

TO GLOBAL INVESTORS AND FINANCIAL SERVICE PROVIDERS:

CSO OPEN LETTER ON THE RISK OF EXPOSURE TO AMAZON DEFORESTATION IN REPORTED SALE BY THE BRAZILIAN NATIONAL DEVELOPMENT BANK OF SHARES IN JBS AND MARFRIG

We, the 50 undersigned organisations, would like to remind the global financial community of its environmental, social and governance (ESG) responsibilities in ensuring their financing and services are not exposed to companies that are linked to the destruction of the Amazon.

There is increasing recognition by central banks, stock exchanges, consumers and the public that climate change has become a material issue for the financial system. The [Investor statement on deforestation and forest fires in the Amazon](#) (September 2019), from 244 investors representing some \$17.2 trillion under managementⁱ calls on firms to protect the Amazon. It emphasizes the fiduciary duty of investors to consider the potential regulatory, legal and market-based risks of firms exposed to deforestation. This serves as a caution to investors and commercial banks not to commit additional financing, investment or advisory services to firms that have shown a long-term inability to address their exposure to the destruction of climate-critical forests. This is particularly the case where they choose to source predominantly from regions with systematic forest-related violence and legal compliance risks.

In this context, on December 2nd 2019, Brazilian media outlet Globo reported that the Brazilian National Development Bank (BNDES) intends to sell some of the shares it holds in the global beef giants **JBS**ⁱⁱ and **Marfrig**ⁱⁱⁱ - both with long track records of exposure to Amazon deforestation.^{iv}

We outline below the risks posed to investors and financial services institutions intending to participate in any such secondary share issuances:

1. Known risks for beef traders choosing to source from the Amazon

In Brazil the cattle market has proven one of the most attractive industries for those seeking to profit off Amazon destruction.^{vvi} By some estimates, 70% of the cleared Amazon has been converted to pasture.^{vii} In 2019, the annual rate of deforestation of the Brazilian Amazon reached its highest level since 2008, according to government statistics.^{viii}

Over the last 12 months, an area of Amazon forest over six times the size of London^{ix} was destroyed, a 30% increase over the previous year. This alarming rise in the destruction of the Amazon has intensified under the Bolsonaro Government, which has significantly cut funding for forest conservation and forest law enforcement authorities, undermining global commitments and efforts to address the current climate crisis.^x Three beef traders dominate demand for cattle in the Amazon: JBS, Marfrig and Minerva. Their combined slaughter capacity is reported to be around 126,000 cattle a day, with JBS the largest demand driver^{xi}.

2. JBS's long-standing connections to Amazon deforestation and inability to fully meet supply chain commitments first made in 2009

A decade ago, JBS^{xii} [signed an agreement](#) with Greenpeace (the 'Public Livestock Commitment'^{xiii}) not to buy cattle from cattle production areas that had deforested land after October 2009. JBS also [committed](#) never to purchase cattle from areas with land embargoed by the Brazilian Institute of the Environment and Renewable Natural Resources (Ibama) for illegal deforestation, nor from suppliers that raised, reared, or fattened cattle on areas overlapping with protected areas. In 2009, JBS entered

into a similar agreement with the Federal Prosecutor's Office in the Amazonian State of Pará. This commitment seeks to ensure that the beef trader is not handling any product or cattle that represent a financial benefit obtained as a result of unethical or illegal activities.

However, many reports indicate that JBS appears to have been unable to meet these commitments:

- In 2015, JBS was [accused by](#) the Brazilian Federal Police of having bought hundreds of cattle from the mother of an alleged land-grabber described by the police to the media as the "largest deforester of the Amazon". JBS said it has blocked the sourcing of cattle from the land-grabber's mother and claimed that auditing had shown the company was over 99% compliant with its Greenpeace commitment.^{xiv}
- In 2017, Ibama [alleged](#) that two JBS slaughterhouses had bought 49,468 cattle from embargoed areas, for which the company was fined 24.7 million reais, almost \$8 million at a 2017 conversion rate. JBS denied the purchasing claims, saying it does not buy animals from farms involved in deforestation of native forests or areas embargoed by Ibama^{xv} and has stated that it appealed against the fines.^{xvi}
- In 2018 in the Amazonian state of Pará, Federal Prosecutors [published an audit](#) of JBS that found breaches of its commitments covering almost 20% of its 2016 cattle purchases. JBS said they had been hindered by the lack of detail on the criteria for analysis and by discrepancies in the databases of public sector institutions. It said it had selected an auditor with a "conservative" view in the cases where there were doubts about the information.^{xvii}
- An [investigation](#) carried out by Repórter Brasil, the Guardian and the Bureau of Investigative Journalism in July 2019 alleged the company was still purchasing cattle from embargoed areas. JBS [denied this claim](#).^{xviii}

3. JBS does not verify the origin of an unknown but likely significant portion of its Amazon purchases

Indirect suppliers are those where cattle have passed through numerous Amazon based cattle areas – where cattle has either been bred or reared - before then being fattened at a final location and sold to JBS's Amazon-based slaughterhouses. The Public Livestock Commitment stated back in 2009 "within a period of two years from the signing of this agreement, the COMPANY is obligated to demonstrate"^{xix} that none of its indirect suppliers that have deforested form part of its supply chain.

All JBS audits since 2015 that monitor compliance with the Public Livestock Commitment, state that they are not systematically monitoring indirect suppliers.^{xx xxi xxii xxiii} JBS claim that it is only possible to trace such cattle through access to cattle transport permits, which are not publicly available. They also stated that they form part of a "Working Group on Indirect Suppliers in the Cattle Sector", aimed at increasing cattle traceability^{xxiv} However, this data gap may not be readily identifiable to potential investors. The JBS 2018 Annual Sustainability Report, for example, states of its audit that "99.99% of purchases [were] in compliance" and the lack of verification of its indirect suppliers is not mentioned.^{xxv}

In November 2019, [Federal Prosecutors in the Amazonian state of Pará published audits that appeared to show JBS complied with the agreement they signed in that state](#) (which is a separate agreement

with different requirements from the Public Livestock Commitment). It is crucial for potential investors to understand that these audits only cover JBS's 2017 cattle purchases in Pará from its direct suppliers. It is therefore a limited snapshot of JBS's performance, and does not assess the company's possible recent exposure to deforestation in Pará, or its exposure to deforestation through indirect suppliers, nor its exposure to deforestation in other Amazon states.

The Federal Prosecutors of Pará also highlighted that “no company that currently purchases from the Amazon can say that their supply chain is deforestation free.”^{xxvi} The Prosecutor highlighted the risks of Amazon-based slaughterhouses being exposed to deforestation through their indirect suppliers, “cattle laundering” schemes and adulteration of property boundaries by rural producers to make it appear as if they did not commit illegal deforestation within that property.^{xxvii}

4. Possible irregularities relating to the past financial relationship between BNDES and JBS

Banks approached by BNDES to assist with any potential share issuance should also be alert to concerns regarding potential irregularities in various share purchases that BNDES made over the 2005-2014 period related to JBS. These are outlined in a report of the Parliamentary Inquiry Commission of the Chamber of Deputies into illicit practices within the BNDES concerning its past financing of various companies, including JBS.^{xxviii}

The JBS statement about the potential upcoming share offering noted that BNDES has chosen Banco Bradesco SA, Banco BTG Pactual SA, Itau Unibanco Holding SA, Bank of America and UBS Group to act as intermediary institutions in any potential share transaction.^{xxix}

As reported by the [Brazilian media outlet G1 in November 2019](#)^{xxx}, the Deputy-Attorney General of the Public Prosecutor's Office in the Federal Court of Accounts, Lucas Furtado, has requested the Federal Court of Accounts to investigate whether BNDES should be permitted to “purchase new shares in companies, until the court decides whether the procedures adopted by the Bank in purchasing [past] shares, especially in JBS, occurred according to the objectives of the institution”.^{xxxi}

Furtado was quoted by the Brazilian media outlet G1 as stating that JBS “created fraudulent schemes to benefit certain politicians”, and that past “share acquisitions by BNDES may have been decided according to private interests to the detriment of the public and collective interest”.^{xxxii} This raises the possibility of those Banks directly involved in assisting BNDES to sell its JBS shares, or facilitating third parties to purchase these shares, exposing themselves to the risks associated with potentially irregular and illegal share purchases.

JBS and BNDES were approached for comment but did not respond in the period provided. In a statement made in 2017 on JBS's financial relationship with BNDES, the company denied “that there was any favouritism in the operations made by BNDES's subsidiary, BNDESPar, and that these were carried out according to the rules of capital markets in Brazil.”^{xxxiii} In 2017, the former President of BNDES was quoted by media outlet Agenciabrasil as stating that “the activities of BNDESPar and JBS were done with the authorisation of the market authorities”. The former BNDES President also highlighted a previous report by the Federal Court of Accounts that concluded that there had been “no evidence of irregularities and/or favouritism in the financing operations of BNDES to beef traders over the 2005-2009 period”.^{xxxiv}

5. Marfrig’s long-standing connections to Amazon deforestation and inability to fully meet supply chain commitments first made in 2009

Marfrig Global Foods claims to be one of the world’s leading beef producers. Its beef division boasts 28 operating units that [can slaughter](#) 21,500 cattle per day in total. In 2009, it signed the same Public Livestock Commitment as JBS. However, [research](#) by Brazilian NGO Imazon, published in 2017, claimed half the company’s cattle purchases come from ‘indirect suppliers’, where animals pass through numerous ranches before slaughter. As part of Marfrig’s [pledge](#), they had agreed not to purchase any cattle from indirect suppliers who had deforested the Amazon. Yet in four successive audits of the company’s Amazon cattle purchases between [2015](#) and [2018](#), its auditor DNV-GL concluded that its indirect suppliers “are not systematically verified yet.”^{xxxv}

This means Marfrig cannot say its supply chain is deforestation free. (Marfrig [insisted](#) that it had a commitment to zero deforestation in the Amazon, with a rigorous and technologically advanced sourcing procedure.)^{xxxvi}

Moreover, this August, an investigation carried out by Repórter Brasil [disclosed](#) that a cattle rancher carried out illegal deforestation in Pará and laundered cattle from that area through another property to make them appear legal. Ibama investigated and the property was embargoed. Repórter Brasil claimed Marfrig purchased cattle from the property despite Ibama’s embargo, breaching the company’s commitment to not purchase cattle from such areas.^{xxxvii}

The municipality where this ranch was located, São Félix do Xingu, was among those [highlighted](#) after recent Amazon fires led to an international outcry. Marfrig argues the ranch was not on Ibama’s index of embargoed areas when they purchased the cattle. Repórter Brasil disputes this, finding the area was on Ibama’s publically available list prior to the purchase.^{xxxviii}

6. Investors and financial services providers should, at a minimum, withhold additional share purchases or services to facilitate such purchases, until they can accurately assess JBS’s and Marfrig’s legal compliance and Environmental, Social and Governance (ESG) risks

Here we outline to investors and financial services institutions that there is a lack of publicly available information to accurately assess JBS’s and Marfrig’s adherence to their own public ESG commitments. This means that investors cannot adequately assess the legal and or environmental compliance of those companies Amazon supply chain purchases. This is particularly problematic given the recent statistics that show a rapid increase in deforestation in the Amazon as well as a weakening of forest law enforcement and conservation efforts.

Until JBS and Marfrig publically provide audits of their indirect suppliers – which can be verified by independent third parties – investors and financial service providers could be exposed to legal and ESG compliance risks, or a perception of seeking to materially benefit from such risks. This is in addition to the broader ESG risks for any company choosing to source in the Amazon.

CO-SIGNING NGOs/CIVIL SOCIETY GROUPS

GLOBAL WITNESS

AMAZON WATCH

AMIS DE LA TERRE FRANCE/FRIENDS OF THE EARTH FRANCE

APOINME BRASIL

ARTICULAÇÃO DOS POVOS INDÍGENAS – APIB

ARTICULAÇÃO DOS POVOS INDÍGENAS DA REGIÃO SUL – ARPIN SUL

ATY GUASSU

BANKTRACK

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CANOPEÉ

CONSELHO TERENA

COORDENAÇÃO DAS ORGANIZAÇÕES E ARTICULAÇÕES DOS POVOS INDÍGENAS DO MARANHÃO - COAPIMA

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CORNER HOUSE

DACHVERBAND DER KRITISCHEN AKTIONÄRINNEN UND AKTIONÄRE/ASSOCIATION OF ETHICAL SHAREHOLDERS GERMANY

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FRIENDS OF THE EARTH (ENGLAND, WALES AND NORTHERN IRELAND)

GRAIN

GREENPEACE BRASIL
INCLUSIVE DEVELOPMENT INTERNATIONAL
JUSTIÇA GLOBAL
MIGHTY EARTH
MILIEUDEFENSIE / FRIENDS OF THE EARTH NETHERLANDS
OECD WATCH
PRO REGENWALD, GERMANY
PROFUNDO
PUBLIC EYE
RAINFOREST ACTION NETWORK
RAINFOREST FOUNDATION NORWAY
RETTET DEN REGENWALD E.V. – GERMANY
ROBIN DES BOIS
ROBIN WOOD GERMANY
SALVA LA SELVA, SPAIN
SHAREACTION, UNITED KINGDOM
SINERGIA ANIMAL
SOCIETY FOR THREATENED PEOPLES, SWITZERLAND
UNITING CHURCH IN AUSTRALIA, SYNOD OF VICTORIA AND TASMANIA
WORKERS ASSISTANCE CENTER, INC. PHILIPPINES

ⁱCERES, Investor statement on deforestation and forest fires in the Amazon This statement is endorsed by 244 investors representing approximately US \$17.2 trillion in assets, 2019, https://www.ceres.org/sites/default/files/Investor%20statement%20on%20deforestation%20and%20forest%20fires%20in%20the%20Amazon_1%20Oct%202019.pdf

ⁱⁱJBS, MATERIAL FACT NOTICE, BNDESPAR INFORMS JBS REGARDING POTENCIAL SECONDARY PUBLIC OFFERING OF SHARES, https://jbs.infoinvest.com.br/ptb/5198/20575_722097.11.19.JBSSA.Fato%20Relevante.Carta.BNDESPAR.pdf..pdf

ⁱⁱⁱGlobo, *Economico Valor*, *BNDES venderá R\$ 38,8 bi em ações no próximo ano*, Dezembro 2 de 2019,

<https://valor.globo.com/impreso/noticia/2019/12/02/bndes-vendera-r-388-bi-em-acoes-no-proximo-ano.ghtml>

^{iv}Global Witness, *Money to Burn*, 2019, <https://www.globalwitness.org/en/campaigns/forests/money-to-burn-how-iconic-banks-and-investors-fund-the-destruction-of-the-worlds-largest-rainforests/>

^vIMAZON, *Sob a Pata do Boi*, ebook, *Introducao*, page 7, para 4 (criação de gado na Amazônia, atividade responsável por dois terços do desmatamento acumulado na região – translation: the creation of cattle in the Amazon, responsible for two thirds of accumulated deforestation in the region), <https://amazon.org.br/publicacoes/sob-a-pata-do-boi-como-a-amazonia-vira-pasto/>

^{vi}Science Direct, *The Expansion of Intensive Beef Farming to the Brazilian Amazon*, <https://www.sciencedirect.com/science/article/pii/S0959378018312093>;

^{vii}Carlos Eduardo Pellegrino Cerri, Carlos Clemente Cerri, Stoécio Malta Ferreira Maia, Maurício Roberto Cherubin, Brigitte Josefine Feigl and Rattan Lal, *Reducing Amazon Deforestation through Agricultural Intensification in the Cerrado for Advancing Food Security and Mitigating Climate Change*, <https://www.mdpi.com/2071-1050/10/4/989/htm>

^{viii}INPE, PRODES – Amazônia, *Monitoramento do Desmatamento da Floresta Amazônica Brasileira por Satélite, Taxa PRODES Amazônia - 2004 a 2019 (Km2)*, <http://www.obt.inpe.br/OBT/assuntos/programas/amazonia/prodes>

^{ix}Greater London Authority (GLA), *Land Area and Population Density, Ward and Borough* – official data states London has an area of 1,572 square kilometres, and the area deforested in 2019 in the Amazon up to the date in which this was written was 9,762 square kilometres,

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*Human Rights Watch, Rainforest Mafias, How Violence and Impunity Fuel Deforestation in Brazil's Amazon, September 17, 2019, pages 112 onward, <https://www.hrw.org/report/2019/09/17/rainforest-mafias/how-violence-and-impunity-fuel-deforestation-brazils-amazon>

^{xi} Calculated by reference to figures in each company's publicly available profiles at: MARFRIG, <http://www.marfrigbeef.com/en/marfrig-beef/operations>; Minerva Foods, Corporate Profile, http://ri.minervafoods.com/minerva2012/web/conteudo_en.asp?idioma=1&conta=44&tipo=40422; JBS S.A., JBS Day Presentation, 2017, <https://www.google.com/url?sa=t&rct=i&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=2ahUKewiktNLdvKriAhVOSHUIHXtyCnkQFjAAegQIABAC&url=http%3A%2F%2Fjbs.infoinvest.com.br%2Fenu%2F4425%2FPresentation%2520-%2520JBS%2520DAY%25202017%2520%2528Final%2529.pdf&usg=AOvVaw3QD4vslIW5GoS9uoMibhV3>

^{xii} JBS is a shorthand for the complex corporate structure of the company.

^{xiii} Greenpeace Brasil, CRITÉRIOS MÍNIMOS PARA OPERAÇÕES COM GADO E PRODUTOS BOVINOS EM ESCALA INDUSTRIAL NO BIOMA AMAZÔNIA, <https://storage.googleapis.com/planet4-brasil-stateless/2018/07/criterios-m-nimos-para-opera-2.pdf>

^{xiv} Global Witness, Money to Burn, 2019, <https://www.globalwitness.org/en/campaigns/forests/money-to-burn-how-ionic-banks-and-investors-fund-the-destruction-of-the-worlds-largest-rainforests/>

^{xv} Global Witness, Money to Burn, 2019, <https://www.globalwitness.org/en/campaigns/forests/money-to-burn-how-ionic-banks-and-investors-fund-the-destruction-of-the-worlds-largest-rainforests/>

^{xvi} JBS, page 99, <https://jbs.infoinvest.com.br/ptb/5117/87219.pdf>

^{xvii} Global Witness, Money to Burn, 2019, <https://www.globalwitness.org/en/campaigns/forests/money-to-burn-how-ionic-banks-and-investors-fund-the-destruction-of-the-worlds-largest-rainforests/>

^{xviii} Global Witness, Money to Burn, 2019, <https://www.globalwitness.org/en/campaigns/forests/money-to-burn-how-ionic-banks-and-investors-fund-the-destruction-of-the-worlds-largest-rainforests/>

^{xix} Greenpeace Brasil, CRITÉRIOS MÍNIMOS PARA OPERAÇÕES COM GADO E PRODUTOS BOVINOS EM ESCALA INDUSTRIAL NO BIOMA AMAZÔNIA <https://storage.googleapis.com/planet4-brasil-stateless/2018/07/criterios-m-nimos-para-opera-2.pdf>

^{xx} DNVGL, Avaliação ao Atendimento do "Compromisso Público da Pecuária" JBS S.A., 2018, https://jbs.com.br/wp-content/uploads/2019/08/JBS_RelatórioAuditoriaCompromissoPublico_DNVGL-20190717_PT.pdf

^{xxi} DNVGL, Avaliação ao Atendimento do "Compromisso Público da Pecuária" JBS S.A., 2017, https://www.google.com/url?sa=t&rct=i&q=&esrc=s&source=web&cd=1&ved=2ahUKewir_N6sw6rjAhXnRBUIHcc3AHYQFjAAegQIABAC&url=https%3A%2F%2Fjbs.com.br%2Fwp-content%2Fuploads%2F2017%2F11%2FJBS_Relat%25C3%25B3rio-Compromisso-Publico-da-Pecuaria-2017-DNVGL_FPTBR.pdf&usg=AOvVaw3eQdhOBwvKYqVclxMIPxLF

^{xxii} DNVGL, "Avaliação ao Atendimento do "Compromisso Público da Pecuária", 2016, https://jbs.com.br/wp-content/uploads/2017/11/JBS_Relatório-Compromisso-Publico-da-Pecuaria-2017-DNVGL_FPTBR.pdf

^{xxiii} JBS S.A., Relatório de auditoria de terceira parte para atendimento ao compromisso de adoção do "compromisso público da pecuária", conforme "critérios mínimos para operações com gado e produtos bovinos em escala industrial no Bioma Amazônia, 2015, <https://vdocuments.mx/jbs-sa-relatorio-de-auditoria-de-terceira-parte-para-appjbscombraudmonitsocioambiental2015.html>

^{xxiv} DNVGL, Avaliação ao Atendimento do "Compromisso Público da Pecuária" JBS S.A., 2018, page 8 https://jbs.com.br/wp-content/uploads/2019/08/JBS_RelatórioAuditoriaCompromissoPublico_DNVGL-20190717_PT.pdf

^{xxv} JBS, JBS ANNUAL AND SUSTAINABILITY REPORT 2018, page 128, <https://jbs.com.br/en/jbs-annual-and-sustainability-report-2018/>

^{xxvi} OECO, TAC da Carne no Pará: MPF diz que ninguém está livre do desmatamento, Novembro 2019, <https://www.oeco.org.br/reportagens/tac-da-carne-no-para-mpf-diz-que-ninguem-esta-livre-do-desmatamento/>

^{xxvii} OECO, TAC da Carne no Pará: MPF diz que ninguém está livre do desmatamento, Novembro 2019, <https://www.oeco.org.br/reportagens/tac-da-carne-no-para-mpf-diz-que-ninguem-esta-livre-do-desmatamento/>

^{xxviii} Camara dos Deputados, CPI - PRÁTICAS ILÍCITAS NO AMBITO DO BNDES, October 2019, pages 210-239, https://www.google.com/url?sa=t&rct=i&q=&esrc=s&source=web&cd=15&cad=rja&uact=8&ved=2ahUKewjN1MwI64zmAhVWiwkHVkO_A24QFjAOegQIBxAC&url=https%3A%2F%2Fpolitica.estadao.com.br%2Fblogs%2Ffausto-macedo%2Fwp-content%2Fuploads%2Fsites%2F41%2F2019%2F11%2FCPI-DO-BNDES-Relat%25C3%25B3rio-final.pdf&usg=AOvVaw0GMglf_1r-59i6HBqQQqRX

^{xxix} JBS, MATERIAL FACT NOTICE, BNDESPAR INFORMS JBS REGARDING POTENCIAL SECONDARY PUBLIC OFFERING OF SHARES, https://jbs.infoinvest.com.br/ptb/5198/20575_722097.11.19.JBSSA.Fato%20Relevante.Carta.BNDESPAR.pdf_.pdf

^{xxx} MP pede cautelar para impedir BNDESPar de comprar novas ações, November 21, 2019, <https://g1.globo.com/economia/noticia/2019/11/21/mp-pede-cautelar-para-impedir-bndespar-de-comprar-novas-acoes.ghtml>

^{xxxi} MP pede cautelar para impedir BNDESPar de comprar novas ações, November 21, 2019, <https://g1.globo.com/economia/noticia/2019/11/21/mp-pede-cautelar-para-impedir-bndespar-de-comprar-novas-acoes.ghtml>

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^{xxxiii} JBS, Ref.: Ofício nº 161/2017/CVM/SEP/GEA2, 15/5/2017, <https://jbs.infoinvest.com.br/services/search-1/search.asp?language=ptb&q=BNDES>

^{xxxiv} Agenciabrasil, TCU vai analisar possíveis irregularidades em negócios do BNDES com a JBS, <http://agenciabrasil.ebc.com.br/economia/noticia/2017-04/tcu-vai-analisar-possiveis-irregularidades-em-negocios-do-bndes-com-jbs>

^{xxxv} DNV-GL, Compliance Assessment of Public Commitment on Amazon Cattle Ranching, MARFRIG GLOBAL FOODS S.A., 2015, 2016, 2017, 2018: Accessed: 2015 Audit here: <https://www.google.com/url?sa=t&rct=i&q=&esrc=s&source=web&cd=2&ved=2ahUKewidhuC89crjAhV0ShUIHQcdBtYQFjABegQIAXAC&url=http%3A%2F%2Fwww.marfrig.com.br%2Fuploads%2FArquivos%2FReport-Audit-Marfrig-Greepeace-Format-Greenpeace.pdf&usg=AOvVaw0EaSnkmd84AxfTFcuKPqO>

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2017 Audit here:

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