on Advertising'). Time and again attention was drawn to the fact that the OHRA's claims were so outrageous that they were now even going to be scrutinized by this public body.

With so much publicity about this case, it is interesting to look at the outcome. Yesterday, 9 May 1996 the Dutch Advertising Code Committee has presented its conclusions. IT REJECTS ALL COMPLAINTS MADE BY MR. VAN WEEZENDONK IN NO UNCERTAIN TERMS.

The Dutch Advertising Code Committee concludes that:
- OHRA has NOT published misleading advertisements;
- OHRA has NOT painted a too rosy picture of the returns; and

- OHRA has NOT made false claims regarding the FSC certification.

It is furthermore interesting to note that Mr. Van Weezendonk has filed similar complaints with the President of the District Court in Leeuwarden (The Netherlands). These were rejected on 24 December 1993 and 22 March 1995.

The conclusions of the Dutch Advertising Code Committee confirm that in a field where some other companies might want to try to grab a quick buck on the bandwagon of green teak investments, OHRA has been very careful and responsible in its approach to the public.

The Flor y Fauna plantation has been the subject of intense scrutiny, following the press attacks of Prof. Centeno. The results prove that all accusations are false. The growth projections have been confirmed in the field by the Centro Cientifico Tropical (a renowned and independent institute from Costa Rica).

The financial aspects of the OHRA proposition have been confirmed by KPMG (a well know international accountancy firm). The advertisement claims have now, once again, been confirmed as correct by the Dutch Advertising Code Committee.

The conclusion must be that the Flor y Fauna plantation continues to be an exceptionally interesting development on the road to sustainable teak production, which is so necessary to relieve the pressure from the natural forests.

[note: The case was later heard in final appeal, with the result that OHRA was wronged on precisely the following points that were made by WWF:

- OHRA has NOT published misleading advertisements;
- OHRA has NOT painted a too rosy picture of the returns; and
- OHRA has NOT made false claims regarding the FSC certification

Does this mean that the 'conclusions' in the above WWF press release should be reversed? They should not, at least not according to WWF's logic and later public pronouncements on the Teakwood case.]

11-05

Francis Sullivan, of WWF-UK, leader of the WWF Forests for Life programme and Board Member to the FSC, informs Treemail's office that: "I have been following these developments closely in my capacity as a member of the FSC Board and in view of the

involvement of WWF Netherlands. I understand that there is full involvement of all interested parties within Holland and Costa Rica and that a solution appears to be emerging."

[note: The solution hinted at by this FSC Board member is likely to be echoed in the FSC public statement of June 25, 1996, and in its continuation in the Rainforest Alliance report on an alleged complaints procedure which is dated August 16, 1996. It is also noted that Centeno, Van Weezendonk and Romeijn were not included in the term 'all parties' that Sullivan refers to.]

20-05 Treemail sends an open letter to FSC's Director of the Board with question on independence of accrediting body (FSC) from timber producing entity (WWF-NL). No response was ever received.

28-05 FSC's newly opened NL office sends a generic mailing, including an introductory letter from the new office dated April 9, 1996. Enclosed in the mailing is a report on the FSC Board meeting of early February, with the Board's decision to request rectification of incorrect claim to FSC certification for Flor y Fauna plantations to WWF-NL and OHRA. Enclosed in the mailing is the March 11, 1996, Smart Wood statement on certification of Flor y Fauna, 1996. This mailing does not contain FSC's March 11, 1996, statement.

30-05 Ministry of Finance again rejects call for control of teak investments, in answer to questions raised by the VVD in Parliament (ref: 'NRC Handelsblad', May 31, 1996).

04-06 NOVA's feature on Teakwood entitled 'Green Gold', which was broadcast over national television on November 23, 1995, is nominated as one of three candidates accepted to compete for the Financial Press Award.

This is the first time ever that a television programme has received a nomination for this prestigious award.

05-06 Treemail publishes an English text version of the University of Twente Symposium presentation of April 18, 1996, over the forestry list.

08-06 Flor y Fauna finalizes its "Internal Monitoring Report # 13".

According to the Rainforest Alliance report of August 16, 1996, this Flor y Fauna report contains Flor y Fauna's yield projections (accumulative

'commercial' log volume) as being plantations between 259 and 416 m3 per hectare over the 20 years period. According tot the Rainforest Alliance, these projections "supersede" all of the company's previous projections, in fact, these figures "reflect Flor y Fauna's learning and adjustments in the last three years" (and using the Keogh equation for Central America), "it will be a number of years more before precise estimates on final yields can be offered" and, in Smart Wood's opinion, all previous projections "are now without basis for current and future purposes" and in its report Smart Wood recommends OHRA and Flor y Fauna to abstain from using these previous projections.

According to the Rainforest Alliance, the data for the present projections were taken by Flor y Fauna in January 1996, and verified by the Smart Wood team during the annual audit in March of 1996.

According to the Rainforest Alliance, the Flor y Fauna Monitoring Report #13 is classified as company confidential. Only in a Rainforest Alliance report of August 16, 1996, are excerpts made publicly available.

12-06 In a press release, WWF-INT declares the ISO 14001 proposal "a sham certification system".

24-06 Publication of 'The elusive credibility of forest management certification claims' by Prof. J.C. Centeno over the forestry list.

25-06 FSC Secretariat prepares a 'public statement' named "FSC/OHRA/WWF-Netherlands". Most likely, the FSC makes this 'public statement' available only (?) to OHRA and WWF-NL.

[note: this 'public statement' by the FSC was copied to defendant OHRA, but not to plaintiff Van Weezendonk or to anyone else that Treemail is aware of, rather, copies of this FSC 'public' statement were apparently circulated only on or after July 17, 1996, by the FSC Secretariat].

In its statement the FSC Secretariat references a letter from the FSC to OHRA (see agenda entry of April 3, 1996). This FSC public statement and the letter to OHRA are both introduced as exhibit by OHRA for the Standards Advertising Committee hearing of July 18, 1996.

[note: compare with agenda entry of February 6, 1996 to appreciate how, in practice, the decision by FSC Board with that date has transpired into the FSC

Secretariat's communications to e.g. OHRA; and compare with the entry for May 11, 1996]

In its 'public statement' the FSC Secretariat informs that: "During the period August 1995 to January 1996, a brochure published by WWF-Netherlands and several newspaper advertisements by OHRA linked FSC's name with the Flor y Fauna plantations and the Smart Wood certificate. They wrongly stated or implied that the plantations had been certified by the Forest Stewardship Council. These statements were incorrect on two counts, because the FSC does not carry out certification, and because the FSC does not yet endorse or recognize the plantation certificates issued by FSC-accredited bodies."

[note: The advertisements and the WWF publication referred to by the FSC Director contain no reference whatsoever to the Rainforest Alliance or its Smart Wood certificate for the Flor y Fauna plantation. These documents only refer to a 'certificate issued by the FSC' for the Flor y Fauna plantations. WWF publicly reiterated its claim to a certificate issued for the Plantation by the FSC in several Dutch newspapers as late as February 9, 1996, even after this incorrect claim was subject of a complaint was officially submitted to the Standards Advertising Committee on January 10, 1996. In addition, refer to the January 31, 1996, letter by the WWF Director of Conservation which was copied to the FSC Secretariat.]

About OHRA, the FSC Director states that: "They soon discovered the error, but because of production times the statements appeared once more in a mailing distribution."

[note: According to OHRA, the last time the fictitious claim was made in mailing distributions is November 30, 1995.]

FSC Director sums up: "The FSC concludes that the mistakes made by WWF-Netherlands and OHRA were unintentional", and that the FSC is therefore "satisfied".

[note: The fact that the advertisements including the incorrect claim to a certificate issued by the FSC were denied after the matter had been formally brought to the attention of the Standards Advertising Committee on January 10, 1996. Such denials were made by e.g. Rainforest Alliance, Van Rossum Van Veen Consultants (according to the Rainforest Alliance letter of January 28, 1996) and by WWF on January 31, 1996. Consult and compare this

with the agenda's entry for January 10, 28 and 31, February 7, 9 and 22, July 18, 1996, and with the references given for those entries; also cross-reference with note on Smart Wood release date March 11, 1996, and with the entry for April 12, 1996. The FSC's conclusions are later shared by the Rainforest Alliance in their report of August 16, 1996].

[note: The FSC Director thus chooses the key-word "Unintentional" to describe his principal conclusion on the advertisements, after Flor y Fauna made this claim in court, after Rainforest Alliance had claimed that this had not happened in advertising, after OHRA denounced Professor Centeno's allegation that such a false claim was made as "totally unfounded" and after WWF and OHRA reiterated their claim to the press even when the case had been brought to the attention of the Standard Advertising Committee and after WWF denied ever to have made this claim when addressing the Dutch Royal House.]

In a footnote the FSC announces that: "This memo does not cover criticisms concerning growth yield and price estimates made by Flor y Fauna, and the financial yield and return on investment estimates made by OHRA. This part of the complaint is being dealt with by Rainforest Alliance, following due process for handling complaints, although no formal complaint has been lodged. As part of this procedure Mr. Laarman, an economist, has been hired by Rainforest Alliance to investigate the validity of these estimates and visited the Flor y Fauna plantations in the first week of June. When his report has been submitted, Rainforest Alliance will follow their complaints procedure to ensure the resolution of this issue [ref: entry for August 16, 1996]."

- 28-06 Het Financieele Dagblad (the Financial Daily) announces transfer for WWF-NL public relations director F. Strietman, as per September 1, 1996.

- 28-06 OHRA's legal representative Ekelmans den Hollander introduce a Memorandum of Reply at the Standards Advertising Committee. The following statements on the subject of timber yield expectations by OHRA and Flor y Fauna should be cross referenced with this agenda's entry of June 8, 1996. Excerpts from OHRA's pleading:

On page 41, after having referred to the Ministerial report 'Wouters', the answers to Parliament by the Minister of Agriculture, the Rainforest Alliance Smart Wood Director to FSC Board of Directors and Director of February 28, 1996, the CCT report, Prof. Camacho's letter to OHRA and WWF of November 21,

1995 and the official recording by bailiff Groot of December 1993, OHRA's legal representative states the following:

"From all the above mentioned reports by researchers who all have a great reputation in their field, all of whom constitute the sole individuals who have executed extensive research at the plantations, it proves that the expectations as used by Flor y Fauna and OHRA regarding the timber production [400-850 m³ per ha in 20 years] are realistic and will certainly be met."

OHRA's legal representative Mr. B. Oosting of Ekelmans den Hollander asserts that (section 22, p 26): "These [yield] prognosis are higher than what has been published in scientific literature."

OHRA's legal representative introduces, as exhibit No. 7, a letter from J.P. Van Rossum of Van Rossum Van Veen Management Consultants to Mr. W. Kloppenburg of the BOS Foundation with date April 1, 1996, which is copied to K. van Dijk (IKC-NBLF), J. van Doorn (DGIS), H.W. Janssen (OHRA), R.H.L. Poels (department of forestry, WAU), Management Board of WAU, A.J.M. Wouters (Teakwood advisory board), A.G. Voorhoeve (Chairman BOS) and S. Woldhek (Director WWF). Annexed to the letter is a note on the WAU research by Dr. Poels. According to this note, Dr. Poels published research results leading to a yield expectation of the Flor y Fauna plantations Teakwood I, II and III of an accumulative log volume of around 375 m³ per ha, in a report with date 1994.

[note: Dr. Poels writes on the subject of his yield forecast in the 'LT-Journaal' of March 13, 1997, in an article entitled 'Ethics and Third party Funding' (excerpts):

" The work proceeded in an exemplary fashion, the collaboration with the commissioner and his employees was fine, people worked hard at the plantation, the natural circumstances were favorable and the crop grew well. The only problem was that my projections were different from the points of departure from my commissioner. In the contract with my commissioner it was stipulated that the research results should contribute to education and science and that they should therefor be published, bearing in mind an intention not to damage the commercial interests of the commissioner."

"What was the ethical side of the story? The company's own projections were employed to attract money from investors. According to these projections, financial prospects for the investors

were extremely favorable. With my projections, these outlooks should be moderated to a considerable extent. The management labeled my projections accordingly as being damaging to the company and were not allowed to be divulged."

"I have not divulged the results. First, because I hoped that the commissioner would little by little adjust his projections downwards. To some extent, this has happened. Second, because I still hoped to publish the results while maintaining a good relationship with the commissioner and third, because of the clause in the contract that the commercial interests were not to be damaged. Therefor I was left with little choice. But perhaps, I should have been more courageous."

[Author's note to the above article: Dr. Poels fails to explain why he embraced the membership of the Scientific Advisory Board to Flor y Fauna.]

As part of the Memorandum of Reply, OHRA's legal representative Ekelmans den Hollander introduces a letter from OHRA and Flor y Fauna's legal representative F.H.J. van Schoonhoven to Flor y Fauna's representatives Van Rossum Van Veen of April 2, 1996, as exhibit No. 18 (transcript of text body of letter follows in full):

"During the pleading dated December 7, 1993, in a hearing of the dispute between Mr. L.H.Th. van Weezendonk on the one hand and Flor y Fauna S.A. c.s. and OHRA N.V. on the other hand, various (basic- or arithmetic-) schemes with regards to timber yield of the Teakwood plantations were represented."

"I have noted that one or more of these schemes from my written memorandum of pleading have been copied by third parties at which, by occasion, third parties suggest that the calculations and results of these schemes would be indicative for what can be expected as timber yield for the Flor y Fauna plantations. As I have repeatedly indicated, such conception is incorrect."

"The schemes in question are arithmetic schemes that only serve to demonstrate the workings of several variables such as cylinder-correction factor, thickness increment, loss, etcetera. The schemes are therefor primarily not about the (arithmetical) outcomes, but rather about the influence of several variables thereon. For this reason, not one but various schemes were used, in with each scheme is a finger exercise with changing variables. The results of the schemes do indeed vary extremely, which

serves to emphasize the lack of any independent meaning that can be attributed to an individual scheme."

"In addition, the schemes in question do emphatically not constitute (public) statements by Flor y Fauna and/or OHRA N.V. Third parties, including the investing public, can therefore derive no rights from these schemes. Also the court, in its verdict of March 22, 1995, came to the same conclusion."

"I trust herewith to have sufficiently taken the edge off any meaning with respect to content that could be attributed to the arithmetic-, basic schemes, etcetera."

"In case further clarification is required, of course, I remain at your service."

"Yours sincerely, etc."

[note: If "The schemes in question are arithmetic schemes that only serve to demonstrate the workings of several variables", as written by Flor y Fauna's legal representative, then it worth considering that this could have easily been achieved behind a desk. In order to achieve this goal, there is no need to organize a trip to the Teakwood plantations in Costa Rica with a bailiff and representatives from the TFAP, the Ministry of Agriculture, WWF, Flor y Fauna, OHRA and the Rainforest Alliance. In addition, one could ask how anyone can present 'conservative calculations' when the sole purpose of the presentation is to demonstrate the workings of variables in a few simple equations. Van Schoonhoven introduced the timber yield tables in court as follows: "The figures and measurements of bailiff Groot are of no value without a correct interpretation. It is important here, to arrive at drawing up a basic scheme of expected timber yields for the nearby and further future. As point of departure the measurements of the bailiff should be taken, from which point conservative calculus follows. The following points of departure are thus formulated on these data, on which the basic scheme is calculated. Already at this point it should be noted that these points of departure are explicitly supported by Mr. Wouters, who gave evidence in a written statement to this effect (EXHIBIT 5)."]

[note: Flor y Fauna and OHRA's legal representative F.J.M. van Schoonhoven refers to a case of alleged misleading advertisements with particular regard to the Flor y Fauna and OHRA projections on timber yields before the court in Leeuwarden (ref: Verdict

in case No. 238-93 of December 24, 1993, chapter 5a. on page 4 and 7b. on page 6) and the hearing in appeal on March 22, 1995. The above reading, the representation of the cases and the significance of the materials presented in court by the Flor y Fauna and OHRA legal representative F.J.M. van Schoonhoven may possibly not be shared by others, particularly when reviewing both court judgements.

The court's verdict in summary proceeding of March 22, 1995, affirms -in appeal- the original verdict of December 24, 1993 (ref: Verdict No. 6802/94, Court of Leeuwarden, on page 17). The verdict in case No. 238-93 of December 24, 1993, considers that: "6a. The calculations that are the basis of the projected rates of return have been made by Flor y Fauna and have been adopted by OHRA. They portray to the potential investor very high rates of return that are based on the growth figures of the young teak plantings. (...) 6c. The President considers that it has been made sufficiently plausible that the type of forestry as is practiced by Flor y Fauna is far more intensive that has been customary so far on teak plantations. This has been shown in photographs taken by bailiff Groot on site and from the fact that he has illustrated this orally and in good faith at the hearing. From the written report, and this has not been disputed by Van Weezendonk, it follows i.a. that over the last couple of years dozens of people have been at work who are occupied with clearing of weeds and with propping up the trees. This care is not incidental as is demonstrated by the fact that there are service-homes for these people and that there is a Red Cross post. The bailiff establishes that these are plantations that are well maintained. In order to establish this and to perform measurements, according to the judgement of the President, one does not have to be an expert of tropical silviculture, as Van Weezendonk opines. (...) Conclusion: 8. Overlooking the entire case, the President's provisional conclusion is that the chance that Flor y Fauna and OHRA will not succeed in proving the correctness of their position in full proceedings (Dutch: 'bodempcedure') is considered as insufficiently large to award the far-reaching demands by Van Weezendonk in this summary procedure."

As an example of the original presentation Flor y Fauna's legal representative F.H.J. van Schoonhoven declared the following to the court in 1993 (section 79, page 32): " From the basic scheme II it proves that it is not imaginary that even the boldest expectations by OHRA and Flor y Fauna can be exceeded by a factor two." -end of note.]

On the subject of the claim to an FSC certificate OHRA's legal representative provides the following text (excerpts):

"The Teakwood-plantation has never received a certificate from the FSC [and will never receive one]." How on earth can Van Weezendonk make such a statement?

The Rainforest Alliance has been accredited by the FSC, and the FSC is currently working on the definitive formulation of the criteria for certifying plantations. Just why would Flor y Fauna not be able to get such a certificate?

[note: The FSC criteria for plantations had been accorded early 1996. The FSC allowed the Rainforest Alliance a type of B-Status accreditation. In contrast with other FSC accredited certifiers, the Rainforest Alliance was not accredited by the FSC for the purpose of certification of plantation forestry. As an accreditation organization, the FSC never certifies forest operations, nor has it proclaimed in its mandate to do so, not now or in the future.]

As exhibit No. 4, OHRA introduces a letter by WWF Director S. Woldhek to Mr. B. Oosting of Ekelmans den Hollander. The WWF Director asserts: "In paragraph 2.9 Mr. Van Weezendonk postulates that WWF profiles itself as an information desk for the FSC. This is incorrect. The information desk in The Netherlands is FoE and not WWF."

[note: The WWF publication 'Naar een Houtbare Wereld' the organization states: "Information on FSC: WWF Arnold Van Kreveld, tel ..., or FoE, Gemma Boetekees, tel" and "If you wish to order FSC timber you can do so. At this point in time, its availability is limited." and "If you want to learn more about where FSC timber is available, WWF has a list of addresses. These are on floppy disk and can be ordered early 1996 at the WWF office. Tel WWF, Joan Woudsma:"]

WWF Director Woldhek summarizes his conclusions in an annex to the letter (excerpt): "A. At this moment nobody can claim that timber derived from plantations carries an FSC hallmark. What is permitted by the FSC, is to simply mention that the Rainforest Alliance has certified the Flor y Fauna plantations on the basis of general FSC criteria and principles."

As exhibit # 2, OHRA introduces a publication 'De teakhout oorlog (The teakwood war)', taken from the

April/May 1996 issue of the 'Money' magazine (page 71-75), which is allegedly authored by 'Richard Tazelaar'.

03-07

In an attempt to retrieve information that forest managers who claim to work according to FSC Principles and Guidelines are bound to make public, Treemail addressed the following letter to Flor y Fauna. In part, this letter responds to a posting over the Internet forestry list by Flor y Fauna to of May 9, 1996. Upon this information request by Treemail, no response was ever received from Flor y Fauna, its Teakwood contract partners or the FSC, even if the advertisements by the company and its Teakwood partners claim that the management of the Teakwood plantations is executed in accordance to the FSC Principles and Guidelines. The request was later repeated several times to no avail. Follows the information request text in full:

To: Jan Huizinga (Flor y Fauna S.A.)
From: Paul Romeijn (Treemail)
cc: Bruce Cabarly (Director, FSC Board)
FSC Secretariat
Rainforest Alliance
Fred Gale (University of Victoria)
Julio Centeno
FUNET list
INFOTERRA list
subject: The elusive credibility of forest
certification claims
date: July 3, 1996
ref: your message of May 9, 1996

Dear Mr. Huizinga (Flor y Fauna S.A.),

Herewith I publicly address Flor y Fauna S.A. of Costa Rica in their position as managers of the Teakwood plantations. Towards the Dutch public it has been claimed that the Flor y Fauna plantations are managed according to the FSC criteria, even long before the FSC Principles and Criteria for plantation forestry were finalized (ref: Memos by OHRA's PR manager Grace Flenter of February 1, 1996, to OHRA's adjunct Director Janssen provide details of this claim having been printed and distributed several million times).

Currently, as far as we are aware, Teakwood contract partners (e.g. Flor y Fauna, OHRA and WWF) have dropped their claims that Flor y Fauna plantations are certified by the FSC (e.g. as made by Flor y Fauna's legal representatives Van Schoonhoven in 't Veld before the President of The Hague's Court of Justice, Mr. Van Delden, in a court session on December 28, 1996) . As you must be aware, Teakwood

contract partners do maintain their claim that Flor y Fauna's plantations are managed according to the FSC criteria, e.g. as per OHRA advertisement for the Teakwood investment scheme in the WWF publication Panda (quarterly No. 3, Summer 1996, in circulation as of June 1996).

The FSC manual (ref: Annex 1, for the appropriate section) stipulates a number of responsibilities which forest managers should fulfil "in order to comply with the FSC Principles and Criteria". It seems appropriate, in view of your address to Internet fora of May 9, 1996 for Flor y Fauna to comply with this section of the FSC manual, and to make such information publicly available to the recipients as per above.

It seems appropriate, in addition to the obligations to provide public information as per FSC manual, for the Teakwood contract partners to provide information on the contradictory nature of reporting of the use of chemicals in the Flor y Fauna plantations and for the Teakwood partners to provide the information as requested by Dr. Fred Gale (see Annex 2 for details). This would serve the interests of forests, the forestry profession, those who are working towards certification to enhance forest management practices and in the interest of the Teakwood investors.

Yours sincerely,
Paul Romeijn
Director
Treemail

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ANNEX 1:

FSC Manual for Evaluation and Accreditation of Certification Bodies. Proof: Jan' 1996, FSC Document # 2.1.

FSC Accreditation procedures - Part 2.1

3.2 In order to conform with the FSC principles and Criteria for Forest Management forest managers must make the following information available to the public:

3.2.1 A summary of the primary elements of the management plan, including:

3.2.1.1 Management objectives:

3.2.1.2 Description of the forest resources to be managed, environmental limitations, land use and ownership status, socio-economic conditions, and a profile of adjacent lands;

3.2.1.3 Description of silvicultural and/or other management system, based on the ecology of the forest in question and information gathered through resource inventories;

3.2.1.4 Rationale for rate of annual harvest and species selection;

3.2.1.5 Provisions for monitoring of forest growth dynamics;

3.2.1.6 Environmental safeguards based on environmental assessments;

3.2.1.7 Plans for the identification and protection of rare, threatened and endangered species;

3.2.1.8 Maps describing the forest resource base including protected areas, planned management activities and land ownership;

3.2.1.9 Description and justification of harvesting techniques and equipment to be used.

3.2.2 A summary of the results of monitoring indicators, including:

3.2.2.1 Yield of all forest products to be harvested;

3.2.2.2 Growth rates, regeneration and condition of the forest;

3.2.2.3 Composition and observed changes in flora and fauna;

3.2.2.4 Environmental and social impacts of harvesting and other operations;

3.2.2.5 Costs, productivity and efficiency of forest management.

(FSC Principles and Criteria for Forest Management, Principle #8, criterion 8.5).

3.2.3. The name and contact details of the certification body that has certified the forest management enterprise, and the registration number issued by the certification body.

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ANNEX 2:

Date: Mon, 1 Jul 1996 18:42:50 +0200
From: F P GALE <fgale@uvic.ca>
Reply-To: fgale@uvic.ca
Return-Path: <infoterra@cedar.univie.ac.at>
Subject: Re: THE ELUSIVE CREDIBILITY OF FOREST
CERTIFICATION CLAIMS

For the past several months I have been reading of Dr. Centano's claims regarding the Dutch case of Flor y Fauna on the Internet. Dr. Centano makes a number of very disturbing allegations concerning the business practices of this company and, by implication, of the practices of the Dutch Branch of the WWF, the Rainforest Alliance, and the Forest Stewardship Council. His claims appear very well documented and, in the absence of a rebuttal, persuasive.

I would encourage those on the other side of this debate to provide us with their views on the Flor y Fauna case and to inform us, with a similar level of detail, precisely in what respects Dr. Centano's allegations are incorrect. There appear to be at least four critical questions:

i) what were the silvicultural claims made by Flor y Fauna concerning expected growth rates (Dr. Centano states that Flor y Fauna claimed the rates between 40-48cubic metres per year were possible) and what is the silvicultural justification for such rates (i.e. where are the trial studies, reported in the literature, that would support such claims?)

ii) What was the Rainforest Alliance's complete rationale for certifying Flor y Fauna as well managed, more especially since the operation in question is a plantation?

iii) What is the Forest Stewardship Council's position with respect to the advertising claims made by Flor y Fauna and OHRA in the Netherlands regarding FSC certification?

iv) And what steps is (or should) the global, eco-certification community taking (take), if any, to resolve this dispute and prevent it from doing any additional damage to the credibility of the movement as a whole?

I would appreciate your thoughts and views.

regards

Dr. Fred Gale

Research Associate
Eco Research Chair of Environmental Law and Policy
University of Victoria, British Columbia, Canada

- 18-07 Treemail publishes first version of the "Teakwood agenda of main events" and "Teakwood Growth and Yield" over the forestry Internet list.
- 18-07 Standards Advertising Committee hears the appeal in the Teakwood case. OHRA presents in evidence a letter from OHRA adjunct Director Janssen of April 24, 1996, to the FSC Secretariat. Janssen informs the FSC Director T. Synnott that: "Fairly quickly we discovered the error. As some leaflets were in production (with a lead time of some 8 weeks) these were issued in November 1995 with the same error in a limited mailing [note: compare with Flor y Fauna's position voiced in a court of law on December 28, 1995]."

OHRA thereby claims to have become aware of its fictitious claim somewhere within the eight weeks of the lead time of end of November 1995 [note: for WWF's declared position see agenda entry dated January 31, 1996; and entry for February 9, 1996].

For the same occasion, OHRA's legal representatives Ekelmans den Hollander write in defense on the certification complaint: "The mistake has been detected and corrected by the OHRA itself in January 1996, before [note: the word 'before' appears underlined] the complaint was filed by van Weezendonk [ref: this complaint was filed on January 10, 1996; consult entries in this agenda of June 25, 1996 for FSC's conclusion and position, with note dated January 7, 1996, and with February 9, 1996 for WWF's subsequent comments to the media.]"

In continuation, OHRA's legal representatives Ekelmans den Hollander write: "OHRA has always portrayed that it has been certified by the Rainforest Alliance." and:

"OHRA stresses once more that it has itself discovered the mistake and that OHRA itself it has immediately corrected it itself."

[note: OHRA does not submit the Flor y Fauna 'Internal Monitoring Report # 13' of June 8, 1996, or its findings to the Committee. This report, according to the Rainforest Alliance, contains new yield expectations which are based on data collected in January 1996 and which are corroborated in March 1996 by the Rainforest Alliance. The Rainforest Alliance publishes one of the report's findings on August 16, 1996. According to this Rainforest

Alliance report, the Internal Flor y Fauna Monitoring Report # 13 concludes that the expected accumulative total commercial yield for the entire Flor y Fauna plantations is in the range of 259 and 416 m3 in 20 years. Cross reference with agenda entry of May 9, 1996.]

[note: OHRA does not submit or inform about the existence of the 1993 contractual arrangements between Flor y Fauna and OHRA on the sales of the Teakwood plantation's produce to Flor y Fauna exclusively, as reported in the Rainforest Alliance report of August 16, 1996.]

[note: In its defense, OHRA retains its previous position regarding the basis for calculation of the rates of return as they are advertised to potential investors. OHRA presented this position at the first hearing of the case before the Standards Advertising Committee on May 9, 1996, as follows: "The positive effect of timber processing into semi finished product and into finished products such as furniture has ... not yet been taken into account for the purpose of calculating the rates of return."]

[note: For the occasion, OHRA submitted the March 1993 Teakwood VI brochure as exhibit in evidence for the defense.]

29-07

The Appeals Commission of the Standards Advertising Committee rules in the case against OHRA that it has:

- rescinded the (earlier) verdict of the Standards Advertising Committee
- deems that the advertisements are in conflict with article 7 of the Dutch Advertising Code of Ethics
- and recommends that in the future OHRA abstains from publishing advertisements of this kind.

'Beleggers Belangen', (Investors Interests) a Dutch language financial weekly magazine reports on the findings of the Appeals Commission as follows:

Justice at Last (header)

The rates of return on teak investment as portrayed by OHRA are misleading, according to the Appeals Committee at the Standards Advertisement Committee. The Appeals Committee advises the insurance company to refrain from similar advertising in the future. For years OHRA has promised sky high rates of return of even 18% on these high-risk investments. 'Investors Interests' has frequently campaigned against such schemes. In addition, the

advertisements do not sufficiently portray the risks involved. [...]

Moreover, OHRA has admitted in the hearing that it has been wrong to claim in its advertisements that the teak plantations would have received an official certificate from the Forest Stewardship Council.

The judgement by the Committee is taken straight from our heart. Therefor: "justice at last".

31-07 OHRA distributes a press release (excerpt):

"Our projections and assumptions are extremely well substantiated. This was proven by recent independent research by the Tropical Science Center [note: CCT] and the Rainforest Alliance."

05-08 Flor y Fauna circulates an information sheet to all investors of Teakwood I-V. Excerpts:

"As you may be aware, OHRA has bought 60% of Teakwood VII and VIII. Flor y Fauna wants to hold on to the remaining 40% of Teakwood VII but has decided to sell a number of Teakwood VIII contracts through SICIREC. [...] This special offer is made only to all investors of Flor y Fauna."

"At this point in time, no thinnings are executed. In January we will re-start this so that, after the 'clean-up' thinnings, the first official thinning in Teakwood I can take place [note: cross reference agenda entries for January 28, April 9, April 28 and August 16, 1996]."

"For those people who have not reacted positively to our proposal to thinning and further processing we assume that they wish to maintain the old agreement, i.e. the sale of standing timber in year 8, 12 and 16. Because this constitutes smaller quantities we assume that the returns will be less than half when compared to all who did agree [to our proposal]. The further processing has an even more positive effect than we originally believed."

"On the plantation everything is just fine. The storm that has hit part of Costa Rica was not observed at our place. A couple of years back we were unlucky with just such a storm, but apparently not so this time round."

[note: The Teakwood VI brochure of March 1993 asserts the following on the risks of windthrow at the Flor y Fauna plantation: "Hurricanes are very rare in Costa Rica and if they occur this happens only in on country's Atlantic north-eastern coast.

In the Province of Alajuela where the plantation is located there are no occurrences of hurricanes."]

[additional note: R. Huizinga writes a letter to all Flor y Fauna's Teakwood I-V investors on September 13, 1995, that has similar connotations regarding a request to investors to sign an agreement to an adapted thinning regime, to accord to sell all timber exclusively to Flor y Fauna and to accord to further processing of timber by Flor y Fauna. In addition, this letter possibly contains hints to the 'phytosanitary problems' that were reported by the Rainforest Alliance on August 16, 1996. Excerpts:

As you know, according to the brochure and the contracts, all 800 trees of each contract [of ½ ha; author's note] will be removed in four cuts. We have always allowed for tree losses in our prognosis. At the time, this would have resulted in a cut of 180 trees in year 8, 150 trees in year 12 and 16 and then again 180 trees in year 20.

San José, 13 September 1995

Dear forester,

Good news on the Flor y Fauna plantations! [...]

After having collected all the advice, it appears that our original thinning scheme is based on views that have meanwhile been rendered obsolete. The different advisors that we consulted are of the opinion that we should deviate from this inflexible (thinning) scheme in order to obtain optimal (and therefor maximal) growth.

The forestry literature offers many indications that late and/or insufficient thinning can influence the yields in a negative way. In addition, various foresters have pointed out the possibility of growth disturbances resulting from thinnings that are too rigorous ("stress in the forest"), e.g. as we had planned for the penultimate cut (50%).

The intention is, simply put, to thin timely and firmly and to spread the thinnings over time. In this way, it is attempted to concentrate the quantity of timber grown in a limited number of trees. Experience shows that as a rule, e.g. 180 trees yield the same amount of timber in 20 years as do 150 trees over the same period in the same area. In other words: the mean diameter of these 150 trees in this example will be greater than the mean diameter of the 180 trees. Thus, thicker trees. And because the price for timber on average increases

with greater diameters, we would like to increase the returns in this way.

Originally we departed from the assumption of 140 poorly formed or unsuited trees per lot of 800 trees [this figure corresponds with $\frac{1}{2}$ ha; author's note], the so-called loss-trees. These would be removed as part of each of the four cuts. However, we are able to identify the loss-trees at an early stage: e.g. trees that fall behind the quick growers, that are crooked, or those that, in spite of re-planting, have insufficiently emerged. Our present urgent advice is to remove these trees early. It is true that these trees then yield less, but it is more important that they can no longer negatively influence the growth of the good trees.

End of last year we reported to you that through windthrow and flooding in the summer of 1994 a certain type of natural thinning had occurred of 5%.

[Author's note: WWF representative Arnold van Kreveld asserts: "Hurricanes are rare in Costa Rica and they are totally absent in the area where the plantation is located: in the center of the country, in the province of Alajuela. In the hilly area, floods can be ruled out for all practical purposes." (source: Vast en Zeker, Summer 1993 issue)]

[author's note: At a court hearing on December 7, 1993, Flor y Fauna written statement to court asserts that: "At this point it can already be concluded that the loss at the first cut is practically zero (a maximum of 10 trees per ha). Huizinga already foresees now that the expected loss at the first cut will be practically zero."]

With this in mind and with all the advice we received we can, roughly, outline a new thinning regime.

In year 3,4 and 5 the relatively bad and unsuited trees are removed first (pre-thinning). In addition, trees must be removed in order to maintain an equal density everywhere. Including the natural thinning of 1994 this amounts to an estimated 200 trees. Remains around 600 trees for four cuts [author's note: these figures correspond with lots of $\frac{1}{2}$ ha].

The experts are of the opinion that the optimum at the final cut is reached between 150 and 200 trees per half a hectare. It thus follows that in the three earlier cuts around 400 to 450 should be thinned (800 (starting number) -/- 200 (pre-thinning) -/- 150 to 200 (final number of stems). This will finally be reached by thinning around one third of the stand in three consecutive periods of

around three years (year 6,7,8, year 9, 10, 11 and year 12,13,14) as of the sixth year. The last, most beautiful and thickest trees can continue to grow until year 20 for the final cut (150 to 200 trees). Even so, adaptations from this scheme remain possible because the actual situation in the field indicates how and when to thin. Currently, in order to determine this as accurately as possible, hard work is put into an advanced monitoring set-up (intensive length and thickness registration) [author's note: these figures correspond with lots of ½ ha].

Advantage is much and nice wood in year 20, but in the three previous cuts the trees will probably be thinner than prognosticated. On average, we can pay out the returns of these thinner stems somewhat earlier, but to us it seems preferable to utilize the profit in time (by thinning earlier) for processing the wood to final products.

At the time, we promised to consult with you, as investor, on the further processing of our timber, for both the wood derived from thinnings and for wood derived from the final cut. After all, the contract deals with the proceeds from the trees, not of semi-finished or finished products. This is the reason that we inform you now.

With the OHRA insurance company and Sicirec (a consortium of well over 250 investors) we have had consultations. OHRA agrees with the new approach. Also the board of Sicirec is convinced that the adapted thinning schedules and the timber processing are in the interest of the investors. At the next shareholders meeting it will therefore put it before the shareholders with a positive advice.

We depart from the assumption that you too can accord with the adapted and more dynamic management plan for the plantation. Likewise with regards to our plan to process at least the first three cuts into a finished product. For the record, we request you to fill in the form of the copy on the backside of the last page of this letter and to sign the agreement (please return to us before October 1, 1994).

If you have questions please feel free to phone with: Van Rossum Van Veen Management Consultants.]

[note to the above mentioned occurrence of 'flooding' at the Flor y Fauna plantation: In a circular called 'Teakwood info' of September 1995, Flor y Fauna informs its investors that: "58 km of canals and ditches were cut and 54 km of river has

been deepened. In addition, many kilometers of drains were cut using shovels."]

16-08

Smart Wood; August 16, 1996. Smart Wood program analysis of the complaint against Flor y Fauna teak plantation in Costa Rica. New York and Vermont. 36p.

This is the

Quotes and Notes:

* During the March 1996 annual certification audit, Smart Wood found that Flor y Fauna continues to have good plantation management and demonstrate progress towards meeting the certification conditions. Therefore, Smart Wood maintains its support for this forestry operation as a certified "well-managed" plantation. Diameter growth rates range from 2.01-4.46 cm/tree/year (weighted average of 3.55 cm across management units), which equals or exceeds the projected scenarios of 1.5-2.2 cm stated in the promotional literature. Progress has been made on improving the growth and yield monitoring system, and refining yield projections based on current data. Latest preliminary yield projections are estimated at 406-664m³ (total yield) per hectare (ha) in 20 years and 259-416m³ (commercial yield).

Smart Wood emphasized that "the yield projections seem optimistic", and that "[f]rom a credibility standpoint, it is absolutely essential that claims made by Flor y Fauna (or any similar operation) in their marketing information and forest management planning be accurate, based on documented experience, and tempered by local conditions and constraints" (Smart Wood Initial Assessment Report for Flor Y Fauna, 10/93).

Rather than analyzing and reworking the yield assumptions, Smart Wood emphasized that Flor y Fauna needed to substantiate their projections and make improvements accordingly. Today this is being done in accordance with the certification conditions [note: cross reference in entry of March 8, 1996].

From Smart Wood's perspective, Flor y Fauna made the progress that Smart Wood requested on improving the definition of growth, yield and related projections at Flor y Fauna. Flor y Fauna implemented a monitoring system and made changes over time so that it better reflects the production potential of the plantation and is capable of demonstrating plantation response to management practices. There is now a wide distribution of permanent plots (increasing to well over 400 in varied site conditions), edge effect has been eliminated and

taken into consideration in establishing new plots, and the staff have utilized a methodology assuring a random selection of permanent plots. These factors are critical advances in determining growth, yield and the most appropriate silvicultural prescriptions for their stands.

OHRA's volume figures of 400-850 m³/ha in 20 years were first publicly indicated in November 1995 in response to criticisms.

Flor y Fauna's Dutch language version of the March 1993 brochure for teakwood VI (prepared by its financial representative in the Netherlands) referenced diameter growth scenarios from 1.5 to 2.2 cm. It projected volumes as high as 764-960 m³ in 20 years (39-48 m³/ha/year) for the 2.0 and 2.2 cm scenarios. Using the same assumptions, the 1.5 cm case would have resulted in a yield of 440 m³ had it been calculated in the brochure; the full range would have been 440-960 m³ in 20 years (22-48 m³/ha/yr). This range amounts to an arithmetic approximation of potential biomass production in 20 years.

[note: In the Shell/WWF tree plantation review 'yield' is defined as follows: "The yield of a forest is conventionally defined as the annual yield of merchantable wood per hectare of forest land - normally expressed in cubic meters per hectare. (source: Michael D. Bazett, 1993; Shell/WWF tree plantation review, Study No. 3, Industrial Wood, page 10, Shell International Petroleum Company and World Wide Fund for Nature.)]

When OHRA replaced this 1993 brochure by Flor y Fauna with its own brochures in early 1994 (and 1995), volumes were never referenced in connection with the stated diameter growth scenarios ranging from 1.5 to 2.2 cm. Internal refinements were made instead so that volume projections ranged from 400-850 m³ in 20 years (20-42.5 m³/ha/year); and:

Another unofficial projection was made in July 1996 when Paul Romeijn made Internet references to an interpretation of the March 1993 volume data that places the highest expected yields at 1,129.69 m³ (56.45 m³/ha/year), instead of at 960 m³ (48 m³/ha/year) as stated in that brochure. This calculation is based on the unconventional, erroneous assumption that the yield forecast in the brochure is after retainment of 5% for Flor y Fauna, 5% for OHRA and 5% for WWF. The cumulative 15% was taken into account in the calculation of the return on the investment in the brochure."

In his economic analysis, Dr. Centeno assumed that Flor y Fauna expected to sell roundwood. He compared Flor y Fauna's price data to existing raw log sales on the open market domestically and internationally. This comparison is inappropriate. Flor y Fauna's intent is to develop value-added products, eventually producing higher-end value-added products such as furniture. This gives a higher internal rate of price for Flor y Fauna's plantation wood than reference to log prices in the open market. In the Smart Wood independent economic analysis, the consultant explained that one needs to take into consideration the broad array of specialty items and product mix that Flor y Fauna is capable of producing over time in order to understand the potential value per cubic meter that they hope to achieve.

The arrangement between OHRA and Flor y Fauna values teak logs at Flor y Fauna's processing facilities by a method that subtracts direct production costs from the revenue of Flor y Fauna's processed products (i.e., imputed log value). Flor y Fauna and OHRA price teak not as standing timber, but as logs delivered to Flor y Fauna's processing facility. The internal price of teak is calculated by subtracting the processing costs from the weighted average selling price of Flor y Fauna's processed product. The difference between selling price and processing costs gives a residual value, and is the imputed value (or internal price) of the teak logs. The internal price reflects the derived demand for teak logs.

Before discussing the results of these studies, it may be helpful to the reader to have an overview of OHRA's Teakwood insurance policy. The return to the investor comprises an endowment insurance to pay back life insurance premiums, plus the investment returns from the Flor y Fauna teak. Thus, the financial returns to the Teakwood policy holder is a blend of speculative returns on teak in Costa Rica and safe returns on low-risk bonds and related instruments in the Netherlands. The term of the insurance policy is 20 years, after which time the policy reaches maturity. In the first year, the policyholder makes a one-time payment to cover the costs of teak establishment and project administration, as well as the first of 20 annual payments for the life insurance premium. This is followed by 19 annual life insurance premium payments.

The Teakwood policy is designed to refund the policyholder's insurance premium payments, plus a small margin, at the expiration of the policy (i.e.,

the "money-back guarantee"). At a minimum, the purchaser will always recover his/her investment funds plus a small margin after 20 years (but disregarding monetary inflation and the opportunity cost of this money). This guaranteed final sum is paid to the policyholder at the policy's maturity in 20 years. The guaranteed final sum (not "premiums paid to date" per correction of the 1993 brochure) will be paid immediately to the policyholder's beneficiaries in the case of the policyholder's premature death.

In addition, revenues from the teak plantation form the other source of payment to either the policyholder or beneficiary after 20 years. From the final harvest and all but the first commercial thinning, the insurance policy holder is entitled to 85% of the value of the wood (i.e., imputed value of teak logs at the Flor y Fauna processing facilities). Revenues from the shared thinnings before year 20 are re-invested by OHRA at prevailing interest rates into safe, low-risk bonds and related instruments in the Netherlands until final payment to the policyholder, i.e., the proceeds from teak thinnings are converted into safe, but comparatively low yielding investments in the Netherlands. The final payment amount to investors from the teak will vary according to the yield, product mix, processing cost, exchange rates and other factors.

The remaining 15% of the value of the teak is divided into three equal parts of 5% each to Flor y Fauna, OHRA and WWF/Netherlands. The payment to WWF is for use in conservation projects in Central America, Costa Rica, and in particular in the region where Flor y Fauna has the plantations. The value of the first commercial thinning goes to Flor y Fauna to cover its risk and future operating costs.

The arrangement between OHRA and Flor y Fauna values teak logs at Flor y Fauna's processing facilities by a method that subtracts direct production costs from the revenue of Flor y Fauna's processed products (i.e., imputed log value). Flor y Fauna and OHRA price teak not as standing timber, but as logs delivered to Flor y Fauna's processing facility. The internal price of teak is calculated by subtracting the processing costs from the weighted average selling price of Flor y Fauna's processed product. The difference between selling price and processing costs gives a residual value, and is the imputed value (or internal price) of the teak logs. The internal price reflects the derived demand for teak logs.

Dr. Centeno's analysis did not reflect this arrangement between Flor y Fauna and OHRA. This confusion is understandable as the translated 1993 brochure indicates that forecasts are based on prices of unprocessed teak while also referencing that processing increases prices of end-products which benefits the investors. The contracts between OHRA and Flor y Fauna are clearer. Article 2.1c of the 1993 contract between OHRA and Flor y Fauna specifically references the arrangement for Flor y Fauna to pay OHRA imputed log values (i.e., gross revenues from product sales, less the costs of processing).

[note: The Rainforest Alliance report speaks of a '1993 contract' between OHRA and Flor y Fauna. This information was apparently not made available to Prof. Centeno for the purpose of executing his WWF commissioned economic analysis of the Teakwood programme. The closing remarks of section 7.2 of Prof. Centeno's economic analysis of December 22, 1993 read as follows: "Since the company's financial forecasts are based on the sale of logs, so are the stipulated returns to investors. It is not clear if the changes in costs and returns derived from the decision to establish processing facilities are properly reflected in the contracts with investors, or if the decision was made before part or all of the contracts were signed. Although the company seems free to establish processing facilities, Van Veen's memo of June 24 makes reference to the possibility to sell **either** logs or sawn wood. The nature of the decision to process is thus unclear, although it will significantly affect the costs and revenues involved."]

[note: The insurance policy that OHRA sells to Teakwood investors speaks of entitlements to proceeds from timber cuts (Dutch: 'kapopbrengsten') and the March 1993 Teakwood explicitly stipulates these proceeds are based on the sale of logs as 'standing timber' (Dutch: 'op stam'). Moreover, in an article in the spring 1996 issue of OHRA's magazine 'Vast en Zeker' called 'Teakwood, the 10 most frequently asked questions' the company informs its readership as follows: "7. *How does OHRA calculate the return of 14-18% per year?* The final return depends on the total timber quantity, the market price and the dollar exchange rate." OHRA makes no reference to 'imputed log values' and stipulates that the *final* return is based on market prices for wood.]

Flor y Fauna will be selling young "baby teak", mainly as value-added products (e.g., furniture, turnery, carpentry, flooring, interior trim, doors,

carvings, candle sticks, bookends). Teak is highly versatile and Flor y Fauna is equipping itself for a variety of product lines, to be processed locally and sold mainly in US, and perhaps Europe or Costa Rica in response to market demand and currency risk. In March 1996, the company had just completed installations for furniture production and storage facilities to process and dry materials coming from the sanitation thinnings.

Based on his own independent analyses, the consultant calculated that this portfolio is capable of producing a return between 13-22%. These figures correspond to pessimistic and optimistic scenarios selected by the consultant to reflect growth expected for the OHRA management units. These projections lend general support to the range of returns (11% to 23%) that OHRA has been claiming in its promotional materials. The independent consultant's analysis purposely did not reconstruct OHRA's computational methods, but it concluded with figures that are not far apart from what OHRA has been advertising.

The analysis conducted by Dr. Centeno was completed at a very early stage of development of the Flor y Fauna operation. Much of his work was done on speculation and limited infrastructure to show the plans Flor y Fauna had for its operation. The economic analysis completed for Smart Wood of the Flor y Fauna operation was able to utilize more detailed and new information (e.g., as referenced in the sections above) to describe a more complete picture of the original financial projections.

In his economic analysis, the Smart Wood consultant independently calculated projected returns using a number of key factors that help clarify the basis of the Flor y Fauna and OHRA financial forecasts. These factors include a more fully developed market strategy, value-added production facilities capable of producing a wide range of products, available technology capable of processing roundwood down to 5 cm diameter, and improved product mix and wood utilization over time. It also reflects a clear understanding of the linkage between the investment into the teak operation and subsequent reinvestment strategies of revenues through the Teak Policy sponsored by the OHRA insurance program.

Rainforest Alliance has concluded that Flor y Fauna continues to merit certification by the Smart Wood program as a "well-managed" plantation, despite the current controversy. From our perspective as a certifier, the most relevant factor in our decision is the favorable annual audit of the Smart Wood

team, which determined that certification conditions are being met, good management continues, and ongoing improvements are being made. Of particular relevance to the complaint, Smart Wood emphasized that to get and maintain certification Flor y Fauna needed to implement an improved growth and yield monitoring system, silvicultural trials, and improved thinning regimes, so it could substantiate its projections and make adjustments according to actual field-level performance. From Smart Wood's perspective, Flor y Fauna has responded positively to the certification conditions relating to these points.

The basis of Smart Wood certification is our guidelines and the certification conditions. We cannot terminate Flor y Fauna for non-performance when it is performing against the standards established in the Smart Wood guidelines and the conditions for certification. This is the basis and philosophical underpinning for the certification system that we perform.

The other information reviewed in this analysis has also been very important to our decision to maintain certification. It has elucidated whether there is a convincing basis for charges of fraudulent and unethical behavior on financial matters which would give Smart Wood cause to terminate Flor y Fauna's certification on ethical grounds. In evaluating the reports (e.g., KPMG, CCT, and the Smart Wood Financial Analysis) and in the conclusions of the various cases, Smart Wood is of the opinion that the preponderance of evidence weighs against theories of fraud or malfeasance on the part of Flor y Fauna, OHRA or other parties. Instead, Smart Wood sees a number of mistakes, misunderstandings, and poor choices on all sides, including by the plaintiffs.

From an economic perspective, Smart Wood tries to ensure adequate investment of capital in good management during the life of a forestry operation, but clearly the Program was never designed to assess or guarantee the types of investments or financial returns that are at the center of the complaint against Flor y Fauna and OHRA. For the record, Smart Wood still maintains that it does not do financial analysis or guarantee projections of growth, yields or financial returns. Smart Wood is not endorsing or guaranteeing any of the new growth, yield and financial projections presented in this analysis [...]

[note: OHRA's circular to investors of April 9, 1996, is the first time the company publicly disclosed that the basic assumptions of the Teakwood

VI brochure of 1993 were not valid and that they were, in fact, not used by the company for calculating the potential rates of return. The company's decreased potential yield figures of 400-850 m³ accumulated log volume per ha in 20 years were apparently compensated by increasing the base-price for teak. In addition, this Rainforest Alliance report discloses that the volumes refer to 'potential biomass production'.]

[note: 'Potential biomass production' does appear to be entirely different from commercial volume and the corresponding market prices for raw teak logs (as standing timber) that the 1993 Teakwood VI brochure's tables refer to when portraying teak volume and pricing to potential investors. According to the Rainforest Alliance, OHRA continued to sell the Teakwood insurance policies on the basis of the March 1993 Teakwood VI brochure for almost a full year. The March 1993 brochure and all other promotional materials refer to proceeds derived from 'timber', rather than 'biomass'.

[note: OHRA has not informed potential or actual investors the existence of its 1993 contract with Flor y Fauna in which OHRA arranged to sell all timber exclusively to Flor y Fauna against internal, imputed, log prices rather than to sell its standing timber on the open market to the highest bidder.]

THINNING SCHEDULES: Dr. Centeno expressed concern about the thinning schedule. Upon Smart Wood's initial assessment in August 1993 (preliminary report October 1993), Smart Wood also asked Flor y Fauna to modify and improve its thinning regimes to allow for "heavier" thinnings as well as earlier thinnings for "phytosanitary" purposes. The initially proposed schedule of thinnings at 8, 12 and 16 years (with full harvest at 20 years) has been modified over the past three years in favor of more frequent light thinnings. Sanitary thinnings are now beginning as early as 2.5 years of age. Intensities of the early thinnings have risen to 25%. The first commercial thinning originally targeted at 8 years is now scheduled at 6 years. Furthermore, a series of field trials have been established on various sites to test different thinning regimes.

[note: The Teakwood VI brochure of March 1993 asserts the following on the risks of 'insects and diseases': "Till today there has never been an insect plague in Costa Rica that was capable of inflicting damage to a teak plantation. In addition, there are no known diseases that could affect the planting stock. This is based on twenty years of

experience with teak plantation in Costa Rica." In addition, the Flor y Fauna Director Huizinga stated in 'De Kleine Aarde', issue 85, that: "Diseases that can affect teak are completely absent in Costa Rica, and so too can vermin not get a hold on the little teak trees." Moreover, WWF's Arnold van Kreveld writes in OHRA's quarterly magazine of summer 1993: "There are no known diseases that can effect teak trees. This knowledge is based on over 20 years of experience with teak plantations in Costa Rica. Till today, no insect plague has occurred there that could damage the plantations." Almost identical statements are made by Henk Ramautar, Manager Teakwood Project at OHRA, in 'Money', October 1993, on page 14.]

[note: For a short summary on recorded incidents of recorded diseases and plagues in teak plantations in Costa Rica see Eladia Chaves and William Fonseca in 'Teca, Tectona grandis, especie de árbol de uso múltiple en America Central', Serie Técnica, Informe Técnico No. 179, CATIE, Turrialba, Costa Rica, 1991, or with L.B. Ford's 'A survey of pests in forest plantations in Costa Rica', CATIE, Turrialba, Costa Rica, 1980. Alternative references to the use of chemicals at the Flor y Fauna plantations are reported in agenda entries of January 28 and August 5, 1996.]

23-08

The (Dutch language) Financial Daily publishes an article under the header: "Rules for rates of return in life-insurance packages." Excerpts:

Life insurance companies in our country will have to obey to specific rules when portraying information about returns on investment and investment risks. The branch has laid down specific regulations that will become effective in the fall of this year.

[note: The Teakwood investment programme is sold as a life-insurance package by the insurance company OHRA, a scheme backed by WWF.]

The insurers have laid down the code of conduct as a result of complaints about one-sided and optimistic projections about projections on rates of return in life-insurance packages.

"There has been such a proliferation of products recently, products that are demanded by the consumer, that we should take care that the customer can see the wood for the trees", says drs. F. Heus, President to the Board of the Dutch branch of insurance company Generali and President of the committee for the Branch organization that has formulated the new rules.

04-09

The (Dutch language) Financial Daily publishes an article under the header: "Minister swallows two labels." Excerpts:

Minister De Boer of VROM (Housing, Spatial Planning and the Environment) accepts that there will be two labels for timber produced in sustainably managed forests [note: The Dutch Ministry of VROM is one of the funders of FSC].

This is the way it is, according to the Minister following a meeting in which Friends of the Earth, the development organization NOVIB and the World Wide Fund for Nature, WWF, presented a report and a plan for a 40% reduction of the national consumption of timber and paper products.

Rather two labels than none, according to the opinion of the Minister. The two initiatives for a timber label -one by the environmental movement [note: this refers to the FSC label] and one by the Foundation Keurhout initiated primarily by timber traders and importers- could not be united.

[note: The FSC Director T. Synnott visited The Netherlands at this occasion.]

[note: also reported in 'Houtwereld' issue '96-17, page 14-15.]

14-09

Treemail receives a open letter from Flor y Fauna's growth and yield specialist Professor Pablo Camacho which he copies to the UNEP Infoterra mailing list on environmental issues. Full text of open letter:

From: Pablo Camacho
Subject: mail list
Date: Wed, 14 Aug 96 16:39:27 CST
Cc: infoterra@cedar.univie.ac.at

Dear People.

I received a copy of the TEAKWOOD main events recently published. The data originally produced q are different than the one's I just produced using information on tree growth for the last 3 years.

I am not authorized to publishe or give it to anybody, but I just want to let you know. Perhaps a direct request to Flor y Fauna will be possible.

For the time being I just want to be included in the mailing list. Any kind of information related to teak interest me.

Thank you very much.

Dr. Pablo Camacho
Professor and Forestry Researcher
Forest Ingeniering Dept.
Costa Rican Institute of Tecnology
Costa Rica

20-09 The Dutch newspaper 'de Telegraaf', on page 5, reports that Teakwood competitors allege that Flor y Fauna Director Ebe Huizinga would underpay his personnel and that he would work his 300 mainly Nicaraguan laborers to death. According to the newspaper's reporter Johan van den Heuvel, the Flor y Fauna Director Ebe Huizinga refuses to comment upon this allegation.

04-10 Rainforest Alliance Smart Wood Director Richard Donovan informs NOVA journalists that [this communication is made public by OHRA by submitting it as an exhibit in evidence for the defense at the hearing of the Standards Advertising Committee hearing of December 18, 1996]:

"Obviously in the long term as we have said from the start, Rainforest Alliance cannot definitively say that the somewhat higher outputs presented by OHRA as part of the potential range of output values since the time of certification will or will not be reached. Because of this, we have not required OHRA or Flor y Fauna to revise the range of advertised public projections to maintain certification."

07-10 RTL-4 Dutch language Television.

In a series of programmes broadcast over the RTL-4 channel, WWF launches a fund raising campaign called 'The Living Planet' [for details of the campaign see <http://www.panda.org>].

In the October 7, 1996, issue of the programme the WWF Dutch division's President, former environment Minister Nijpels, explained to the national audience that the FSC is an initiative by WWF and a number of other organizations ("Wij hebben, samen met enkele andere organisaties, het FSC voorelkaargebreen").

[note: "WWF played a key role in launching the Forest Stewardship Council, an international body that is pioneering the independent certification of timber from forests managed under strict social and environmental standards." (source: WWF Action Item, <<http://www.panda.org/action1.htm>>, 'Fighting for Forests lives'. Date of retrieval: November 11, 1996)]

WWF President Nijpels subsequently called upon the Dutch viewers to ask for FSC certified timber

products, and encouraged this behavior by emphasizing: "These [FSC certified timber products] are no more expensive than non-certified products".

Paradoxically, WWF here departs from an entirely opposite position when it addresses the general public as a contract partner to the timber producing initiative called Teakwood. In its timber producing and marketing role, WWF repeatedly and publicly argues that the timber that is to be produced at these Costa Rican teak plantations may well fetch a higher price on the market precisely because the plantation has been certified (e.g.: Een investering in een groenere toekomst - 'An investment in a greener future' -, brochure for Teakwood VI, March 1993).

WWF thus exposes the Dutch timber consumers, (potential) Teakwood investors and the general public to quite confusing and contradictory messages on the subject of the effects that FSC accredited timber certification may have on the pricing of consumer products.

08-10

Rainforest Alliance Smart Wood Director Richard Donovan responds to the NOVA journalists' question "On what commercial log volume projection by Flor y Fauna was the plantation certified by the Rainforest Alliance in 1995?" [note: this letter is made public by OHRA by submitting it in evidence at the hearing of the Standards Advertising Committee hearing of December 18, 1996, see agenda entry of November 14, 1996.]

Richard Donovan responds (in full):

"Rainforest Alliance certified Flor y Fauna for the forest management system that they had in place, including a monitoring system that would provide accurate growth and yield projections in the future. Due to our pre-certification concerns about the "optimism" of the higher yields in 1993 brochures (used for the Centeno review), Flor y Fauna indicated a commitment to continuing the implementation of the monitoring that had been put in place, as required by Rainforest Alliance, and that future public documents would be based on field data (please see pages 4-5 of our public statement). The early 1994 OHRA brochures did not repeat previous volume estimates. Rather, in November 1995, after our certification, new information provided by OHRA to the public indicated ranges of 400-850 cubic meters. As per our public statement, corroborated field data indicates yield estimates ranging from 406 to 664 cubic meters. Apparently, there is recent uncorroborated data provided through the monitoring

system, since our field Audit in April, indicates sites with yield potential up to 750 cubic meters. How this will affect overall potential yields is as yet unknown and will be evaluated, along with other aspects, in our next audit. Rainforest Alliance continues to believe that it is prudent to provide a range of potential yields, and that this range should be adjusted based on field data."

As final comment, the Rainforest Alliance Smart Wood Director adds in his closing paragraph:

"Frankly speaking, based on my own personal experience in many places, and as discussed in our public statement, the ultimate return on investment to investors will depend on many factors, with total or commercial yield being only part of the picture. In fact, most profitable forest product enterprises do best by developing a wood processing capability, and not relying solely on raw log sales. This is something that Flor y Fauna is spending a lot of time on now and, because of the potential positive implications in relation to conservation and community economic development, should be encouraged. I believe this is a major reason why the Government of Costa Rica has fostered conditions for these types of projects for so many years. How other teak or reforestation projects (like Flor y Fauna) can or should improve environmental and community impacts is something that I think deserves much more attention."

09-10 Second NOVA television broadcast on OHRA's Teakwood scheme.

This broadcast by NOVA reveals to the Dutch public that OHRA had hidden the Flor y Fauna monitoring report #13 from the Appeals Committee of the Advertising Standards Committee when hearing its case on the misleading nature of the OHRA advertisements on July 18, 1996. At the time, the Appeals Committee was not aware of the existence of Flor y Fauna's monitoring report #13.

Even so, the Committee still considered that OHRA's advertisements were 'misleading', and considered the advertisements to be in violation of Article 7 of the Dutch Advertising Code, in its ruling later that same month.

In addition, the NOVA broadcast touches upon a number of issues that are of a far wider ranging concern than the Teakwood investment programme and the direct involvement of the WWF. Developing nations need investments in sustainable forestry, including plantation forestry, according to

Professor J.C. Centeno. He asserts: "This could have been an example for other countries, but it has gone wrong."

"This case seems to have all the characteristics of possible fraud, and I have consistently argued this since 1993", continued Professor Centeno. In addition, the Professor argues that many investors had spent their money on the Teakwood programme because of WWF's involvement, and because it was too late for the organization to pull out now, it was time for the WWF to honor the commitments it has made to the public and to search for a solution that honors the commitments made to the investors. Even so, WWF reiterated to the NOVA journalists that it still perceives no problem whatsoever with its support of the Teakwood programme.

The whole notion of 'green investment' and its reputation is suffering as a consequence of the behavior of WWF and OHRA over the Teakwood investment scheme, this is entirely the responsibility of OHRA and WWF, lawyer Tomlow argues in the programme.

Mrs Vos, Parliamentarian for the Greens, announces that she is to raise questions in Parliament to the Minister of Agriculture about the 'double role' of one of the Ministry's civil servants who wrote a report in support of the Teakwood scheme and its projections. She describes the role of this civil servant as 'highly peculiar'.

Mrs Vos strongly emphasizes that she considers it to be a WWF responsibility to provide clarity over the yield projections for the teak plantations. Mrs Vos calls on the WWF to provide such clarity, including the effects of the reduced yield projections on the expected rates of return.

At the end of the programme, NOVA announces that the FIOD is initiating a large scale investigation into the presence of assets that have been subject of tax evasion. The FIOD is the Dutch Fiscal Information and Investigation Service. The FIOD has let it be known that its preliminary investigations have provided strong evidence that such assets are being used for teak investment purposes at a very significant scale. The announced FIOD investigation covers the entire branch of the Dutch teak investment schemes.

[note: OHRA and WWF turned down the offer by NOVA journalists to comment before the cameras.]

09-10

OHRA issues a press release (excerpts):

Last week both the OHRA and the Rainforest Alliance have informed NOVA in writing that the conclusions about adjustments of the expected returns are absolutely incorrect.

For both the organizations there is no reason whatsoever to assume that the forecasts as they are used by OHRA will not be attained.

In an independent financial analysis on behalf of the Rainforest Alliance of last August the following conclusion is drawn: "Based on the available information, the results of this study support the bandwidth of returns as used by the OHRA in its promotional materials."

In addition, the plantation has recently been certified once more as a "well managed plantation". This confirms the project's pioneering role. At the occasion of the first certification in 1995, the Rainforest Alliance director Richard Donovan qualified the project as having an impressive combination of social responsibility, nature protection and economic viability.

The result from the most recent researches once again confirm that OHRA is right in the portrayal of its expectations. She regrets the unjustified negative approach by NOVA.

10-10 WWF issues a press release (excerpts):

3. The WWF is an organization for the protection of nature and it can therefore only comment on the subject of sustainability of production.

[...] These reports [author's note: by KPMG and Rainforest Alliance] give the WWF no ground whatsoever to revise its attitude towards the Teakwood investment policy. This stance is shared in full by the International WWF branch.

In addition, WWF-NL's circulates a letter to its 'relational network' (with date 'November 1996'). In the letter, WWF explains to its readership that the Teakwood programme is fully supported by the Director General of WWF-International and that both WWF-NL and WWF-INT see no ground whatsoever to revise their support of the Teakwood programme.

11-10 Dr. Raymond Keogh's visits The Netherlands:

One of the world's most renowned specialists on the subject matter of teak growth rates in Africa and Latin America, Dr. Raymond Keogh, spoke at a meeting in Amsterdam on October 11, 1996. At the occasion, Dr. Keogh introduced his publication 'Teak 2000'

(IIED Forestry and Land Use Series No. 9; IIED, 1996). Among the estimated 80-100 attendants were representatives of most teak investment schemes that operate out of The Netherlands as well as representatives from the key-Ministries involved in the formulation and execution of the Dutch Government's tropical rain-forest policy.

Dr. Keogh informed the audience that not a single case was ever recorded of indications that teak growth at plantations would exceed 400 m³ accumulative log volume in 20 years. Upon his question: "Does anybody disagree?", not a single one of the attendants raised his hand. No hand was raised by the chief technical advisor to Green Capital (also known locally as Teca Verde), a company that states in its sales brochure that it is confident that their teak plantations in Costa Rica will reach higher growth rates than have ever been recorded. No hand was raised by WWF's representative at the meeting (Arnold van Kreveld).

Dr. Keogh continued his presentation by asking to be invited to measure any teak plantation that demonstrated such growth rates. Not a single one of the attendants to the meeting seized this unique opportunity to clear the air for the growth rates that the respective companies claim to achieve according to their investment brochures.

It appears that the visit by Dr. Keogh has demystified much of what has been claimed for the plantation properties of *Tectona grandis* by most of the Dutch teak investment programmes and the elusive support for such programmes and their projections on teak growth by the Dutch Ministry of Agriculture (e.g. 'Het Financieele Dagblad', October 11, 1996).

12-10 'de Volkskrant', The Netherlands' third largest newspaper, publishes an article called 'OHRA and WWF trade in illusions' by Professor J.C. Centeno. Excerpts:

The behavior of teak in plantations is thus well defined, and though there is room for variation and experimentation, it is highly speculative to assume that a new plantation will outperform the highest world records by 50% to 200%, as has been the case.

A series of companies have been offering investments in projects based on deceiving and highly speculative claims, approaching the characteristics of fraud. The case which has been mainly exposed so far involves the company Flor y Fauna, the insurance company OHRA, and the Dutch office of the World Wide Fund for Nature, WWF.

There would be no concern with the speculative figures on which most of these projects are based, if investments were solely those of the companies involved. But the economic ownership of the trees has been sold to the public, who is normally unaware of the technicalities involved, and who lack the necessary tools to judge the validity of the projects in question. The general public tends to base its decisions on trust and credibility in the organizations encouraging them to make such investments, such as OHRA and WWF. The Dutch public has thus been led to believe in highly speculative projections on growth and price trends, and in consequently inflated rates of return. The impunity with which this has happened is partly due to the remarkable hands-off position taken by government regulatory bodies, and the silent complicity of the Dutch forestry profession.

There is an urgent need to establish plantations in many tropical countries, to produce industrial timber, to protect watersheds, to reclaim degraded lands, to produce firewood and other forms of energy, and to improve the productivity and economic viability of agroforestry practices. Teak is a precious timber that performs well in plantations. The establishment of industrial plantations ought to be encouraged, specially through joint ventures, involving private interests from both industrial and developing countries.

The responsibility of the WWF is particularly concerning. Its endorsement of the most prominent and most disputed of these projects has prompted investments by individuals who believed in the promises made, due to the endorsement offered by WWF. The organization is now faced with the responsibility to make clear that such promises are misleading.

16-10 'de Volkskrant' publishes a letter to the editor by WWF Director Woldhek, which is his reaction to the article by Professor Centeno in the newspaper's edition of October 12, 1996.

In this letter to the editor the WWF Director denies WWF's responsibility for the projected rates of return and for the information provided to Teakwood investors.

In addition, the WWF Director states: "WWF is not a forestry organization. Therefore it demands that Flor y Fauna collaborates with the (independent) Rainforest Alliance."

01-11 Dr. L.C. Kuiper and Ir. R. de Boer, both staff workers at 'Stichting Bos en Hout', publish an article in newspaper 'de Volkskrant' entitled 'Teak funds had better moderate their projections'.

01-11 In the circular to forestry students at the Wageningen Agricultural University called 'de Hinkelnymf' (of autumn 1996, page 20), forest faculty senior researcher Dr. Ir. N.R. de Graaf writes an article entitled 'Teak'. Excerpts:

TEAK PLANTATIONS

Considerable fuss about the teak projects that were started by a number of Dutch in Costa Rica is now erupting. It is intended to be a form of green investment with an outlook on the possibility of high rates of return, but there is much that can be commented and criticized. For some, it is even the question if it does not border on fraud. The prices for the objects range from steep to absurd, the future profits that are promised are usually too good to be true. For those who do not know what teak is: this is *Tectona grandis*, a commercially interesting tree species that produces excellent timber which sometimes fetches very high prices per m³. [The species] is relatively easy to grow in plantations, it is thus well domesticated.

I must admit that I have a lot to do with it, but that I attempt to handle the matter with caution (yet firm, after all one is a specialist). I do not feel like being dragged before court because of criticism on OHRA. That company simply has too much money and too many vested interests; people do far too much for money. More than three years ago (or thereabouts, I have not yet checked my agenda's) I was visited by a delegation of Flora y Fauna of Costa Rica (who are liaised with OHRA) in order to sound out my viewpoint on their approach and the projected results. I believe this went on for a total of five sessions. Finally I got fed up with the way that matters were surreptitiously wrongly portrayed, even on the matters of the relatively well (but not exactly) defined yield forecasts for teak. Then, after all was said and done there remained little to further exchange so I buried the hatchet in a secure corner.

It now appears that OHRA intends to start a court case against yet another critic that has voiced his opinion too loudly, this time round it is Dr. Centeno from Venezuela. If a judge would hear such a case I believe that OHRA will have to change its tune over the forestry facts. Amongst forestry experts there exists a clear view about what is

attainable, the literature on production is quite rich and most have become aggravated about all the nonsense that has surfaced from the teak projects in Costa Rica. [...]

It is sad occurrence to see that these matters harm the generally favorable perspectives of green investment in tropical forestry.

[author's note: Dr. Ir. N.R. de Graaf serves as an advisor to the Dutch based Amazon Teak Foundation and to the Swiss based company Precious Woods.]

14-11

OHRA submits its written defence to the Standards Advertising Committee in a new case of misleading advertising. The case refers to an advertisement by OHRA in the autumn 1996 issue of the WWF quarterly magazine called 'Panda' (Number 4). The case is heard on December 18, 1996.

Excerpts from OHRA's written defense:

Regarding the expectations of timber yield, the Rainforest Alliance report distinguishes between the so-called total (gross) volume, this means the timber production measured over the entire tree excluding branches or twigs, but including cortex and phloem ("underbark"), the so-called "treewood" (Dutch 'boomhout'), and on the other hand the net (commercial) volume, meaning the timber production measured in volumes over the entire tree, excluding branches and twigs, excluding cortex and phloem ("underbark") and excluding the so-called the stem-foot of 30 cm (the part from ground level to 30 cm above the surface) and excluding the top of the tree, measured from a top diameter of 7/8 cm (which means: the top of the tree is not included as of the moment that the top diameter is less than 7/8 cm). The latter is also sometimes referred to as the "stemwood" (Dutch 'stamhout').

The Rainforest Alliance report states that the production expectation at this moment is 406-466 m³/ha. This is the "total yield", which corresponds with the total gross volume. This figure should be compared with the production expectation of 400-850 m³/ha. In that case there is no question of halving of the production expectations. This is even more valid now that we should bear in mind that the timber production expectation of 406-664 m³/ha is valid for the entire Flor y Fauna plantation. This plantation consists of two unbroken sections: Teakwood I-V (Vasconia) on the one hand and the OHRA plantations Teakwood VI-VIII (Altamira). The Rainforest Alliance report clearly states that the timber production expectations are the highest

for the OHRA plantations, Teakwood VI-VIII (Altamira). Thus it becomes entirely evident that there is no question of halving (of expectations). It concerns a momentary (random) indication based on increment data for the entire plantation (and not of the OHRA plantations), which may be adjusted upwards in the future.

The same goes for rates of return. On the matter of OHRA's expectations for rates of return, the Rainforest Alliance report states:

"In June 1996 an independent financial analysis of Flor y Fauna was prepared for Smart Wood by a PhD forest economist and university professor. This analysis uses standard conservative economic approaches to assess a number of variables. It estimates that the return on investment may be 13-22% under the independent financial analyst's pessimistic and optimistic scenarios. Without recreating OHRA's calculations, this analysis tends to independently support OHRA's projected returns of 11-23% (stated in its most recent brochure) and 14%, 18% or more (stated in its most recent ads)."

1. Are the rates of returns possible?:

"Based on his own independent analyses, the consultant calculated that this portfolio is capable of producing a return between 13-22%. These figures correspond to pessimistic and optimistic scenarios selected by the consultant to reflect growth expected for the OHRA management units. These projections lend general support to the range of returns (11% to 23%) that OHRA has been claiming in its promotional materials. The independent consultant's analysis purposely did not reconstruct OHRA's computational methods, but it concluded with figures that are not far apart from what OHRA has been advertising."

2. Have OHRA's advertisements about returns been misleading to consumers?

"The June 1996 study for Smart Wood by the independent PhD economic consultant and university professor found that the portfolio is capable of producing a return between 13-22%. These projections lend general support to the range of returns (11% to 23%) that OHRA has been claiming in its promotional materials."

[...]

As Exhibit 3 OHRA submits a fax message from the Director of the Rainforest Alliance to the editor of

NOVA of October 4, 1996, where he communicates on behalf of the Rainforest Alliance that:

"Obviously in the long term as we have said from the start, Rainforest Alliance cannot definitively say that the somewhat higher outputs presented by OHRA as part of the potential range of output values since the time of our certification will or will not be reached. Because of this, we have not required OHRA or Flor y Fauna to revise the range of advertised public projections to maintain certification."

As Exhibit 4 OHRA submits a fax message from the Director of the Rainforest Alliance to the editor of Nova with date October 8, 1996, where he communicates:

"As per our public statement, corroborated field data indicates yield estimates ranging from 406 to 664 cubic meters. Apparently, there is recent uncorroborated data provided through the monitoring system, since our field audit in April, indicating sites with yield potential up to 750 cubic meters. How this will affect over potential yields is as yet unknown and will be evaluated, along with other aspects, in our next audit."

[...]

Van Weezendonk incorrectly distinguishes between what he terms "biomass" and "commercially viable volume" of the Teaktrees and subsequently suggests that from the Rainforest Alliance report it would follow that the wood production is not 400-850 m³/ha, but 259-416 m³/ha and that therefor wood production expectations have halved. As the above shows, this is not the case.

In addition, Mr Van Weezendonk suggests that from the Rainforest Alliance report it would follow that the expected rates of return by OHRA could NOT be achieved. To that effect, Mr Van Weezendonk does not submit the entire report, but only a few parts of the reports that he has selected. If only because of this, it appears that also this suggestion is entirely untrue.

As Exhibit 5 OHRA introduces a fax message from WWF to the NOVA editors dated October 4, 1996, in which WWF expresses its unconditional support for the project and, once more, calls the attention to the fact that -on the contrary- the Rainforest Alliance report demonstrates that OHRA's expectations on the rates of return to investors, 11% to 23%, are attainable and that there is no loss to investors.

Van Weezendonk incorrectly distinguishes between what he terms "biomass" and "commercial volume" of Teak trees and he subsequently suggests that, according to the Rainforest Alliance's report it should be concluded that the timber production is not 400-850 m³/ha, but rather 259-416 m³/ha and that therefor the production expectations would have "halved".

[note: The Rainforest Alliance is the first to bring both the terms 'biomass' and 'commercial yield' into the equation when referring to the yield projections of the Flor y Fauna teak plantations. The Rainforest Alliance introduced these terms in its defence of the Flor y Fauna and OHRA's yield projections in its publication of August 16, 1996.]

sub 7. [...] In addition, it is incorrect that the OHRA has misled the Advertising Standards Committee.

Van Weezendonk suggests that this is the case and refers to one of the many interim forestry monitoring reports of Flor y Fauna on the tree growth of June 1996. OHRA points out that this report is a forestry interim report that contains an interim, random, picture of the actual increment and the expected forestry data at that particular time. These reports are drawn up at very regular intervals within the total monitoring programme of the plantation by the Rainforest Alliance. These interim forestry reports are dependent of the prevailing climatological circumstances at that point in time. If the climatological circumstances are less favorable within a particular year, this will result in a lagging growth. When the climatological circumstances in the subsequent year are favorable, this will result in an increased growth. THAT is what is going on. Presentation of incorrect data or deception are out of the question.

[...]

Seen in the light of [...] the findings of The Rainforest Alliance as documented in the report with date August 16, 1996, the conclusion cannot be any other than that [...] the expectations on the rates of return reflected in the advertising materials are realistic, feasible and attainable and, in addition, that they are entirely conform the conclusions of the Rainforest Alliance report of August 16, 1996.

[note: Cross reference with e.g. agenda entry of May 9 and 31, 1996, where OHRA defends identical rates of return it had advertised on the basis of the expected returns from raw logs only and not on an 'imputed log value' to be arranged between OHRA and

Flor y Fauna. To be precise, OHRA informed the Committee as follows: "The positive effect of timber processing into semi finished product and into finished products such as furniture has ... not yet been taken into account for the purpose of calculating the rates of return." Also cross reference with the agenda's entry of October 10, 1996, section 'final comment' by Rainforest Alliance Smart Wood Director Richard Donovan.]

18-12 The Standards Advertising Committee hears a new case of misleading advertising against OHRA which has been submitted by L.H.Th. van Weezendonk. The specific advertisement that is at the core of the complaint was published by OHRA in the autumn 1996 issue of the WWF quarterly magazine called 'Panda' (Number 4).

The OHRA advertisement for the Teakwood combined insurance/investment package refers to rates of return to investors as being "14-18% or more ..." and that, after a period of 20 years, the investors will receive their returns on the basis of "the harvesting proceeds" (Dutch: 'kapopbrengsten') only.

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